36th Annual Report of the
American Civil Liberties Union
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DEDICATION

To the Brave Citizens
Great and Small, of All Times and Places
Who Have Served Freedom, Justice and Equality
Often at Heavy Cost
Particularly—this Year—the Citizens of Hungary
and the Negro Citizens of the United States

"... We have a form of government... which, because in
the administration it hath respect not to the few but to the
multitude, is called a democracy. ... Moreover, this liberty
which we enjoy in the administration of the state, we use also
with one another in our daily course of life. ..."

"Such is the city for which these men, since they disdained to
be robbed of it, valiantly fighting have died. And it is fit that
every man of you that is left, should be like-minded, to undergo
any travail for the same...

"Their virtues shall be testified ... in all lands wheresoever,
in the unwritten record of the mind. ... Happiness is freedom,
and freedom is valor. ..."

(Thucydides, Hist. ii 37. Pericles’ funeral oration over
the Athenians who died in the Peloponnesian War.)
"PROLOGUE TO A NEW STRUGGLE—FREEDOM AND UNITY FOR EVERYONE"

BY PATRICK MURPHY MALIN

The citizens of Athens in the 5th Century B.C. had to decide and to act, to pay the price and not to ask the price back. So did the Hungarians in 1956. So have Americans in their crucial hours. Listen to Bruce Catton in This Hallowed Ground:

"For the bitterly divided men who, unable [on the eve of the Civil War] to phrase a nobler appeal, had asked fear and anger to judge between them, were being compelled to cope with an issue greater than any of them. . . . At the very bottom of American life, under its highest ideals and its most dazzling hopes, lay the deep intolerable wrong of slavery, the common possession not of a class or a section but of the nation as a whole. It was the one fatally limiting factor in a nation of wholly unlimited possibilities; whatever America would finally stand for, in a world painfully learning that its most sacred possession was the infinite individual human spirit, would depend on what was done about this evil relic of the past. . . .

"To end slavery was to commit the nation permanently to an ideal that might prove humanly unattainable. . . . Everything which America had done before . . . was no more than prologue to a new struggle that would go on and on for generations . . . [for] a country whose inner meaning would finally be freedom and unity for everyone. In all human history no people had ever served a greater dream, and it was not to be given up easily. . . . The great struggles of history are not always visible and dramatic. They can take place out of sight, in the hearts and the minds of millions of men who have a choice to make."

All of us, in this generation, have part of that choice to make; it was not completely made for us long ago, nor finally paid for. Liberty is always unfinished business. And, in continuing the struggle toward freedom and unity for everyone, we must try to make the least possible appeal to fear and anger. Hence, the immediate relevancy of ever-better practice in the essential decencies of democratic life—the three civil liberties.

Not just equality before the law, without fair procedures or freedom of inquiry and communication. Not just fair procedures, without equality or freedom of inquiry and communication. Not just freedom.
of inquiry and communication, without fair procedures or equality. All three of them, together, all the time, for everyone.

For comfort and encouragement, look at some of the specific victories in those three areas of civil liberties during one year, recorded on pages 7-84 of this report. For challenge, look at the unfinished business, pointed out on the same pages.

Notice, for example, that official administrative censorship, prior to the publication or mailing of books or magazines or the exhibition of motion pictures, is rapidly disappearing. But notice also the wide and intense concern felt by newspaper reporters, editors and publishers—as well as by a House of Representatives sub-committee—over the concealment of federal, state and local government news (beyond the needs of national security, etc.), on which intelligent popular opinion and voting in large measure depend. There has been increased allowance for realism and variety in subject-matter and treatment in the production of motion pictures. But there has come, too, the development of the general and secondary boycott against book-sellers and motion picture theaters, whereby religious and other groups not only exercise their right to guard their members from material believed objectionable, but also may keep other people from exercising their own judgment on that and other material.

The 1956 election campaign treated national security with sanity instead of demagoguery, and the United States Supreme Court, in the Cole case, has ended the application by executive order to non-sensitive positions of the special procedures of the federal-employee security program. But, on the other hand, there remains, among many other things, the vital necessity of guarding against ignorance and bias in the minds of the officials—frequently far from the top—who make the original determinations concerning the reliability of applicants for and occupants of jobs in government and (increasingly) in private industry operating on government contract. The United States Supreme Court, in the Nelson case, has stopped state sedition laws from applying to sedition against the federal government. But the basic question of the First Amendment's limitation on the scope of legislative investigations remains unanswered.

Toward fair procedures, the United States Circuit Court of Appeals in the District of Columbia is gradually elaborating standards to be observed by the State Department in the withholding or revocation of passports. But, lest worry disappear (!), there seems to be a rapid growth of state and local wiretapping—official and unofficial, legal and illegal. The United States Supreme Court has ruled that a small landowner in Kansas may not be deprived of his property without the due process of real, as well as merely formal, advance notification. But notice also that the pressure to "do something" about juvenile delinquency
from time to time causes the police of big cities to resort to "night-stick justice" in dealing with children of low-income, minority-group neighborhoods.

The United States Supreme Court continues unanimously to uphold equality before the law, most recently in intra-state public bus transportation. But even the most modest program for improved federal civil rights legislation is still blocked, not only by threat of the filibuster, but yet more by profound differences inside each of the two major parties. In educational desegregation, there continues to be steady progress, frequently unpublicized, in the border states. But we are still shocked by headlines of violence and economic reprisal, and the deliberate refusal of eight southern states to comply with the law of the land—not to mention failures of federal, state and local authorities to desegregate public housing in northern states.

Since Abraham Lincoln issued the Emancipation Proclamation ninety-four years ago, there has had to be unremitting struggle to achieve actual equality before the law. The last year has brought us nearer the goal, through the decisions of the courts and some executive agencies and the growing force of public opinion. But, as in all advances toward freedom, strong resistance blocks the road.

Today's victories for the equal rights of Negro-Americans have to be won in the midst of the most crucial situation since the nation was divided in 1861. It is a situation in which not only the Negro's right of equality is at stake. It is a situation in which the First Amendment rights of free speech and association, for such Negro defense organizations as the National Association for the Advancement of Colored People and the National Urban League, and for the white people who support equality, are also at stake.

Toward removing these wrongs, North and South, we pledge renewed effort in 1957. We seek to broaden our organization in the South in order to provide new support for the national campaign against discrimination. Our focus will be on the building of a larger corps of volunteer lawyers, to handle all kinds of civil liberties cases for all groups in the community. This is not a campaign imposed from the North, but a development around the host of people within the South itself who want to uphold the Bill of Rights.

Undoubtedly the job will be difficult, for trouble will come not only from those who oppose integration, but also from those who wish to deny to the foes of integration the civil liberties which are their right under the Constitution. But, as we have in so many other battles in the thirty-seven years of our existence, we will uphold the indivisibility of liberty—that the whole Bill of Rights was written for every American.

The bigger the problem, the more difficult it is to predict what parts of it will be solved in 1957. But a few target areas can be seen. High
on the list is civil rights legislation. While the effort in the new Congress to end the filibuster blockade by adopting new rules of debate was defeated, the increased number of Senators who supported the resolution and Vice President Nixon's doubts as to the constitutionality of the present rules offer real encouragement for a future change. The rising chorus of insistence on at least the minimum program to protect the right to vote—a chorus which made itself heard in the 1956 elections—may press this program through.

Despite present intra-government dispute over the administration of the Hungarian refugee program, the principle of asylum must be given further effect in extending American freedoms to the brave people who come to our shores to escape Communist tyranny. And we may hope that this dramatic development will strengthen the mounting opposition to the unfair sections of our basic immigration laws, especially the discriminatory and outdated national origins quota system.

This coming year should see decisions by the Supreme Court in several key cases testing the constitutionality of "anti-subversive" laws, including the 1950 Internal Security Act and the membership clause of the Smith Act. These decisions, and the report of the Commission on Government Security which is finishing a year-long study of loyalty-security programs and their impact on civil liberties, will help show what remains to be done in balancing national security and individual liberties.

The bigger the problem, the less of it can be solved in any one year. But, because it is big, it cannot be ignored without instant peril; and the bigger is the reward for solving any part of it.

These pages give both a general picture of civil liberties today and an outline account of ACLU's work in the field, indicating to our members where their money goes. Telling the full story of our work would take too much of that money, because it would take too much of the staff's time, away from doing the work—in the federal and state and local courts and executive agencies and legislative bodies, and in general education through our monthly bulletin to members and our weekly feature press service as well as topical releases and pamphlets and speeches and conferences with other interested organizations.

This report was edited by Louis Joughin, and principally written by him—with important participation by Alan Reitman, Jeffrey Fuller, Rowland Watts, Irving Ferman and Roger Baldwin. For the daily work of the Union—manifold and exacting, far-flung and expanding—I am grateful beyond all telling to them, and to all other members of our national and affiliate staffs; to national and affiliate board and committee members, to cooperating attorneys and correspondents, to our many volunteer workers, and to all the ACLU members who sustain us.
Part I. FREEDOM OF BELIEF
SPEECH AND ASSOCIATION

"...the only sure bulwark of continuing liberty is a government strong enough to protect the interests of the people, and a people strong enough and well enough informed to maintain its sovereign control over its government."

- Franklin Delano Roosevelt.

"Fireside Chat," April 14, 1938.

CENSORSHIP AND PRESSURE DIRECTED AGAINST THE PRINTED WORD, THE STAGE AND SCREEN, AND RADIO-TV

The American Civil Liberties Union recognizes that attempts at censorship, whether official or by private groups, are usually motivated by worthy concern for the welfare of the people. Nevertheless, censorship must be firmly opposed. The worst evil of all is the cutting off of knowledge. If a nation is to survive as a democracy, its citizens must be informed—and well enough informed to make responsible choices.

1. Newspapers

The senior medium of communication, the newspapers, presently finds little difficulty in defeating specific attempts at overt censorship, but the press continues to be deeply concerned about the censorship which is inherent in suppression of news by government authorities. This concern has been felt by working reporters, editors, and the publisher-owners of American newspapers. The importance of this problem led the ACLU to commission Allen Raymond, a veteran journalist of distinction, to make a special study; his report, The People's Right to Know, was approved by the Union and has been given the widest possible circulation. (Copies of the 48-page report are available from the ACLU at a cost of 35¢.)

The chief conclusions of the Raymond report are as follows:

1. "A trend toward ever-increasing secrecy within the Executive branches of the Federal government has been going on during the
Truman and Eisenhower administrations . . . It is a fair consensus among Washington correspondents that abuses of the power in Federal Agencies to suppress information of value and interest to the nation were never so rampant as now."

2. " . . . this widespread abuse of Executive power is exercised in the great majority of instances by many agencies on matters having nothing whatever to do with national security."

3. "It is a fair consensus that these abuses have already curtailed the power of the press and of Congress itself to be of service to the people by finding out what goes on in government; that they have been accompanied by an arrogation of powers within the Executive of doubtful constitutionality, so far inadequately challenged; that they have advanced to the point where the civil liberties of the people themselves are threatened; and that some prudent remedial action by Congress is necessary.

4. "The power of a free and unlicensed press to be useful to the people is curtailed in great degree by two factors: (a) a widespread distrust of the press itself by large segments of the population, as, for example, in the labor movement; (b) the rise in recent years of two government-controlled media, radio and television, which themselves are in constant danger of unwarranted dictation concerning their powers of public discussion by the Federal Communications Commission."

5. The report also notes adverse criticism by the correspondents "of the Congress itself in regard to executive committee sessions in which proffered legislation of interest to great numbers of citizens is often killed with no opportunity for the public to know the vote of committee members; and an increasing tendency among cabinet members to fail to hold those press conferences which under our presidential system have offered the only opportunity for public interrogation of cabinet officers concerning their management of their departments."

Mr. Raymond offered recommendations to curb the abuse of government powers of restriction on information. These included:

1. Study by non-governmental agencies of existing laws which restrict the flow of information to the people. Out of such study might properly emerge legislation of two kinds:

(a) "The establishment within the Federal government of an independent agency to represent the public interest in the declassification of records hitherto kept secret. . . .

(b) "The extension of the act, which now requires registration of lobbyists in Congress, to cover lobbyists in the executive agencies of government. . . .

2. " . . . a permanent, non-governmental study of the performance of the three major media of public information in this country . . . in the handling of news about government and the defense of civil liberties . . ."
"BALL? I HAVEN'T GOT YOUR BALL, KID"
The ACLU board of directors, in releasing the report, warned that “exposure of the abuse is, by itself, not an answer to the questions of public policy to which exposure of abuse gives rise.”

**The Eastland Committee.** When the Senate Internal Security Subcommittee announced that it would hold hearing in New York in regard to alleged Communist infiltration of the press, the ACLU and its New York affiliate urged that the committee investigation not permit any belief that particular newspapers were being singled out because they had criticized congressional inquiries. (See also the Barnet case, p. 80.)

**Newspapers Subject to Libel Action.** The Washington State Supreme Court has ruled that a newspaper claiming immunity from libel action under the “fair comment rule” must base its remarks on true facts, even if the person involved is a public official. A minority in the court held that absence of malice, intent to benefit the public, and belief in the truth of the statement is a complete defense.

**Refusal of Advertisement.** The Connecticut ACLU protested the refusal of the New Haven Register to accept an advertisement asking for contributions to the defense of a group of Smith Act defendants. Ordinarily, rejection of an advertisement raises no civil liberties issue, but in this instance the paper was in virtually a monopoly position and the purpose of the ad. was to raise money for legal defense.

**Closed Official Hearings.** The Board of Education in New York City announced that hearings on certain school problems would be closed; the restriction was abandoned after protest by the New York Civil Liberties Union and other interested groups. In California, the proposal of the Contra Costa planning commission to exclude the public from its sessions was struck down by a court. (See below, p. 58 for Northern California ACLU action in the Black murder case.)

**Other Libel Actions.** In Mississippi, the state Supreme Court overturned a lower court award in a libel action. A Holmes County jury had awarded Sheriff Richard E. Byrd $10,000 in his libel suit against Mrs. Hazel Brannon Smith, editor of the Lexington Advertiser, who had rebuked him editorially for shooting a Negro. The high court declared that “the right to publish the truth, with good motives, and for just ends, is inherent in the Constitution.”

In New York City, a libel action by the New York Post and its editor, James A. Wechsler, against Walter Winchell, the columnist, was settled before trial. As part of the settlement Winchell agreed to issue a statement that “he regrets and withdraws” anything he has broadcast or written which might be construed as charging that the Post, its editor or publisher, are Communists or sympathetic to communism.
2. Books and Magazines

Government Censorship of "Propaganda." Since 1940 the Post Office Department has to a considerable degree suppressed the distribution of foreign "propaganda" in this country coming from abroad through the U.S. mails, unless the sender or receiver is a registered foreign agent. Legislation was introduced in the 84th Congress to give this administrative practice the sanction of law; the ACLU, the American Friends Service Committee, and the assistant librarian of Congress testified against the bill.

Irving Ferman, the Union's Washington Office Director, pointed out that the purpose of the Foreign Agents Registration Act was to disclose such agents as the source of material mailed within the country. The proposed new law could give the P.O. broad censorship power and "would result in an unnecessary interference with the right to read, circulate and distribute materials which are all concomitants of the freedom of expression." The bill passed the Senate but did not emerge from the House Judiciary Committee.

The problem is by no means purely theoretical. A Boston newspaper charges that the P.O. in that city has confiscated 800 publications. Jeremiah Feingold, a San Francisco book dealer, has had many shipments confiscated, with books destined for such customers as the U.S. Army Language School, the University of California, and the Library of Congress. The P.O. applied a "rotten apple" criterion and held up whole lots which contained some propaganda. Titles by Shakespeare, Chekhov, De Maupassant, and Tolstoy were confiscated. After protest by the Northern California ACLU the department agreed to pass the non-propaganda material and to give the dealer an opportunity to make a case on material held. Latest word is that of a thousand titles held only thirty-eight have been passed.

P.O. Domestic Censorship. The magazine Confidential was placed under a "withhold from dispatch" order by the Post Office. Federal Judge Luther Youngdahl ruled out such action; he held that the proper procedure was an after-publication finding that the magazine was non-mailable, a hearing for the publisher by the Department, and a government request to a federal judge for an injunction. The ACLU, in a letter from Patrick Murphy Malin and Elmer Rice to the Postmaster General, said "... once again, the Post Office is acting as if our courts had never spoken on this issue and given guidance." It was further pointed out that "Pre-publication censorship is the mark of totalitarianism and our country is vigorously challenging this kind of attack on the press in Iron Curtain countries ... should we imitate it in our democracy?"

Last year's Annual Report noted that the same arbitrary procedure was struck down by a court in the case of nudist magazines. Specific
issues of those magazines have now been ruled by the U.S. Court of Appeals not to be "obscene, lewd, lascivious, and indecent"; the court held that the photographs had not been considered in their proper context.

The "Orgone Accumulator." Dr. Wilhelm Reich has been convicted of contempt for violation of an injunction against distributing his "Orgone Accumulator," and books about it, after the Pure Food and Drug Administration held the apparatus to be a medical fraud. The ACLU is concerned lest the injunction constitute censorship, at least in relation to the published literature, because among the books seized (and threatened with destruction), were some it is claimed do not relate to Orgone.

State and City Law and Action. A Maryland law, in effect since 1894, which barred the display of "crime and lust magazines" to minors has been declared invalid; a state court ruled that the prohibition can lie only against sale.

The New York comic books laws of 1955 prohibit giving, selling or displaying any publication which exploits "illicit sex or sexual immorality"; they continue to meet opposition because of their possible use against serious literature. One provision calls for the confiscation of equipment used to produce pornographic literature. In New York City the License Commissioner has drawn up a list of 24 undesirable magazines (mostly featuring nude figures), and asked newsdealers to self-regulate themselves; the Park Commissioner has made withdrawal of these titles mandatory with respect to the newstands under his jurisdiction. The list is prepared by a reading committee drawn from the Disabled War Veterans, Veterans of Foreign Wars and the New York Association for the Blind because most street and park vendors are veterans or blind persons. The New York Civil Liberties Union which has steadfastly opposed such regulation will continue to press for determination of its constitutionality.

St. Louis City and St. Louis County, Mo. have new censorship ordinances; the county rules are extremely broad and suggest the likelihood of a general screening practice. The St. Louis Civil Liberties Committee was active in the fight to prevent passage of these measures.

Representatives of the Minnesota ACLU conferred with the warden of the Stillwater State prison who denied an inmate the right to read a socialist magazine. Although the censorship issue was clarified, the warden continued his ban on this particular magazine.

Time, Life and Look. Bossier Parish School Board (Shreveport, La.) has cancelled its subscriptions to these major national magazines and ordered all back issues removed from the school libraries. The board said the magazines were "waging a systematic campaign to
prejudice the American people against the South by presenting in their columns biased and distorted views on the institution of segregation of races in public schools.” The Louisiana ACLU vigorously protested this combined act of censorship and academic freedom violation.

**Censorship by Delegation of Responsibility.** West Virginia newspapers have attacked the state Textbook Advisory Committee for its action in requesting the Americanism Committee of the American Legion to study elementary school social science textbooks.

**Pressure in Chicago and Baltimore.** Illinois Division, ACLU urged Mayor Daley of Chicago to “repudiate the suggestion that the government go into the business of using informal pressure to purge any list of publications from newsstands and bookstores”; this protest followed on the recommendation of such pressure by an advisory committee reporting to the mayor. In Baltimore, the ACLU was the only organization objecting to Mayor D'Alesandro's proposal that the 500-title list of the National Organization for Decent Literature be used as a guide for dealers when the city began a drive to eliminate the causes of juvenile delinquency.

**Krebiozen.** An extraordinarily bold attempt at private restraint upon publication was defeated when the Massachusetts Supreme Judicial Court unanimously upheld a lower court judge in his ruling that the Krebiozen Foundation was not entitled to an injunction against the publication of a book about the controversy over the “cancer-cure” drug. The author was George D. Stoddard who resigned from the presidency of the University of Illinois during the bitter controversy about Krebiozen at that institution.

**3. The Screen and Stage**

**State and City Movie Censorship.** Last year's Annual Report indicated that three states and sixty cities practiced pre-censorship of the screen; since then Pennsylvania, Memphis, and Atlanta (perhaps temporarily) have abandoned such action. The Kansas picture is not clear. The Pennsylvania law was declared unconstitutional by the state supreme court, and the last seal of approval was issued on March 13, 1956. Public pressure led the legislature to attempt a new law but the effort failed; the constitutional barrier of the Miracle decision, strongly emphasized by the Philadelphia ACLU, could not be breached.

The Memphis censorship board, long one of the most authoritarian in the country, was ended by a 41-4 vote of a special Mayor's committee. In Atlanta, a Federal District Court granted a temporary injunction against the censorship board; although not ruling on the constitutional prior-restraint issue, the court indicated that the question would be considered if there were further proceedings.
Censorship Uncertain in Kansas. Last year a law to abolish the practice was passed, but ruled unconstitutional by the state attorney general on technical grounds. In the meantime, although the U.S. Supreme Court has written a decision prohibiting censorship of a particular film, the Kansas censorship system continues.

Mom and Dad. The formidable New York state censorship system has received a heavy blow in the decision of the state Appellate Division judges ordering a license granted to *Mom and Dad*, a film which has a brief sequence showing a human birth. Barred as "indecent" by the licensing agency, counsel for the producers took the novel course of conceding that the film was "lustful and lecherous" in order to raise the fundamental prior-restraint issue. The court did not go to this point, but its decision is significant: 1—the burden of proof is now placed on the censors in each case (thereby eliminating the customary presumption that the board's decisions are in order), 2—the terms "indecent" and "obscene" must be given a "narrow and strict interpretation."

The Perennial Miracle. In Chicago, the *Miracle* is again on its way up the ladder of court determination; ruled obscene in fact, an appeal now lies before an intermediate court on the factual issue. The ACLU Illinois Division has fought this important case since 1952.

Roman Catholic Action and Opinion. In November of 1955, the Roman Catholic Bishops announced that their church was reviving its campaign against indecent pictures. Dore Schary, executive head of Metro-Goldwyn-Mayer, and a member of the advisory council of the Southern California ACLU, noted that "the Catholic Bishops have a perfect right to criticize and to go on a crusade against what they believe to be morally objectionable, but he also expressed the hope "that they will respect our rights to make movies as we see fit." At the same time, *Variety*, weekly show business publication, reviewed at length the situation in the lay Motion Picture Councils—groups which recommend to their communities pictures that they regard as exceptionally edifying or entertaining. The magazine found that Roman Catholic members of the Councils are increasingly attempting to persuade exhibitors against booking pictures which have been judged unworthy by the Roman Catholic Legion of Decency. *Variety* presented the view of the leaders of the Councils, and of industry leaders, that the function of the Councils should remain recommendatory and positive.

ACLU Asks Abolition of MPAA Code. Patrick Murphy Malin, ACLU executive director, in a letter to Eric Johnston, president of the Motion Picture Association of America, urged that the MPAA Code be abolished and that "responsibility be put in the hands of the indi-
vidual company and producer and the general public who, in the last analysis will be the final judge, and the courts, where the problem of obscenity can be handled." Malin pointed out that the agreement of the major producers to prohibit the use of certain subject matter constitutes "an effective restraint of trade in ideas." Practical considerations were also raised: 1—the subjects barred are being treated in other media, 2—exceptions have been made in discriminatory fashion, and 3—for the criteria to meet all objections from all sources would reduce the screen to nothing. Moving pictures are "entitled to exactly the same protection guaranteed to the press under the First Amendment," and this status is incompatible with an industry code.

The general public became more largely aware of the Code and its restrictions when The Man With the Golden Arm (serious treatment of drug addiction) and I Am a Camera (a serious film which mentions abortion), were denied the Association seal of approval.

The Code in Action. One principle of the code demands that wrongdoers must be shown to suffer punishment. In line with this, Lovers, Happy Lovers, which tells the story of a married woman-chaser, found its ending suffering change. In the original version, the man, having broken a leg, is pushed about in a wheel chair by his docile wife—while he eyes his "next girl." Denied the MPAA seal, an ending was substituted which showed the scoundrel so injured as never to be able to walk again. (Finally, when the picture was sold to another producer, in an attempt to get a better rating, the "hero" is seen falling to his death.)

In A Kiss before Dying the Code authority disapproved a display headed: "She was pregnant . . . AND NOW HE KNEW HE HAD TO KILL HER." United Artists rejected the substitution of "in trouble" for "pregnant"; agreement was reached on "I'm Going to Have a Baby."

Theatre Licenses as Censorship. Strong objection was made by the ACLU to proposed Newark, N.J. ordinances which would lead to the license revocation of any theatre permitting exposure of the male or female torso in nude form, or "if any dance, episode, or musical entertainment depicts sexual subjects, acts, or objects offensive to the public morals and decency." The Union noted that "It would be impossible to give dramatic illustrations of many episodes in the Bible; half of Shakespeare could no longer be taught in the schools; as for the ballet theatre, it would vanish from Newark completely." The ordinances, aimed ostensibly at burlesque shows, were adopted; a lower court has overthrown them and the city is appealing to the state Supreme Court.

Arthur Miller, Playwright. The distinguished American dramatist was engaged by the New York City Youth Board to write a movie
script on juvenile delinquency. Opposition arose to Miller's being hired because of his left-wing affiliations. The Board solved its problem by voting 11-9, not to have the script written by the Pulitzer Prize winner, and presumably not at all. The New York ACLU affiliate vigorously opposed the investigation of the writer and the application of criteria unrelated to his artistic competence. Miller himself said: "So be it. Now let us see whether fanaticism can do what it could never do in the history of the world; let it perform a creative act, let it take its club in its hand and write what it has just destroyed."

4. Art and Music

Dallas. In 1955 the Dallas Museum of Fine Arts, under pressure from local patriots, adopted a policy that it would not knowingly acquire the work of a Communist or an artist with Communist affiliation. At the same time it directed that the work of three artists under attack (including Rivera) be prominently displayed in order that the community could decide whether that work presented Communist ideas. In 1956, the trustees took a less mixed position with respect to attacks upon four artists in a "Sport in Art" exhibition which was being shown around the country. The charges were rejected, and the Museum statement said:

"It is the policy of the Dallas Art Association to conduct the affairs of the Museum within the laws of the land, but not at the dictates of any minority pressure group.

"It is important once and for all to dissipate this nonsense that any single group in our community is the custodian of the patriotism of the rest of us. We resent the imputation that we are less patriotic than others . . . . The fundamental issue at stake is that of Freedom and Liberty—not just for the Dallas Museum of Fine Arts, but eventually for our school system, our free press, our library, our orchestra, and the many other institutions of our society. We believe that Democracy cannot survive if subjected to bookburning, thought control, condemnation without trial, proclamation of guilt by association—the very techniques of the Communist and Fascist regimes."

Federal Art Sponsorship. The "Sport in Art" exhibit fared less well at the hands of the U.S. government. Scheduled for showing at the Olympic Games in Australia, plans were cancelled by the United States Information Agency for allegedly budgetary reasons—although a USIA official did not deny that the Dallas episode played a part in the decision. ACLU executive director Patrick Murphy Malin, and Elmer Rice, chairman of the National Council on Freedom from Censorship, expressed the Union's indignation to the USIA, and also congratulated Dallas liberal leaders. They noted that the artists were given no opportunity to disprove the charges made against them, and said "Undoubtedly this incident will be seized on by Communist propagandists to
show that America is afraid really to practice the civil liberties it pro-
fesses. It is difficult to understand how the USIA, whose assignment is to 
interpret correctly America abroad, could have cancelled the exhibit.”

A month later similar adverse action permanently suspended govern-
ment sponsorship of one of the most important exhibits of American 
artists ever assembled for showing abroad; it was to have included 
the work of 100 chief artists of this century; leading American art 
institutions had prepared the showing. But the USIA held that ten 
of the artists were “unacceptable” for “political reasons.”

Music as Well. The State Department cancelled a previously an-
nounced Near East tour for the Symphony of the Air after Congressman 
John J. Rooney of Brooklyn denounced an earlier government spon-
sored tour; this attack came after witnesses before a Congressional 
committee alleged Communist activity by some of the orchestra mem-
bers. No persons were named and no official of the orchestra was 
called to testify. The ACLU again protested. Later, the State Depart-
ment furnished other reasons for the cancellation but had no ex-
planation for the fact that those reasons had not operated to prevent 
the initial announcement and scheduling.

Spirit of ’76. The city of Providence, R.I. has refused to accept 
a statue of Thomas Paine, hero of the American Revolution because 
he “was and remains a controversial figure.” The ACLU, through its 
executive director, Patrick Murphy Malin, expressed its indignation:

“The struggle for American freedom, to which Paine’s writings con-
tributed so much, was a struggle to establish the right of all men to 
speak their minds freely, without penalty or repression by government. 
Controversy, the exchange of opinion, is a hallmark of our American 
democracy and history. It represents the free exercise of the liberties 
proclaimed in the Bill of Rights . . . The refusal [of the statue] is an 
insult to the memory of one of the leaders of our American Inde-
pendence . . . We urge that Providence remove this blot from its 
record and reaffirm its faith in the principle of controversy and free 
thought. . . .”

Corruption of Youth. Mayor Thomas D’Alesandro of Baltimore 
has had removed from a public art museum a picture on temporary 
exhibition which he believes to be obscene. The Maryland Branch of 
the ACLU wrote the mayor pointing out that the picture had been 
selected by a competent art jury, and that the charge of corrupting 
youth had been in bad odor since the days of Socrates. The Maryland 
ACLU urged that there either be prosecution under law or an apology 
offered; the artist’s test case, lost in a lower court, is on appeal with an 
amicus brief by the ACLU. Current developments suggest that this
case may have major legal significance because the mayor claims absolute authority as "conservator of the peace."

**Vice-President Nixon's Position.** The San Francisco Art Commission ordered the removal from a public art showing of a lithograph unfavorably portraying the Vice-President as "Dick McSmear." Mr. Nixon immediately telegraphed the San Francisco officials. He said that most Americans probably approve of the work he did in the Alger Hiss case but that the artist had "the right to express a contrary opinion . . . and the people should not be denied the right to see or hear his expression of that opinion." He further observed that the artist was on the teaching staff of the University of California and "because of the position he holds his views on any subject have particular significance." Nixon understood the view of the Commission that partisan political cartoons might not have their proper forum in a public exposition at public cost, but felt that in this instance the public should have "full opportunity" to see the work.

**GENERAL FREEDOM OF SPEECH AND ASSOCIATION. THE IMPORTANCE OF DIVERSITY**

1. **Basic Issues**

**Lightfoot and Scales Cases.** In the fall of 1956 the ACLU and its Illinois affiliate placed before the U.S. Supreme Court amicus briefs in the first two cases to reach the high court involving criminal conviction for membership, and only that, in the Communist Party. It would be difficult to conceive of a more basic issue in civil liberties, or a more direct challenge to the freedom of association guaranteed by the First Amendment.

In the ACLU brief filed at the Court of Appeals level in the Lightfoot case, the Union said:

"If the court is to apply to this defendant the 'highest degree of constitutional protection' [called for by the Supreme Court in the Dennis case], it must distinguish between advocacy and incitement, preparation and attempt, and assembly and conspiracy, noting in particular that the 'membership' clause of the Smith Act requires less than incitement, attempt, and conspiracy in order to determine criminality. The 'membership' clause of the Smith Act is antithetical to and repugnant to the 'something more' rule as applied by the Supreme Court."

The ACLU brief also quoted Judge Medina's charge to the jury in the Dennis case:
"I charge you that under our system of law, guilt is purely personal and that you may not find any of the defendants guilty merely by reason of the fact that he is a member of the Communist Party of the United States of America, no matter what you find were the principles and doctrines which were taught or advocated by that Party during the period defined by the indictment."

In these cases, as in all matters relating to the Communist Party and other totalitarian groups, the ACLU emphasizes that its sole concern is with the issue of free speech and association for everyone—whatever their views. Constitutional privileges apply to all persons. Of course, the ACLU, as a private organization devoted to civil liberties, properly refuses to permit adherents to any kind of totalitarian principle or group, Communist, Fascist or otherwise totalitarian, to have any part in Union responsibility or management.

**O'Connor and Lamont Cases.** O'Connor, a writer, was found guilty by a Federal District court for refusing to tell the Senate Permanent Subcommittee on Investigations whether he was a Communist at the time he wrote books which were later distributed to United States Information Centers abroad. The case is now under consideration by the U.S. Court of Appeals and the ACLU has again submitted an amicus brief on the constitutional issue of free speech. The Union argues:

"If [O'Connor's] conviction is upheld it will establish that no First Amendment limitations are applicable to the congressional investigative power . . . Any citizen who writes, publishes or prints any matter which comes into Government hands by gift, purchase, or otherwise will immediately thereby become vulnerable to Congressional inquisition . . . We submit that there are limitations imposed on the Congressional investigative power by the First Amendment and that this case cries out for their invocation." The brief also argues that the subcommittee lacked jurisdiction to question O'Connor about his beliefs and that the questions asked were irrelevant to the subject of investigation.

Lamont, whose contempt citation resulted in an acquittal last year, has had the acquittal verdict upheld by the Court of Appeals.

**Vagrancy Arrests.** Devoid of all the dramatic collateral implications of national security and international conspiracy, but every bit as fundamental an invasion of individual liberty, are the vagrancy laws which many communities enforce merely in order to "pick up" persons who get in the way of the police. Such statutes deny freedom of movement. For this reason the New York Civil Liberties Union is testing the New York statute, on behalf of Nicholas Panagakos sentenced to six months in jail and fined $500. Panagakos claims he had been
visiting friends and after leaving had some words with a policeman; the vagrancy charge was based on the accusation that he did not have “visible means of support.” The NYCLU contends that the law is used for round-ups and to pin a charge on an individual “when he could not be prosecuted for any wrong he was currently committing.”

Atmosphere of Conformity. The Socony-Vacuum Co. in 1955 circulated among college graduates seeking a job a pamphlet with this advice:

“Personal views can cause a lot of trouble. Remember to keep them always conservative. The 'isms' are out. Business being what it is, it naturally looks with disfavor on the wildeyed radical or even the moderate pink. On the other hand I think you will find very few business organizations attempting to dictate the political party of their employees.”  

Norman Thomas, ACLU board member, was among the national figures protesting the deadening effect of such advice; the pamphlet was considerably revised.

An Official Caution. A somewhat similar situation was disclosed in the U.S. Navy. A statement, distributed to all domestic and foreign Navy installations, advised all civilian employees of the service to exercise caution in choosing personal and group associations, and to guard against making “an indiscreet remark.” Patrick Murphy Malin, in a letter to Assistant Secretary of the Navy James Smith, Jr., cautioned against creating an “atmosphere of surveillance and possible penalty.” Malin said that the requirements of national security did not make it necessary “to broadcast warnings, deficient in precise and relevant standards, which only serve to lessen freedom of speech and association by creating that worst of all fears—fear of the unknown.”

Freedom of the Mentally Ill. For many years, the ACLU has given attention to the difficult and poignant problem of the degree of freedom which should be accorded the mentally ill, especially those who are under restraint. In 1956, the Philadelphia ACLU recommended that patients in state mental institution “open wards” be permitted to send out sealed mail without restriction, and that “closed ward” inmates be allowed to send one sealed communication each month. Recognizing that doctors may be helped by a study of a patient’s mail, the ACLU is concerned lest censorship be practiced because of an attack on an institution’s administration—even if the language is threatening, obscene or incoherent.

2. Political Freedom

Political “Trading.” The Illinois Division, ACLU has filed a test suit challenging the constitutionality of the Illinois law which al-
allows committeemen of political parties to agree to nominate only three candidates for the three seats allotted in the state House of Representatives for each election district. Politicians in some districts presently agree to nominate two Democrats and one Republican, or vice versa, the primary thus becoming the election in fact. The ACLU asks that the three receiving the highest votes in each party be named in order that voters may have a full slate of choices.

**Hatch Act Case.** Curtis C. Wilson, U.S. Post Office employee wrote a letter to the Houston Post attacking Governor Allan Shivers of Texas on his political position; he was suspended by the U.S. Civil Service Commission for violating the Hatch Act restriction against participation of Federal employees in organized political campaigning. Wilson countered that it was his right as a citizen to offer an "isolated, unsolicited, unpaid-for expression of opinion." The ACLU represented the mailman in his appeal to the courts, and Judge Luther Youngdahl struck down the administrative decision noting that the Hatch Act specially grants government employees the right to private expression of political opinion. Recently announced new regulations permit action like Wilson's, although severely restrictive of many other kinds of political effort.

**Joe Must Go Club, Inc.** This group existed to seek recall of Senator Joseph McCarthy. Wisconsin law prohibits business corporations from engaging in political activity; a state judge found the Joe Must Go group guilty on 21 counts of making expenditures for political purposes and assessed fines totalling $4200. On appeal the Wisconsin Supreme Court unanimously overturned the conviction holding that the law was intended to restrict businesses for profit, and finding "insufficient proof that the contributions and offers to contribute were made by the defendant."

**Illinois Toll Road Dispute.** An Illinois county judge issued a sweeping injunction against certain kinds of opposition to a toll road program. The ACLU Illinois Division attacked the injunction because of its restrictions on free speech, for example, the prohibition against publishing statements or letters for the sole purpose of "intimidating and coercing or influencing prospective purchasers . . . of any possible bond issue so that they would refuse to purchase toll road bonds . . . ." The ACLU said that "The principles of political liberty require that above all no man's mouth should be closed by the force of the state before his words are heard."

**Negro Voters.** The most serious, violent and numerous denials of political rights are, of course, those which affect Negroes in some parts of the South. (See below, p. 77.)
Picketing. A bill passed the House barring picketing near the White House. While it was under consideration in a Senate Committee, ACLU executive director Patrick Murphy Malin urged rejection. Noting that the ACLU does not object to certain restrictions upon picketing near agencies which have a judicial character, the Executive branch of the government is another matter. Malin said that "Undoubtedly the views expressed by the groups picketing the White House are not held by the majority of Americans, and ... some of the placards are not pleasant to see. However, the right to express political opinion is a cherished right, imbedded deep in our American civil liberties structure. It is a symbol to free men everywhere that democracy has the strength and vitality to allow dissenting views to be expressed, even at the doors of the Chief Executive." The bill did not emerge from committee.

The New York Civil Liberties Union is testing the right of persons to picket near the United Nations headquarters building. The UN disclaims control over adjacent sidewalks; if they are ordinary sidewalks the city police may not prohibit orderly picketing; the arrests apparently rest upon a view that the duties of the city as host to the international body permit the enforcement of certain amenities.

NYCLU has also intervened in a case involving excessive restriction upon courtroom picketing. In this case a man was convicted for carrying a sign condemning the administration of justice in Nassau county and urging an investigation of the judiciary; such action is defined as "contempt of court" in the N.Y. Penal Code although not under the Judiciary Act. The Union asserts that the judiciary is not immune to criticism, that public streets are appropriate places to ask for action, and that the 200-foot limit would have placed the picket in an area removed from those having business with the court—the very persons he sought to interest.

3. The Importance of Diversity

In a free society the widest possible opportunity for the expression of diverse opinion is as important as protection from restriction. Consequently, the Union takes every occasion it can to plead for rules and practices which will foster multiplicity and diversity in the press, radio and television.

VHF and UHF Television. The present distribution of television channels in the United States, as set up by the Federal Communications Commission, has made economically impractical the use of 85% of the TV spectrum. The established major stations operate on VHF (Very High Frequency); it was hoped that newer and more locally oriented stations would operate on UHF (Ultra High Frequency),
where many more channels are available. A combination of technical and economic factors have unfortunately combined to place UHF at a serious disadvantage. Although 329 construction permits for UHF installations have been issued, only 98 stations are presently operating; 19 stations have "folded"; 35 stations, after large investment, have not begun to broadcast. The situation is even worse from the point of view of the consumer; 85% of the receivers which have been purchased cannot receive UHF.

The ACLU, by study in its Radio-TV panel and its free speech and association committee, and through the testimony of the Washington Office Director before a Senate subcommittee, has taken the following position on some of the chief TV channel-allocation issues:

1. There is great need for an immediate and comprehensive study of the channel problem with a view to re-allocation in the interests of broad opportunity for the expression of diverse opinion.

2. De-intermixture (channel allocation policy whereby all the stations in an area become either VHF or UHF) should be immediately authorized in order to protect present all-UHF areas.

3. The proposal to move all stations to UHF should be rejected as contrary to the de-intermixture concept and as tending to restrict available channels.

In taking these positions, the ACLU emphasizes that its conclusions are necessarily open to modification after the called-for general study has been made, and that the FCC and the Congress should be applauded for the constructive manner in which they have approached the problem.

Subscription TV. The ACLU has carefully considered proposed pay-by-the-consumer TV. Recognizing that such a system might increase diversity, the Union recommends a trial period of limited duration under specific conditions: 1—that there be no sponsors of STV programs, 2—that STV should operate only where three or more free channels serve a city, 3—that, if requested by the FCC, STV programmers should give guarantee that something new, not now offered, be made available. Present proposals do not carry these safeguarding conditions, and cannot therefore be approved by the ACLU.

Danger of Inbreeding. In the Biscayne case an FCC examiner recommended granting a license to one applicant, as against others, partly on the ground that this particular applicant had previous radio-broadcasting experience. The ACLU recognized the value of past experience but expressed its concern lest the standard set up should be a precedent for creating a monopoly situation. The ACLU urged the FCC "to keep open radio and TV channels to new interests, and to encourage new
groups to enter the broadcasting field, in order that without sacrificing the past experience of those already in the industry, diversity in ownership will be advanced."

Replies to Personal Attacks on Radio-TV. The problem of attacks on public figures and private persons over the air has existed for some time. Patrick Murphy Malin, ACLU executive director, has addressed a letter to all members of the Federal Communications Commission urging that body to recommend appropriate policy. The Union proposes that overall programming be guaranteed which will fairly represent the views of the public figures, and that "equitable opportunity" for reply be given private persons who have been attacked.

The "equal time" principle which has been advanced as a solution to the problem of attack on private individuals is, in the opinion of the ACLU almost inevitably invalid; "it may be impossible to answer in 30 minutes an accusation made in 10 seconds, or it may be possible to answer in five minutes an attack which took an hour to make." A better approach is to offer "equitable opportunity"—a reasonable and flexible criterion—"to make a specific reply to a specific attack."

The Union restudied this issue in 1956 because of its importance in a campaign year, and came to the conclusion that the existing Communications Act governs the situation adequately with respect to equal time for political candidates. It noted with approval the fact that Congress did not take action which would have resulted in exclusion from the air waves of all candidates except those of the two major parties.

NATIONAL SECURITY

National security in its relations to civil liberties involves three areas of inquiry:

1. Federal laws and regulations, and cases arising therefrom. U.S. Supreme Court decisions on state cases presenting constitutional issues.

2. Major studies recently begun by committees of Congress and government executive departments looking toward better laws and rules.

3. State and local laws and regulations, and derivative cases.

Each of these areas is complicated, and the complexity is heightened by their inter-relationship; the general problem of security does not seem as simple as in the past. But this development represents a real improvement; knowledge of the difficult nature of a situation is preferable to argument about false simplicities. For example, the important Cole and Nelson decisions by the U.S. Supreme Court have clarified the
present authority of the national and state governments. Recent and forthcoming studies by Congressional committees and a national commission demonstrate a persistent sense of responsibility on the part of the nation's leadership.

1. Federal Laws, Regulations and Cases

Steve Nelson Case. In April 1956, the U.S. Supreme Court by a 6-3 vote upheld the Pennsylvania Supreme Court in its view that Federal legislation has pre-empted the area of prosecution for sedition. The highest court made clear that the Nelson case concerned only sedition against the United States, and that the dominant interest of the federal government precluded state intervention, and that administration of state acts would conflict with federal operations.

The ACLU has not regarded the pre-emption issue as one involving civil liberties; the Union's brief in the case stressed the likelihood of multiple prosecutions, harassment, and "vigilante" action limiting freedom of speech—all of which elements it has found in prosecutions under state sedition laws.

After the Nelson case decision, Massachusetts courts threw out the indictments of ten persons variously charged with Communist Party membership, conspiracy, etc.; the best known cases were those of Otis Hood and Dirk Struik. The Kentucky high court reversed the conviction of Carl Braden noting that the state was still free to prosecute Braden for "the crime of sedition directed exclusively against the commonwealth of Kentucky."

Dismay and considerable resentment was expressed by many state officials, understandable in view of the fact that the Attorneys General of 42 states and two territories had submitted briefs defending state sedition laws. These officials, at a meeting subsequent to the decision, endorsed Federal legislation which would permit state criminal prosecutions, but attorneys general from eight leading states put themselves on record in dissent.

Bills to validate state sedition laws were introduced in both Houses of the 84th Congress, passed both Judiciary Committees, but reached neither floor. On this legislation the ACLU issued a memorandum of comment pointing out the danger of conflict with administration of the federal security program, harassment by duplicate prosecutions (as did occur in the Nelson case), and violations of free speech and due process. On the last point the Union noted that "The most glaring example of this abuse is in the California Un-American Activities Committee, when it was headed by state Senator Jack B. Tenney. The reports of this committee, are jammed with the names of persons and organizations who have no sympathy for communism, but who nonetheless are labelled as supporters of Communist-front organiza-
tions. . . .” Obviously, the records of such a committee would serve as a base for possible prosecution under a state sedition law.

Communist Control Act of 1954. In July, 1955, Attorney General Brownell brought the first action under the labor section of this law by asking the Subversive Activities Control Board to find the International Union of Mine, Mill and Smelter Workers a Communist-infiltrated organization. The ACLU and the Colorado Civil Liberties Union issued a public statement attacking the law as unconstitutional. The statement emphasized the right of individuals, under the First Amendment to exercise “free speech and association by joining union organizations to pursue legitimate trade union objectives regardless of other associations that some of its members and leaders may hold.” The ACLU was particularly concerned about the fact that the Department of Justice petition to the SACB cited as evidence the opposition of the Mine, Mill union to the Taft-Hartley Act, the Communist Control Act, and other measures which have been opposed with equal vigor by practically all segments of organized labor and many non-Communist and anti-Communist organizations. Even more dangerously, the 1954 law is so vague that it deprives organizations and their members of due process in the determining of whether they fall within the proscribed area. The labor union must ask itself whether one Communist officer or six, one per cent of its membership or fifty per cent, represents Communist infiltration—and the law gives no answer.

The ACLU will not appear amicus on the facts in this administrative proceeding but will intervene when the issue reaches the courts.

Federal Immunity Act. This 1954 legislation provides that, a Federal judge approving, immunity may be granted by the government to witnesses called before grand juries and Congressional committees. In the Ullman case, the U.S. Supreme Court, in a 1956 decision, held that the Fifth Amendment guarantee against self-incrimination was met if the immunity was complete, rejected the contention that job loss or passport denial was material because “if the criminality has already been taken away, the Fifth Amendment ceases to apply,” and disregarded completely Ullman’s plea that the law would inflict “infamy” and without due process require him to give up his good name. The ACLU intervened in this case asserting that the law was of vague scope, uncertain in its protection, required self-degradation, and in application would yield only information that was already available. The high court decision related only to grand jury appearances; further testing on the investigating committee aspect is likely.

Internal Security Act of 1950. The requirement of this law that the Communist Party register has not yet been ruled on by the U.S.
Supreme Court. The ACLU brief, concerned only with violation of the First Amendment, points out that registration would restrict all expression of opinion, even legitimate and harmless; it would restrict a person, not what is said.

In the spring of 1956 the high court returned the case to the Subversive Activities Control Board for reappraisal of the testimony of three witnesses which the Communist Party claimed to be perjured. Later the SACB announced it would reconsider, excluding the questioned testimony.

**Smith Act Cases.** The U.S. Supreme Court has not yet handed down a decision in the California Smith Act cases (Yates, Schneiderman). In a more recent district court trial in Connecticut, the court consented to hear expert testimony on the "clear and present danger" issue as a matter of fact; the New Haven ACLU assisted in making such testimony possible; the defendants were convicted, but the record on appeal will be the first to contain expert testimony on the question of danger. The Niagara Frontier (Buffalo) ACLU affiliate was instrumental in obtaining counsel for John Noto, charged under the membership clause of the Smith Act. The ACLU also joined in raising the issue of excessive bail, subsequently reduced by Justice Harlan from $30,000 to $10,000.

**Sobell Petition.** Morton Sobell, serving a 30-year sentence for his part in the Rosenberg atomic espionage case, petitioned the trial court for discharge from custody or a new trial, alleging civil liberties violations in the original prosecution. The trial judge, Irving A. Kaufman, of the Federal District Court, denied the petition.

The matter was thoroughly reviewed by the general counsel, due process committee, and staff counsel of the ACLU. The Union concluded that while Judge Kaufman's decision contained some intemperate language, it clearly and correctly stated the law and exhausted all possibility of successful civil-liberties challenge of the conviction in this proceeding. With respect to the allegation that Sobell had been illegally apprehended and delivered to the U.S. border—in violation of the U.S.-Mexican extradition treaty—the ACLU said this question was not raised at the right time and was not therefore susceptible to determination in this case. The ACLU believes, however, that allegations concerning the FBI's instigation of, or part in, the ejection of Sobell from Mexico require full investigation by the Department of Justice.

**Kendrick M. Cole Case.** Whereas the Nelson case related to the authority of government over any person (and Nelson is an admitted Communist who has been convicted under the Smith Act in a different proceeding), the Cole case clarifies the position of the individual who chooses to place himself under a measure of authority by accepting
government employment. In a highly significant 6-3 decision the U.S. Supreme Court ruled that federal employees could be dismissed as security risks only if they held sensitive jobs. The decision held that a 1950 law applied only to such posts and that President Eisenhower had erred, in 1953, when by executive order he extended the regulation to cover all government workers. A minority opinion disagreed sharply, asserting that the extension had been within the limits of executive judgment and that the Court's order "has stricken down the most effective weapon against subversive activity available to the government."

In commenting on this ACLU-supported case, Patrick Murphy Malin said that the ruling was "tremendously important for it should limit the number of workers covered by the program. The extension of the security program to millions of workers in non-sensitive positions has made the program a Pandora's box. It would be repetitious to list the widely publicized cases of workers in non-sensitive jobs, whose employment status, reputation and personal life have been severely damaged because of the all-inclusive nature of the program and the unfair procedures that have marked it."

There was immediate reaction in Congress. Senators Joseph McCarthy, James Eastland and Karl Mundt introduced bills which would validate the president's extension. Representative Francis Walter went further and proposed that national security be equated with national welfare, thereby repealing much of the civil service and veteran's preference laws. Representative Edward H. Rees offered a bill distinguishing between disloyalty and security and setting up needed procedural safeguards. Hearings were held. Patrick Murphy Malin, ACLU executive director, testified that in his opinion the existing civil service laws gave sufficient authority for the Executive to protect the government from disloyalty in non-sensitive positions and that the report of the commission studying security should be awaited. None of the bills received final committee vote in either House.

**Applicants and Probationary Employees.** In the Haynes case a probationary employee was suspended on the basis of information "concerning . . . fitness for continued employment." An opportunity to file affidavits answering specific charges was denied; Haynes was then dismissed under civil service provisions for separation during a trial period. The executive action was upheld by a district court but reversed by the U.S. Court of Appeals; the case will presumably receive U.S. Supreme Court decision.

Rowland Watts, ACLU staff counsel, believes that the appellate court decision is significant because it calls attention to the requirement in the executive order setting up the security program which grants consistent and minimum standards apparently even for job applicants.
Parker vs. Lester, Coast Guard Clearance. The Coast Guard has since 1950 required clearance for seamen and longshoremen, relying in part on files which contain FBI information—which in its turn does not disclose sources. Northern California ACLU alone has handled 83 cases (58 achieved favorable disposition, six appeals were dropped or turned over to other counsel, and 19 are active). Now, in the Parker case, the Federal Court of Appeals in San Francisco has enjoined the Coast Guard from using secret information; the government has decided not to appeal. (See below, p. 66.)

Industrial Security Clearance Case. The Government has brought under security scrutiny two employees of Western Electric in San Leandro, California, on the ground that the company has given clearance to the workers, and that an investigative agency has recommended revocation of the clearance. Northern California ACLU has protested because the company admits that the employees have no access to classified information or work involving security considerations; however since they might be otherwise assigned in the future the “company has deemed it appropriate to clear for confidential all its citizen employees . . . .” In the ACLU protest to the Defense Department, it was said that the Office of Industrial Personnel Security is “enforcing the provisions of the Butler bill, even though that bill has not been enacted by Congress.” The bill would permit government clearance of all workers in defense plants. (See also below, pp. 31, 32 and pp. 37, 38.)

Cutter Laboratory Case. Doris Walker, employee of the Cutter (pharmaceutical) Laboratories in Berkeley, California, was discharged; an arbitration board held the dismissal was in violation of a contract provision permitting union activity. The California Supreme Court disagreed, saying that Walker’s reinstatement would be against public policy, since it would be assumed that as a Communist she was dedicated to the “practice of sabotage.” The U.S. Supreme Court, 6-3, said it would not inquire into a decision on public policy by a state.

The ACLU brief in this case asserted that, merely on the assumption of sabotage, without any real supporting evidence, California had interfered with an individual’s right to “a judicial remedy, to court aid in securing [her] rights.” The ACLU brief said that by the reasoning it opposed, “almost any sort of employment contract would be equally unenforceable for a Communist—to prepare food, work on a construction project, run an elevator . . . [and likewise to buy] passage on a railroad, to lease a building, to buy property anywhere near a Western Union office or public utility.” The Union noted that the job in question was in no way “sensitive” and that there was no direct evidence of Communist Party membership.
Gwinn Amendment. This Federal law amendment prescribing a loyalty oath for residence in housing projects partially financed by government funds, was declared unconstitutional in Wisconsin, California, New Jersey and Illinois by state court determinations involving local authorities; the U.S. Supreme Court refused to review the California and Wisconsin decisions. More recently the Department of Justice appears to have ruled that the term of the amendment has ended (since it was attached to an appropriation bill). Illinois Division, ACLU discovers, however, that the Chicago Housing Authority, although no longer requiring signing, asks for it on a "voluntary" basis; a list of signers is probably kept, and all but two tenants have complied. In Seattle, the Washington State ACLU is closely following the plan of the housing authority to prepare a new oath modelled on the national Subversive Activities Control Act. Colorado ACLU is watching the Denver situation where the regulation is still being enforced.

2. Major Studies

The Lloyd Wright Commission on Government Security. The 84th Congress, acting on a resolution introduced by Senators Herbert H. Humphrey and John Stennis, in August, 1956 established a commission "to study and investigate the entire Government Security Program including . . . statutes . . . orders and administrative regulations and directives under which the Government seeks to protect the national security . . . against loss or injury . . . together with the actual manner in which such statutes [etc.] . . . have been and are being administered and implemented . . . [and to recommend] such changes as it may determine are necessary and desirable." While hearings were being held on this matter, Ernest Angell, ACLU board chairman testified before a subcommittee of the Senate Committee on Government Operations (see ACLU 1954-55 Annual Report, pp. 22-3).

The non-partisan Commission of twelve includes four appointed by the President, four by the President of the Senate, and four by the Speaker of the House; six of the group are from private life; Lloyd Wright is chairman, and a report is due in mid-1957.

Olin D. Johnston Committee. From May through September 1955, a subcommittee of the Senate Committee on Post Office and Civil Service (with Senator Olin D. Johnston as chairman), held hearings on the administration of the Federal employees security program; a detailed report and recommendations was issued in August, 1956. The recommendations of chief interest to the ACLU are these:

1. That the present security program, in line with the Cole decision, be limited to sensitive positions, and that non-sensitive positions be governed by other existing laws. (It is pointed out that the only loss
of authority under the Cole decision is the power of a non-sensitive
agency to suspend summarily.)

2. That the Congress enact legislation to govern the dismissal of
disloyal employees or those who are security risks in sensitive posi-
tions, and that upon the enactment of such legislation the existing Execu-
tive orders be abrogated. The Committee suggested that the new legis-
lation, in clear and concise language, cover these points:

a) A system for handling charges of disloyalty in all departments,
and an appellate procedure outside the agency concerned.

b) A system for handling "risk" charges in sensitive positions, and
outside-agency appellate procedure.

c) A declaration that all other dismissals of a "suitability" nature be
governed by civil service and veterans preference laws.

d) Under a) and b) the following points should be borne in mind:
1—definition of the purposes of a loyalty and security pro-
gram, 2—protection of the national security coupled with fair-
ness to the employee, 3—transfer of alleged risks to non-sensitive
positions while determination is being made, 4—details as to
contents of charges, makeup of initial hearing boards, 5—
multiple jeopardy, burden of proof, presumption of guilt, guilt
by kinship, 6—makeup and use of the so-called Attorney Gen-
eral's list, 7—specifications as to use of unidentified witnesses,
and a requirement of confrontation except as the Congress shall
delineate, 8—the same procedure for trial, temporary, indefinite
and permanent employees, 9—hearing opportunity (and appeal
rights) in the civil service commission for job applicants where
disloyalty or security is the only impediment to hiring, 10—op-
portunity for those who have been dismissed under allegation
or assumption of the existence of derogatory information, to
clear their records, 11—safeguards against long delays in reach-
ing a determination, 12—fairer handling of the expense and
lost income problems of those who have been suspended and
cleared.

Obviously, these proposals would go a long way toward ending the
infringement upon civil liberties which have resulted from the nature
and administration of the present security program. The Washington
Office Director of the ACLU, on the basis of long study of these prob-
lems, particularly stresses the importance of improving the criteria and
procedures of the initial hearing determination; in his opinion this is
perhaps the chief weakness of the existing security program.

Industrial Security Program. Senator John M. Butler introduced a
bill in the 84th Congress which would have permitted the government
"to guard strategic defense facilities against individuals believed to
be disposed to commit acts of sabotage. . . ." A similar bill failed in
the previous Congress. Such a law would permit scrutiny of any person
having any contact with a defense plant; for example, a truck driver
delivering coke bottles. Sharp protest by the ACLU and labor groups was followed by shelving of the bill in a Senate committee.

In fact, Section 7-e of the Industrial Security Manual permits the government to demand all information about any employee at an installation where government classified work is carried on. (See above, p. 29, and below pp. 37, 38.) This provision, and others, has led Fortune magazine to estimate that perhaps 20,000,000 Americans are subject to loyalty-security clearance in one way or another.

3. State and Local Laws and Regulations, Cases

State Sedition Laws, Loyalty Oaths. The Illinois Broyles law requiring state and public school employees to take a loyalty oath has been upheld in a lower state court against the complaint of four individuals—including three for whom the Illinois ACLU is appearing. The judge said "The purpose [of the law] is not to probe the minds of the plaintiffs with the intention to punish unorthodox beliefs . . . but rather to ascertain a primary quality for the instruction of our youth. In the desperate battle for youths' minds, the state must protect the integrity of its schools against their perversion to subversive ends."

The ACLU, which will appeal, takes the stand that "...this test oath is not only repugnant to our traditions, it offers us no security. A real subversive could either cynically sign it or could drop for a few hours his questionable memberships, sign the oath, and then resume them . . . To date, no subversives have been caught."

Greater Philadelphia ACLU has called upon forty organizations to join in support of a bill to repeal the Pennsylvania Loyalty (Pechan) Act. The Union pointed out that no person has been discharged as subversive, and the only specific effect has been the dismissal of eight persons with conscientious scruples, most of them Quakers.

The State of Washington has a law which requires state and university employees and elected officials, to sign a notarized declaration that they are not members of any organization on the Attorney General's list. The penalty for not signing is discharge. An ACLU Washington affiliate test action, brought by two professors, will contend that the oath punishes without trial, unlawfully delegates state power to the U.S. Attorney General, and violates due process by not requiring knowledge of the purpose of an organization—thereby entrapping the innocent member of a subversive organization.

A Communist registration law now operates in Wyoming. The Minnesota legislature, in 1955, let die in committee a bill which would have set up a system of loyalty oaths. The Braden case, as noted above, may now develop pressure toward prosecution for sedition against the state, rather than the nation. The New York Civil Liberties Union continues its drive to persuade the legislature to let die the state
security law; designed to guard security in reasonable terms, it contains a standard of "doubtful trust and reliability" which could mean anything, and which in New York City will lead to the screening of 90% of the public employees.

The California State Supreme Court ordered consolidated all loyalty oath cases involving declaration by churches when filing tax exemption certificates. (See below, p. 49.)

State Investigations. The New Hampshire legislature has authorized continuance of investigation into subversive activities, by the state Attorney General; however, the power to grant immunity, which that official sought, was denied.

The Massachusetts Commission on Communism in 1955 released a report naming 85 persons as allegedly present or past Communists or Party-line followers. The report drew heavily on the group of persons who have pleaded the Fifth Amendment; the rest of the evidence set forth was anonymous as to source. The Massachusetts Civil Liberties Union denounced the list as "a deplorable usurpation of the judicial function and punishment by blacklist without due process." The Commission has been continued for another year with legislative mandate to name names, but without power to grant immunity to witnesses. A test case has thus far established that members of the Commission are not immune from service of legal process.

State Administrative Situations. The NYCLU has joined with other organizations in asking the New York state courts in the metropolitan area to withdraw a requirement that prospective jurors answer: "Are you or have you ever been a member of, or affiliated with, any group or organization which advocates or has heretofore advocated the overthrow of the U.S. Government by force?" The Union charged that the question was lacking in definition, was retrospective, and "useless." Also an NYCLU concern was the requirement by the State Insurance Department that applicants for licenses to do insurance business indicate whether they had ever been a member of any organization on the Attorney General's list; two days after the Union protest, the question was withdrawn pending "further study."

In Ohio, Admiral Kilpatrick, a Cleveland industrial worker, pleaded the Fifth Amendment and refused to answer virtually all questions addressed him by the Ohio House Un-American Activities. His employer fired him because of his conduct at the hearing. Kilpatrick applied for unemployment compensation and was refused on "grounds related to his employment," a euphemism for tardiness, drunkenness, theft and other job derelictions. The worker had not been accused of anything like this at the time of his discharge. He had also taken a required oath of allegiance.
The Cleveland branch of the Ohio CLU has entered this case now that it is in the courts, on the ground that invocation of the Fifth Amendment is not a crime and that no other reason was given for discharge.

**Illinois Election Law.** The Illinois Division of the ACLU instituted a test suit on behalf of Howard Mayhew, Socialist Workers Party candidate for Congress who seeks to have declared invalid that section of the ballot law which provides "that no political organization . . . shall be qualified . . . which is associated directly or indirectly, with Communist, Fascist, Nazi or other un-American principles and engages in activities or propaganda designed to teach subservience to the political principles and ideals of foreign nations, or to overthrow by violence [etc.]. . . ." The ACLU asserts that this section is unconstitutional by reason of its vagueness and because no recourse is offered in the face of an adverse ruling.

**RIGHT TO A LICENSE**

**Attorneys.** The ACLU has appeared before the U.S. Supreme Court on behalf of Rudolph Schware who has been denied admission to the bar by the New Mexico Supreme Court. The refusal is based on three grounds: 1—Schware's past Communist membership; the Union points out that formal party membership ended in 1940 (two years before the Smith Act), and any sympathy ceased in 1944; reaching this far back precludes, perhaps for life, any recognition of the abandonment of totalitarian views, 2—the use of aliases (19 years previously); but, says the ACLU, this admitted fact was motivated by a desire to avoid racial discrimination and to be effective in labor organizing activity, 3—a record of arrests; the first as one of a 1000 persons in a strike, the second for attempting to recruit for the Spanish Civil War, and the third in a mix-up concerning a friend's car which Schware was driving—in all three instances without subsequent conviction or even prosecution. The Union brief points out that Schware was also denied due process by being refused opportunity to confront and cross-examine his accusers before the Board of Bar Examiners, and that ample evidence of good conduct has been accumulated.

On the arrest issue, the ACLU said: "... an arrest is nothing more than an accusation by a police officer . . . To permit an arrest to be considered derogatory information is to pervert the entire American theory of justice, which is that a man is innocent until proven guilty, after trial by due process of law."

In Florida the state Supreme Court considered the petition of a group of 27 Miami lawyers calling for disbarment of any Florida lawyer
who refuses to answer questions about Communist activity. Opposition was expressed by other lawyers including a representative of the Greater Miami ACLU. The president of the Florida Bar Association stated that existing rules for policing the profession are adequate. The court amended its rules to permit disbarment of Communists or Communist Party sympathizers but refused to make disbarment automatic for pleading the Fifth Amendment.

**The Lamb Case.** After 31 months, the expenditure of vast sums of money, and the accumulation of 60 volumes of testimony, the hearing examiner of the Federal Communications Commission has ruled that Edward Lamb is entitled to a television broadcasting license for station WCIU in Erie, Pa. The charge against Lamb was that he had either been a Communist or in some way associated with the Party. The Examiner said that "The picture... which emerges... is that of a shrewd, successful and aggressive lawyer who was connected in some way with several Communist-dominated matters which, despite his demonstrated acumen, he failed to recognize." The case had political overtones. The civil liberties issues could not be forthrightly contested because the proceedings were administrative, but they were of considerable importance: 1—the use by the government of unreliable witnesses (one was convicted of perjury), 2—misuse of the licensing power by relating a license to an applicant's views and associations.

**Radio Operator's License.** In California, an FCC hearing officer has denied an operator's license to a man because he refused to answer questions about past or present Communist Party membership. The questions were put to some applicants but not all; no regulations support the questions; no charges of any kind of violation have ever been made against this individual, and no complaints received. The Commission, however, contends that it may inquire "for the most serious or frivolous reasons." Northern California ACLU will take the case to the full Commission and the courts, if necessary.

**ACADEMIC FREEDOM**

Academic freedom has continued to be a controversial subject because it raises the question of freedom in an acute form: how much freedom will be given teachers, a group particularly charged with the exercise of freedom of thought in a democracy?

1. **New Major Policy Statements**

   **The American Association of University Professors.** At its annual convention in April, 1956, the AAUP came to grips with the problem of
academic freedom and national security. The Association went on record in these terms:

1. Although national security must be guarded, and education protected from subversion, "nothing in the record of college and university teachers as a group justifies the imputation to them of a tendency toward disloyalty to the government or toward subversive intent with respect to the nation's institutions. [The Association deplores] . . . the entire recent tendency to look upon persons or groups suspiciously and to subject their characters and attitudes to special tests as a condition of employing them in responsible positions."

2. With respect to discharge for refusal to answer legislative committees, "dismissal upon the mere fact of exercise of constitutional rights violates the principles of both academic freedom and academic tenure."

3. An institution cannot ignore indication of past or present Communist associations or activities and preliminary inquiry may be justified—such inquiry to be by his peers, and in no way a substitute for formal charges and hearing if questions of competence and integrity must be adjudicated.

4. "Members of the teaching profession should recognize that sincerity cannot be judged objectively and that a college or university is entitled to know the facts with which it must deal."

At the convention the administrations of eight institutions were censured (five because of issues arising in part under the principles just stated); the ACLU and its affiliates were active in six of these cases (Ohio State University, Jefferson Medical College, Rutgers University, Temple University, University of California, North Dakota Agricultural College).

Louis Joughin, ACLU assistant director and executive officer of the Union's national academic freedom committee, met with the Association's standing committee on academic freedom and tenure to discuss parallel action and staff cooperation. The new general secretary of the Association is Ralph Fuchs, 1954 chairman of the Indiana CLU.

Academic Freedom and Civil Liberties of Students. Entering an area which is largely unexplored, the ACLU in 1956 published a pamphlet on this important subject. Recognizing that an institution is responsible for the welfare and guidance of its students, and must therefore exercise reasonable control over their scholastic life and much of their general activity, nevertheless, a "school or college is also committed, to daily, progressive withdrawal of its authority . . . We cannot wrap the student in cotton wool to protect him against the hazards of freedom and at the same time habituate him to the making of intelligent choices among policies." And the Union finds that the post-war emphasis on national security has resulted in an
"increasing exercise of paternalism by college authorities and governing boards over students." The specific recommendations include:

1. The establishment of student government at each college, with an electorate consisting of the entire student body, or other academic corporate units—as opposed to representation from clubs, etc.
2. Freedom to form and join organizations for any lawful purpose, including political action and discussion.
3. Registration of the names of club officers, but not the entire membership list.
4. Encouragement of freedom of speech on the campus, and limitation of this freedom only by established rules.
5. Avoidance of control, to the widest degree possible, over the college newspapers; but, recognition by the college press of its privileged monopoly position.
6. Freedom of students from campus discipline for off-campus activities, provided they are lawful and that the students have indicated they do not speak for the college.
7. Extreme care in making available to the outside world the student's campus record (affiliations, opinions, etc.); an institution may properly divulge information relating to integrity, academic and professional competence.
8. Disciplinary action should follow only on specific charges and opportunity for a full hearing.
9. Regulations affecting students academic freedom and civil liberties should be adopted and implemented by a faculty-student committee.

2. Laws and Regulations

The Industrial Security Manual. The ACLU has attacked a Defense Department regulation permitting investigation of all employees, including those in non-sensitive positions, of all universities and industrial plants which have defense contracts.

The Industrial Security Manual states that any contractor, when requested to do so by security officers, must submit information about "any of his employees working in any of his plants, factories or sites at which work for a Military Department is being performed." The ACLU criticized the Defense Department for offering no assurance that information furnished by a teacher to his institution in connection with his academic position will not be transmitted to the government for judgment not relating to academic matters. The Union said it must assert again "that the legitimate concern of the government with national security does not give it the right to know anything it may want to know about anyone."

The ACLU also noted the absence of due process in not providing the teacher "an opportunity to comment upon or supplement this
information, or an opportunity to challenge judgment upon this information. The whole procedure can be one of secret investigation and subsequent undisclosed judgment. . . ." Furthermore, the assurance that the regulation has not been widely or unwisely used is inadequate: "Americans," said the ACLU, "are accustomed to a government of law, not of men and discretion."

In the opinion of the Union, the Ninth and Tenth Amendments to the Constitution are also contravened by this regulation: "Our government, in all its branches, is one of limited powers. The government—which is not the nation, but only one instrumentality of the people—has powers . . . defined by law and limited by the Constitution. Beyond these powers the people are free."

The 1956 decision of the U.S. Supreme Court in the Cole case (see above, p. 27), is highly relevant to this problem because it limits the government's security program for its own employees to those holding non-sensitive positions.

The ACLU objections were presented to Secretary of Defense Charles E. Wilson in a letter signed by Ernest Angell, chairman of the Union's board of directors, Patrick Murphy Malin, executive director, and Professor Alonzo Myers, 1955-56 chairman of the national ACLU academic freedom committee. Representatives of the ACLU and the AAUP subsequently conferred with a Defense Department official who agreed to consider the objections offered, in preparing a forthcoming revision of the Manual.

State Laws. A Florida bill, which died because of legislative adjournment, contained a provision calling for the discharge of any teacher or professor who teaches "any philosophy, creed, idea identifiable as socialism, fascism, Communism, nazism, collectivism, planned economy, one-world government or other similar anti-American doctrines."

Full due process for teachers under fire has been proposed by the Colorado State Board of Education. The recommended procedures include: written charges made under oath, adequate time to answer, early hearing, right of all parties to call witnesses and to cross-examine, right to counsel, taking of a full transcript, written decision, review of local decisions by the State Board. Local school boards cannot be forced to follow these rules but the appellate provision will have significant influence. The Colorado Civil Liberties Union was active in preparation of these regulations and has endorsed them, with a reservation objecting to the standard which permits discharge simply for membership in the Communist Party.

In Massachusetts a proposed law called for the immediate discharge of any teacher, in private or public employment, who refused to answer about present or past Communist Party membership in any trial, hearing or inquiry. The bill died after the state Supreme Judicial
Court, in a unanimous advisory opinion, agreed that such a law would be unconstitutional.

3. Cases

**Slochower Case.** In a 5-4 decision, the U.S. Supreme Court has ruled that Professor Harry Slochower of Brooklyn College could not be discharged for the sole reason of his refusal to answer a Senate subcommittee when asked about Communist Party membership in 1940 and 1941. The majority decision does not stand in the way of a new full hearing. A strong minority in the Court argued that discharge after such refusal was within the area of administrative discretion. The New York ACLU affiliate filed intervening briefs in this case in both the New York and U.S. Supreme Court.

**Herbert Fuchs Discharge.** This law professor, on the staff of the American University in Washington, was a cooperative witness before the House Un-American Activities Committee; the university administration said it would stand by him. Fuchs was then called again to testify, and was discharged.

The ACLU objected to the discharge as possibly being based on public relations considerations, the testimony of Fuchs having become a matter of national notice. Two due process points were also raised by the Union: 1—the relating of the question of present integrity to prior-service history and 2—the basing of action on remarks made at a meeting between Fuchs and the University executive committee—remarks not preserved in any written record. Finally, while recognizing the right of denominational institutions to establish particular religious or doctrinal criteria, Fuchs appears to have been quizzed about his religious beliefs long after he had been employed; and the president has announced as general policy that he will not recommend "at any time one who is not in sympathy with the objectives of this institution." The University again considered the matter but refused to offer further explanation or to change its stand.

**Sweezy Lecture.** Professor Paul M. Sweezy delivered a lecture on Marxism at the University of New Hampshire; under the broad investigative powers voted the state Attorney General, Sweezy was asked about the contents of his lecture; he refused to reply, and was cited for contempt by a court. The ACLU filed an amicus brief before the state high court asserting that the law authorizing the investigation did not contemplate a searching into the classroom—and thereby the inquiry violated academic freedom. The conviction was upheld, but the U.S. Supreme Court has agreed to review.

**La Vallee Case.** Dr. L. W. La Vallee of Dickinson College, Pa., pleaded the Fifth Amendment before the House Un-American Activi-
ties Committee when asked whether he had ever been a Communist; he did answer in the negative to the president of his institution. President Edel suspended La Vallee, asserting that action was taken because of private information given him by the House Committee and not because of the refusal. Later, the suspension was converted into a dismissal.

York branch of the Pennsylvania ACLU affiliate investigated this case and came to the conclusion that academic freedom had been violated because La Vallee was given no charges and no hearing; the entire burden of proof was shifted to the teacher and he was asked to prove himself fit to hold his post.

Refusal Equals "Incompetence." The Pennsylvania Loyalty Act sets forth procedures for the handling of loyalty cases. But the Philadelphia Board of Education, in the Beilan case, made use of the state tenure law and discharged a teacher as "incompetent" because of his refusal to answer a House committee. A first court held the dismissal to be illegal but a higher court ruled against Beilan. The Philadelphia ACLU filed intervening briefs at both levels and will do so again if the case is carried further.

Schuddakopf Saga. A two-year story of vicissitude began in 1954 when Mrs. Margaret Schuddakopf pleaded the Fifth Amendment when questioned by the House Un-American Activities Committee. The Tacoma, Wash., School Board questioned the teacher and then voted to retain her. The Pierce County School Superintendent over-ruled the Board, and finally Mrs. Pearl A. Wanamaker, Washington State superintendent of public instruction upheld the Tacoma board. Washington State ACLU supported this case in the administrative hearings.

A related chain of circumstances began on January 6, 1956 when Fulton Lewis, Jr., radio commentator, said that Mrs. Wanamaker was a sister to a man who had renounced the United States and fled to the Soviet orbit. This was an error in identity; Mrs. Pearl A. Wanamaker is a past president of the National Education Association and one of the two final reporters of the 1955 White House Conference on Education. Lewis has retracted and apologized, but Mrs. Wanamaker insists that harm has been done and is suing him and the sponsoring network.

Deinum Case. Andries Deinum was in 1955 dismissed from his post as cinema instructor at the University of Southern California. A faculty committee investigated the matter and recommended no further action with respect to this teacher who had willingly testified before the House Un-American Activities Committee about his own activities but had refused to talk about other persons. The faculty committee recommended that the university reduce to writing its rules about
cooperation with investigations because its administration had been "less than forthright" with Deinum.

**Chain Reaction.** Harvey Taylor, former principal of a Dover, Del., school, is bringing suit for reinstatement after his dismissal caused by his stand in favor of integration. Jacques Poletti, a teacher at the school, wrote a letter to a newspaper supporting Mr. Taylor. Finally the Dover Board of Education terminated the employment of Mrs. Poletti (who had already begun her work), "because her husband, if not herself, is a controversial figure." The Philadelphia ACLU protested this application of a principle which calls for teachers "being like everyone else, and having the same ideas as their employers."

4. Freedom of Students

**Willie Morris, American Newspaperman.** During the period of debate on the so-called "natural gas bill," Willie Morris, editor of the University of Texas Daily Texan wrote and published editorials attacking the proposed legislation. The university Board of Regents ordered the editor to cease discussion of this intensely controversial issue, and pressure was brought on him to resign his post. The editor, a Rhodes Scholar-elect, refused to resign and ran blank spaces indicating that an editorial had been censored. Another person who disapproved of the manner in which the natural gas law was supported, if not of its substance, was the President of the United States who vetoed the action by Congress.

**Student Group Membership Lists.** In accordance with firmly established ACLU policy, the New York Civil Liberties Union protested to the College of the City of New York against a regulation requiring student groups to file the name of all members. Recognizing that charter members must be listed in order to establish organization in good faith, and that officers of groups should be identified because of their voluntarily assumed responsibility, it is another matter to require the listing of all names. Too frequently such lists have been later made the base of college condemnatory action, or the information has been passed on to outside agencies. The College has maintained its rules, but several campus political organizations have in protest dropped their official status.

**Football Scandal Penalties.** The revelation of improper financial payments to football players in California institutions led the Pacific Coast Conference to impose penalties against all squad members at the University of California, Los Angeles. The Southern California ACLU protested this action as unproved guilt by association and as a "gross inversion of justice" which placed the burden of proof on the accused.
Alger Hiss at Princeton. In the Spring of 1956, Alger Hiss was invited by the American Whig-Cliosophic Society to address it at Princeton on "The Meaning of Geneva." The student group is America's oldest debating society; Hiss had recently completed his sentence for perjury. There was immediate protest by some alumni, the Roman Catholic student adviser on the campus, and outside groups. President Harold W. Dodds stated his belief that the invitation was unwise but refused to interfere with the student group prerogative of invitation; his opinion and his decision not to interfere was upheld by the Princeton trustees.

School Essay Contest. The New York City schools have for some years conducted annual essay contests, one sponsored by the Fire Department and one by the New York Chamber of Commerce. The NYCLU has raised with school officials the question of appropriate diversity with respect to the second of these essay contests; it appears that other groups, such as the League for Industrial Democracy, have been refused an opportunity. The authorities did not meet the issue of favoritism squarely, and a further testing will be made by requesting opportunity to sponsor a contest on civil liberties.

ACLU Policy. See above, pp. 36, 37, for a statement of Union policy on academic freedom and civil liberties of students.

5. Educational and Research Activity

How Many Communists? The ACLU is frequently asked how much communism has been proved to exist in the schools. No national figures are available but something is known about the New York City picture (where Communist membership has been most concentrated). In the five-year period ending November 1, 1955, seventy-six Board of Education employees admitted past membership; 33 were dismissed after trial; 18 were discharged automatically for refusal to answer in an investigation (see the Slochower case, above p. 39); 207 retired or resigned after charges had been brought. Some of those admitting past membership have been continued in their posts; some who resigned or retired presumably did so for reasons not connected with the specific charges. The total number of Board of Education employees at this time is 58,000 (and turnover in the five years would considerably augment this figure).

The ACLU has often emphasized the very small number of individuals who could be considered real cases, and has expressed grave doubt whether their exposure could justify the massive investigations which have seriously affected the sense of freedom of tens of thousands teachers.
Ohio Intellectual Freedom Conference. The Ohio Civil Liberties Union, in joint sponsorship with labor, press, educational and other civil liberties organizations, led in the planning of a general conference on intellectual freedom held in Columbus, Ohio. Sessions were devoted to freedom of the press, the library, and the classroom, and freedom in library book selection. The main speaker was Alan Barth, editorial writer of the Washington Post.

Tenure Study. The American Academic Freedom Project of Columbia University, with money supplied by the Fund for the Republic, has sponsored a study of the practice and law of tenure in American higher education. The project directors are Clark Byse, Un. of Pennsylvania law professor and president of the Greater Philadelphia ACLU, and Louis Joughin, ACLU assistant director and lecturer in history at Columbia.

The Scopes Trial. On the 30th anniversary of the famous Scopes trial, which involved Tennessee’s law against the teaching of evolutionary theory, the ACLU called upon the governor of that state to seek repeal of Tennessee’s law against the teaching of evolutionary theory. The ACLU said that now, as then, "the ultimate triumph of democracy depends on the unrestricted discussion of controversial ideas." Noting that Tennessee practice has long since made the restrictive measure a dead force, the Union asked that Tennessee formalize its freedom by repealing the law.

CHURCH AND STATE; RELIGION AND CONSCIENCE

1. Church and State

Saudi Arabia. Patrick Murphy Malin in 1956 sharply criticized the government policy by which American soldiers, and American civilian employees of private firms working on defense installations, are screened for their religious affiliations, in order that those of Jewish faith not be assigned to U.S. posts in Saudi Arabia. Recognizing that another government has a sovereign right to exclude civilians it does not desire, Malin pointed out that is a very different matter for the authority of the armed services of this country to engage in screening of U.S. citizens.

Treaty with Haiti. The draft of a treaty of friendship between the United States and Haiti differs from other American treaties of this type by not including the usual guarantees of religious liberty for the nationals of both countries. The State Department has not yet divulged
what action, if any, has been taken on this agreement which would make the U.S. government a party to possible discriminatory restriction upon U.S. citizens in Haiti which they would not experience elsewhere.

Religious Test for Government Jobs. In the spring of 1956 a House Post Office and Civil Service subcommittee prepared a "Code of Ethics for Government Service" which included this language: "Service . . . in or under the government . . . should be characterized by devotion to God and country . . . Any person in government service should: . . . Put loyalty to God and country above loyalty to persons, party or government department." The code did not emerge from committee.

Religion on Wings. In July, 1955, then Secretary of the Air Force Harold Talbott made available to Moral Rearmament, a religious group, U.S. government planes for transportation in the Far East. This was done at less than half rate and without the prepayment required by Department regulations. The ACLU wrote to the Air Force warning that such action violated the Constitutional restriction against government participation in church business. In reply the Air Force stated it would make sure that the government was reimbursed for all actual expenses.

Official Piety. In 1954, the pledge of allegiance to the flag, generally used throughout the country in daily school exercises, was amended to read "one nation, under God. . . ." In 1956, an official national motto was adopted, "In God We Trust," replacing the unofficial "E Pluribus Unum." The same phrase now appears generally on postage stamps and currency as well as on coins. Also in 1956, Congress authorized a Post Office cancellation, "Pray for Peace."

None of these official acts is binding on the individual, which might prove necessary for testing them as imposition of religious belief or violation of the barrier between church and state. However, the ACLU regards such actions as warning signals indicating a tendency to weaken the prohibitions of the First Amendment.

Unconstitutional Discrimination. The Marion County, Ky. school board, composed of three Roman Catholics and two Protestants, voted adequate money for a high school attended largely by Roman Catholic children and gradually gave less and less to a high school attended only by Protestant children; eventually the latter school was closed, and the children taken by bus to schools outside the district. The state high court ruled that "The Board cannot arbitrarily cause a school to become substandard, and then defend its action in this respect on the ground that its course of conduct was necessary." The second school was ordered re-opened with equal treatment. The court also ordered that the first
school cease limiting the high school library to Catholic periodical subscriptions, to cease distribution of sectarian literature, and to resume operation of school buses on Roman Catholic holidays which are not national or state holidays.

**Teaching Nuns.** The Kentucky Court of Appeals has ruled permissible the teaching of public school classes by nuns wearing religious habit. This decision exactly opposes the New Mexico Supreme Court decision banning religious garb.

**State Action on Bible Reading and Instruction.** The California Attorney General has ruled Bible reading and prayers unconstitutional in public schools; but San Francisco and Sausalito continue to use a prayer of thanks to God. The ACLU of Northern California will press for clarification. The Tennessee Supreme Court has held that Bible reading is constitutional (under both state and federal constitutions), as long as no explanatory comment is offered. The ACLU filed an *amicus* brief in the Tennessee test case, and now hopes that this vexed question will receive final determination by the U.S. Supreme Court; the Union holds that such practice imposes religion upon non-believers and non-Christians, and that the use of one Bible translation may offend those who prefer another.

**Sunday Shopping.** The New Jersey Supreme Court has decided that violation of the Sunday anti-business law cannot lead to conviction for disorderly conduct; the Sunday observance law of 1951 provided no specific penalties for breach, and the decision was on the ground that the courts cannot set a penalty when the legislature has failed to act.

**Payments to Sectarian Institutions.** Last year the Annual Report noted that a Pennsylvania court had ruled against payment of state money to sectarian institutions for the care of dependent, indigent and delinquent children; this position has been reversed by a higher state court.

**Religious Quota in Public Employment.** The New York City Domestic Relations Court has for some time hired probation officers approximately in proportion to the number of children of each faith with whom it must deal. But the State Probation Commission has now expressed the unanimous opinion that this practice is "barring qualified persons from this particular type of work solely because of their religious connections." The quota system in employment has derived from the fact that children must be assigned to officers of the same faith "wherever practicable." The hiring rule has apparently not been changed, and protesting groups have brought suit before the State Commission Against Discrimination. NYCLU will enter the case on the church-state issue.
Moral and Spiritual Values. In a number of places, school boards have moved toward the introduction of teaching about moral and spiritual values in the public schools, either in the form of controlling directives or as curriculum material. The situation is sharpened because educational authorities seek the advice of representatives of the major faiths.

In New York City the NYCLU vigorously protested a draft program prepared by the Board of Superintendents, on these grounds: 1—Constitutional prohibition of state aid or influence on behalf of any or all religions, 2—failure to respect the right of a person to have no religion, 3—to require teachers to impart spiritual instruction, as distinct from teaching accepted moral values in proper context, is to invade the teacher's own freedom of conscience, 4—spiritual instruction is the prerogative of parents, 5—the Superintendents' statement "substitutes for the belief in God a vague theism to which, it implies, we all subscribe. The fact is we do not. Adherence to denominational beliefs is not casual or incidental. It is fundamental . . . To obscure this fact is to intrude secular misinterpretation of a matter that lies at the very heart of denominational faith." The Union protest, coupled with that of many other groups, led to a complete revision of the program from which all major objectionable matter was eliminated.

Jail Services. Washington State ACLU intervened in a Seattle suit brought by a jail inmate who sought to bar 19 religious groups from holding religious services in the corridors and "tanks" of the county prison; he claimed he was one of a captive audience, and that the services should be held in the chapel with attendance on a voluntary basis. A Supreme Court judge in effect upheld the "chapel only" regulation which the warden was prepared to enforce, and thus made it possible for those not desiring to attend to follow other free time pursuits.

Crucifixes on Public Property. The IndianaCLU is studying the church-state issue raised by the placing of a 20-foot high crucifix in a Highland public park; the statue, contributed by the Knights of Columbus, is a war memorial. There are also reports of cases involving crosses erected on public property by Protestant groups.

Gideon Bibles. Despite the unanimous ruling by the New Jersey Supreme Court in a 1954 case against Gideon Bible distribution by public school authorities, and the refusal of the U.S. Supreme Court to review the issue, the Gideon Society appears to be continuing its efforts in other states. The Pennsylvania Attorney General has ruled unconstitutional an agreement by Haverford township officials and the Society. Greater Miami ACLU vigorously opposed distribution and the Society suspended such work. The New HavenCLU has noted distribution in its area.
Adoption and Custody Problems. A Massachusetts bill would have conditioned the mandatory placing of children for adoption in families of the same faith by permitting a difference if the natural mother consented. It was defeated. A Massachusetts judge, a Roman Catholic, has denounced the mandatory law, in its retroactive force, as no different to "ordering a parent who has been loving and kind to give up its own child."

Under a 1953 divorce decree in Iowa, Mrs. Gladys Lynch, a Protestant, agreed to raise her child as a Roman Catholic, the faith of the father. He complained that the child was being sent to a Protestant Sunday school, and a lower court found Mrs. Lynch to be in contempt. She claimed that as a parent she had the right to conduct the religious upbringing of her child. The matter was argued before the Iowa Supreme Court, the American Jewish Congress submitting a brief in defense of the mother's constitutional right. A 5-4 decision upheld the mother's position on constitutional grounds.

2. Freedom of Religion and Conscience

Conscientious Objectors: Discharge or Modified Duty? The Central Committee for Conscientious Objectors, the National Service Board and the American Friends Service Committee have negotiated at length, but fruitlessly, with Defense Department officials with a view to obtaining a ruling permitting honorable discharges for men who refuse non-combatant service. Nor has any formal regulation been adopted to help men who become C.O.'s after induction. Military authorities feel that any general regulation would open the door to false claims by those who merely wish to avoid combat service. The ACLU has two test cases in this area.

Second Prosecutions. The ACLU nationally, and its affiliates in local cases, continue to press for relief of conscientious objectors from second prosecution, thus far without success.

Some Improvement. Agencies which keep figures on C.O. cases indicate slightly lessened intensity of prosecution. The average length of sentence probably continues to be about 24 months; this at least is an improvement over the 1917-1919 situation when most final sentences ran from 10 to 50 years, and original sentences included 17 death penalties and 142 life terms.

Downham Case. U.S. District Court Judge George A. Welsh allowed Richard Downham, Pennsylvania Quaker, to make an eloquent statement of his C.O. position. Downham said: "It is impossible for me to accept any position under military conscription regardless of the
exact nature of that assignment. For, however innocent or even socially useful that position might appear, acceptance of a position under military conscription is acceptance of the principle of conscription, and is by no stretch of the imagination in any way resisting this violent institution.” The judge sentenced Downham to three years, but expressed the opinion that God and humanity would best be served by placing the defendant on probation. Downham will work in Mexico, as a carpenter, under the Friends Service Committee village rehabilitation program.

C.O.’s and Citizenship. In the face of court rulings, such as a favorable reversal of the Scaccio case reported last year, the Immigration and Naturalization Service has decided no longer to ask whether an avowed objector will work in a defense or munitions plant.

C.O. and ROTC. The University of Maryland has refused to excuse from ROTC duty a student conscientious objector; he has enrolled in the military science course but protected his C.O. status by doing so under announced objection. Since ROTC is not automatically obligatory, even in land-grant colleges, the University of Oklahoma has been able to take an exactly opposite position and has excused a student. Kansas State College has excused a student who presented evidence of his having done civilian public service work under conscription.

Civil Defense Drill. A number of persons have been arrested and convicted for refusing to take cover at a time of civil defense drill; their refusal was based upon pacifist principles which led them to see the drill as tinged by preparation for war. The NYCLU and the ACLU has taken the position that the police power of the state may be properly exercised in such a situation, and that the right to petition (the group attempting to petition the mayor at the time of the drill) does not mean that petition may be made at any time of choice, regardless of other considerations.

Jehovah’s Witnesses. This religious sect continues to face a variety of problems involving civil liberties: 1—cities in Texas and Indiana have through zoning laws, or their application, discriminated against the construction of J.W. Kingdom Halls, 2—in divorce actions involving custody, the Witnesses believe they find some judges less likely to favor the parent who is a member of the sect, 3—door-to-door preaching and dissemination of literature is subject to harassment (although specific restrictions are usually lifted after court action), and 4—the Witnesses contend that their C.O. cases result in average sentences of 32 months, as against 20 months for other religious objectors.

Despite the position taken by the U.S. Supreme Court many years ago, a Philadelphia principal barred a ninth-grade student from participation in assembly and graduation exercises because the young J. W.
refused to salute the flag. Repeated protests by the Philadelphia ACLU brought about a timely end to the exclusion, but the school board has refused to make a general ruling on such religious non-compliance.

**Loyalty Oaths for Churches.** The California law requiring a statement of non-subversive character by persons and organizations claiming tax-exemption has resulted in a number of test suits by churches. Northern and Southern California ACLU affiliates have supported these actions; in 1955 the state Supreme Court consolidated the cases pending on appeal for final decision (the score in the lower courts standing three against the oath, and two in favor.)

**Other Zoning Cases.** A Rochester, N.Y. case has established that a "purely residential" area may not absolutely exclude places of worship. A Sands Point, Long Island case ruling permits a church structure to be used for such purposes as Boy Scout, and Red Cross meetings, without violation of a zoning ordinance. Both decisions were by the state's highest court.

**The Spanish Catholic Church.** NYCLU brought to a successful conclusion the action on behalf of a priest who had been denied a license to marry; an appellate court ordered the priest's registration as an official of the Spanish Catholic Church of Our Lady of Fatima, he agreeing to make clear that he was not a priest of the Roman Catholic church.
Part II. JUSTICE UNDER LAW

The role of the Police in a democratic society is to maintain the delicate balance between the liberty of the individual on the one hand, and the demands of society for protection against crime, on the other. To uphold such liberty the policeman must always be objective in the performance of his duties. He must be constantly mindful of the civil rights of all the people. He should show neither fear nor favor in the discharge of his duties . . . Everyone is entitled to the equal protection of the laws. Everyone is entitled to equal treatment by police.

—Stephen P. Kennedy, Police Commissioner of the City of New York, speaking before the International Association of Chiefs of Police, September 10, 1956.

THE POLICE

Illegal Search and Seizure. Southern California ACLU is supporting an action by Eric Levy who charges that police last year entered his room and searched his papers and personal belongings without a warrant; he asks $3000 damages against seven members of the Los Angeles force. U.S. Judge Ernest A. Tolin has ruled that the action may be instituted in Federal court because a federally-protected right is involved, even though a state court may have concurrent jurisdiction.

False Arrests. The Greater Philadelphia affiliate interested itself in the case of two teen-age girls who were falsely arrested, held without adequate notice to their parents, and subjected to objectionable physical examination without their consent or that of their parents. The police have apologized.

Northern California ACLU is supporting the appeal of Jathrow Bentley, convicted in an Oakland municipal court of having refused to move on when ordered to do so by a policeman. While testifying at his trial, Bentley was asked by the prosecutor whether he would sue the police and the city for false arrest if acquitted. Such a question might well have affected the jury's judgment because its members are taxpayers.

Man Bites Officer. The New York Court of Appeals has ruled, 5-1, that conviction for an assault upon a police officer must be set aside when the officer was making an unlawful arrest and when no
more force was used than was necessary to resist the arrest. The defendant bit the policeman's thumb.

**Police Self-Criticism.** The New York Civil Liberties Union commended the metropolitan police department for discharging an officer who assaulted a civilian in a tavern, taking particular note of the case because "the victim refused to make a complaint and the action for the officer's dismissal was initiated by the Department itself. In the past such matters were rarely acted upon unless the victim pressed a complaint and aroused the sympathy of the public. This procedure was costly and drawn out."

Also in New York, Patrolman Wilfred Mason, after he had given a summons for "littering" to a man who was distributing handbills, told a court "I did not fully understand the law. This man is not guilty." The judge commended Mason calling him "a big man."

**Roughness Urged and Attacked.** Police Captain C. D. McNamara of the Buffalo Police was reported in the press to have said "there is more respect for a cop's night stick than for the entire Code of Criminal Procedure and so I have told [my policemen] . . . to treat these punks rough." The Niagara Frontier ACLU protested this statement in a letter to city officials and later sponsored a public forum on the police problems of juvenile delinquency.

Southern California reports the first judgment ever obtained in its area against police officers for brutality against Mexicans. In North Dakota a sheriff has been convicted in Federal District Court of violating the civil rights of a young Indian boy; the U.S. government initiated the prosecution; the evidence indicated that the victim had been strung between a fence post and a truck winch and threatened with torture. A confession of guilt to first degree murder, resulting from this brutality, led to a conviction; new trial was ordered and a manslaughter verdict was returned.

**Unlawful Investigative Action.** The Cleveland chapter of the OhioCLU is investigating the practice of the Cleveland city police in holding prisoners incommunicado for as much as 72 hours. The Colorado ACLU took an active part in the case of a man whose attorney was denied permission to see him in jail for 60 hours; basing his decision on an 1861 law, a Denver judge fined the Mayor and three police officials each $100 for this illegal restriction. City officials have announced new regulations which may prevent recurrence of such action.

The ACLU intervened on behalf of the police themselves in a Paterson, N.J. situation where, after the disappearance of a filing case from police headquarters, it was proposed that all members of the force take a lie detector test.
"If You Are Arrested." The NYCLU in 1955 prepared a brief statement on the rights of persons arrested, explaining the act of arrest, rights in the police station, and rights in the court. The publication met with enthusiastic reception and has been in great demand. A "national" edition and translations into Spanish by the New York and Florida affiliates are now also available.

"Dragnet." The ACLU has expressed its concern about a TV "Dragnet" program on which police officers complain bitterly because they are hampered in their work by the Constitutional restriction of the Fourth Amendment barring search and seizure without a warrant. The Union recognizes the freedom of a program to express any position it wants, but believes that the argument for due process should also be presented.

Wiretapping. Congress in 1956 considered a bill increasing penalties for illegal narcotic distribution and sale; it contained a provision authorizing wiretapping in the investigation of the dope business. The Senate struck out this provision after telegrams had been sent to all members of that body by ACLU executive director Malin pointing out its unconstitutionality. Senator Wayne Morse, an expert on this matter, attacked the wiretapping section on the Senate floor.

Greater Philadelphia ACLU in an amicus brief has asked the U.S. Court of Appeals to enjoin the use of wiretap evidence in the trial of an alleged gambler; the Union contends that Federal courts have the duty to protect a person against contemplated violation of the Federal law.

PROCEDURE IN THE COURTS

1. Matters of Evidence

Inadmissable Evidence. In the Danton Rea case, the U.S. Supreme Court, by a 5-4 decision, ruled that evidence obtained by a Federal narcotics officer in an illegal raid could not be used in a state trial. In Rhode Island, the state Supreme Court ruled that evidence obtained by unconstitutional search and seizure could nonetheless be used in a criminal prosecution; the state legislature promptly passed a law making such evidence inadmissable.

Inadequate or Tainted Evidence. In the Harold Miller case (see last year's Annual Report, pp. 66-67, for a detailed explanation), the Illinois Division of ACLU won an outstanding victory when on retrial the defendant was freed; Miller, at the conclusion of a previous trial (his third), had been given a life sentence for an alleged rape of a woman who was mentally ill.
**Leyra Case.** The defendant was charged with murder of his parents; his convictions in a first and second trial were overruled by the New York Court of Appeals and by the U.S. Supreme Court; the New York Civil Liberties Union intervened on the due process aspect of the confession in both these proceedings. Leyra's appeal from conviction at a third trial has now been set aside by the N.Y. high court which held that "the prosecution has produced not a single trustworthy bit of affirmative, independent evidence connecting the defendant with the crime . . . a regard for the fundamental concept of justice and fairness, if not due process, imposes upon the court the duty to write finis to further prosecution against this defendant." Leyra's personal attorney in the third trial and appeal was Osmond K. Fraenkel, one of the ACLU general counsel.

**Other New York Cases.** NYCLU has asked the U.S. Supreme Court to review the conviction of Leonardo Salemi because: 1—the sole witness to the murder Salemi is alleged to have perpetrated has since been committed as a psychotic, and 2—the brother of the victim, who is alleged to have heard the dying man identify Salemi may not (according to new evidence) have entered the hospital room, and 3—a hospital doctor states that the victim's condition after the assault was such that he in all probability could not have spoken.

After Federal court intervention had been refused, ACLU executive director Patrick Murphy Malin called on Governor Harriman to stay the execution of Ernest L. Edwards in a first degree murder case. Malin noted that the chief adverse witness, an accomplice, had made different statements before the grand jury and at the trial, and that this accomplice also said no consideration had been promised by the prosecutor—although a district attorney stated that some consideration would be given if the accomplice testified. These events, it was pointed out, all occurred before trial of the accomplice. The plea was not successful and Edwards died. The ACLU, it should be emphasized, did not in any way condone the murder or take a position on Edward's guilt.

**Limits on Evidence.** Diantha Hoag, when questioned by the McCarthy Committee in 1954, denied having engaged in espionage, sabotage, etc., and said she would never do such things even under order from the Communist Party. She later refused to answer about her Party membership, associations, and employment history; this led to indictment for contempt of Congress. In July, 1956 she was acquitted, the judge stating that: "The rule of law is that the voluntary answer must be 'criminating' to prevent the witness from stopping short and refusing further explanation."

A Federal grand jury, investigating a citizenship racket, issued subpoenas calling upon 24 of San Francisco's Chinese associations to
produce within 24 hours "all lists, rolls, or other records of memberships . . . during the entire period of . . . existence, and all records of dues, assessments, contributions and other income. . . ." Judge Oliver J. Carter quashed the subpoenas because they would have the effect of being a mass inquisition into a large part of the Chinese population of San Francisco. Northern California ACLU intervened in this case as friend of the court.

2. Procedural Due Process

Military vs. Civil Jurisdiction. In the Covert case the U.S. Supreme Court has held that military courts have jurisdiction over civilians accompanying military personnel (a soldier's wife was convicted in a U.S. military court in West Germany); however, the Court has recently ordered a rehearing.

Right to Counsel. Stephen A. Herman, serving a lengthy sentence in Pennsylvania, eight years after his conviction claimed that after 72 hours of being held incommunicado, and threats against himself and his family, he signed a confession of guilt without knowledge of his right to have court-appointed counsel. On appeal before the U.S. Supreme Court, Pennsylvania argued that the confession was voluntary and all other matters irrelevant. The Court accepted the Philadelphia and national ACLU contention that the issue of right to counsel was paramount; in a unanimous decision a hearing on the issue of deprivation was ordered.

Summary Justice. The Cleveland Civil Liberties Union discovered that persons charged with vagrancy and drunkenness were interviewed in jail by a probation officer and thereupon were sentenced by a police court judge; all of this without actual court appearance or written waiver to a trial. A habeas corpus petition was successful and now all prisoners of this type are brought before a court.

Inadequate Notice. The ACLU filed a brief on behalf of Lee Walker, 81-year old property owner of a home for 49 years, who discovered it had been taken from him under condemnation proceedings. The only notice of the city's proposed action appeared once in the official city newspaper. Kansas law has since been changed to prevent such occurrences but the ACLU sought the decision of the nation's high court as a safeguard for the country's home owners; the U.S. Supreme Court has ruled in Walker's favor.

Detention Without Charge. Two young Air Force men were arrested for robbery in St. Louis, had the charges dismissed by a court, were rearrested by order of a prosecuting attorney, and eventually indicted by a grand jury—70 days after arrest. The St. Louis CLU pro-
tested this long delay; the Union’s inquiry brought out the fact that about 50 persons were currently in jail awaiting grand jury action.

**Matters of Bail.** The Ohio CLU through its Cleveland chapter protested bail of $25,000 demanded in the case of a misdemeanor charge against a Communist. In a Smith Act case in Buffalo, Justice Harlan of the U.S. Supreme Court ordered bail reduced from $30,000 to $10,000 thus, for the period of time actually involved, setting aside adverse decisions by the district and circuit Federal courts. The government had contended that the pleading of the Fifth Amendment justified high bail; Justice Harlan pointed out that “in bail, as in a criminal trial, an unfavorable inference should not be drawn” from such invocation. The Niagara Frontier ACLU was active in pressing for determination of this issue. Governor George M. Leader of Pennsylvania vetoed a bill which would have denied bail to those charged with sex offenses, because the state constitution provides that bail may be denied only in capital cases.

**Transcript of Record.** The U.S. Supreme Court has ruled that Illinois must provide destitute defendants in criminal trials with transcripts of court proceedings; Illinois had done so only in capital cases. The high court said: “a state can no more discriminate on account of poverty than on account of religion, race or color.”

In New York City a judge refused to release to a newspaper the transcript of his charge to the jury in a criminal case on the ground that under the law as it stands only a party in interest may demand such transcript. The American Society of Newspaper Editors, three leading metropolitan dailies, and a bar group are taking the case up on appeal; if they fail, new legislation will be sought. The judge who denied the request agrees that the law should be changed.

**Habeas Corpus.** The proposal to limit Federal court jurisdiction in the issuance of writs of *habeas corpus* (see last year’s *Annual Report*, p. 60), passed the House but was shelved in the Senate Judiciary Committee.

**Extradition.** Artes Jones, Mississippi sharecropper, fled to Illinois after a dispute about money with plantation owners. Mississippi sought his extradition; Governor Stratton refused the advice of his state Commission on Human Relations, and the appeal of the Illinois ACLU, to hold a hearing on the merits of the case. But the state court held the Mississippi indictment insufficient. Later, Jones pleaded guilty to a Federal charge of appropriating government property (crops) and is serving a one-year term on this charge.

**Juvenile Delinquency.** The Greater Philadelphia ACLU has entered upon a full-scale study of the delicate civil liberties questions raised
by the Pennsylvania law for the handling of youthful offenders. Under the present system, instead of a criminal prosecution for those under 18, a judge determines whether a youth is an offender, and may place him in a reformatory for an indefinite term. The following safeguards are absent: jury trial, criminal court due process, bail, open court proceedings, access to reports of court advisory officers.

Recognizing the worthy motivation behind this law (the desire to protect young offenders from publicity or the record of a criminal prosecution), the ACLU points out that "it is easier to convict boys than men." Furthermore there is genuine stigma attached to "adjudication of delinquency" and calling an institution a reformatory instead of a prison does not lessen the injustice where the person is innocent. Philadelphia ACLU believes that the solution must lie in the separation of the two phases of action: 1—determination of the facts (where full due process should be observed), and 2—decision as to appropriate post-conviction handling of the delinquent. The ACLU position is supported by the evidence in specific cases; in one instance a boy was held eight weeks in jail, until pressure brought recognition that the evidence against him was devoid of merit.

**Community Prejudice.** Delegates from Southern California ACLU persuaded a district attorney to drop manslaughter charges against three young Americans of Mexican ancestry because of newspaper exploitation of local prejudice. In a Boston Federal court proceeding a mistrial was declared because of spectator applause in the court room.

### 3. Lawyers and Juries

**The Tompkins Attack.** Assistant Attorney General William F. Tompkins was reported to have said, in a press interview, that "... bar associations that lend their support to this move [to discredit the Smith Act by defending Communists charged under that law] are themselves dupes of the Communist Party." He singled out the Cleveland Bar Association for taking up a "collection" to pay lawyers so engaged in the Cleveland area cases (which resulted in six convictions and four acquittals).

Immediate rejoinder was made by the ACLU, its Ohio affiliate, the Cleveland Bar Association and the Cleveland press. ACLU executive director Patrick Murphy Malin pointed out that the late Justice Jackson had said "every person has a constitutional right to counsel and there is a correlative duty on the part of the Bar to see that every accused, no matter how unpopular, is represented competently." Malin also pointed out that several Smith Act cases were pending and that the Tompkins attack could be regarded as government pressure to influence the judicial process. He urged Tompkins to "withdraw your
statement and to reaffirm the Justice Department's belief in maintaining the contrast between the American system of justice and that of the Soviet Union." The president of the Cleveland Bar Association called the Tompkins statement a "most unfair attack," and pointed out that his group acted only when the judge in the case "sought and obtained our aid in furnishing counsel. . . ." The raising of sums to pay attorneys was explained by the Ohio CLU which noted that such trials have often run several months, which would be ruinous to most lawyers; "What the Cleveland Bar Association did was to undertake arrangements for providing financial assistance to the court-appointed attorneys. It helped only to shoulder the burden of assuring the right to counsel."

After an all-day conference in Washington between Mr. Tompkins and Cleveland bar representatives, the Assistant Attorney General denied that he had characterized the bar associations as "dupes" or criticized their action.

Inadequate Legal Representation. The ACLU has urged the U.S. Supreme Court to extend its rule requiring assignment of attorneys in capital cases to include those involving life imprisonment.

Regulations of the Veterans administration limit to $10 the fee which an attorney may receive in filing claims for disability payments which may involve as much as $8000; Philadelphia ACLU is studying this limitation as an impediment to obtaining representation.

The Juror. Russell J. Foley, on a California jury panel, stated that in his belief lawyers in personal injury cases charge exorbitant fees; Judge Gregory Maushart ordered Foley banned for life from jury service. Northern California ACLU and many other groups protested the judge's action, and he issued a statement indicating that the door was open to Foley for jury service if he was "willing to consider a case on the evidence."

Probably the last article written by Arthur Garfield Hayes, "What's Wrong with Our Juries," appeared in the May, 1955 issue of Pageant magazine.

4. Access to the Court Room

Televising of Court Room Proceedings. The Colorado Supreme Court approved a report from a judge acting as official referee on the subject of televising court room proceedings. The report emphasized that court room business is public, that a right to privacy in public business does not exist, that cameras could be properly regulated by the discretion of the judge, and that exclusion of TV, properly used, would amount to prior restraint. The protections to defendants and witnesses include: 1—emphasis upon court room dignity and decorum, 2—prohibition of photography, radio or TV if in the opinion of the judge
such activity would distract witnesses, or materially affect a fair trial,
3—selective prohibition at the request of a witness or juror, 4—com-
pliance with specific regulations announced by the trial judge. Shortly
thereafter the Colorado affiliate, at the request of the ACLU, observed
the TV coverage of the Graham murder trial (relating to aircraft de-
struction by a planted bomb). Particular attention was paid to the
possibility of "lopsided" presentation in terms of TV selection and
approach, and to the possibility of witnesses obscuring the truth by a
tendency to "act." A first report by the affiliate indicates that due process
was not infringed. A murder trial has also been televised in Texas.

Still Cameras. A Domestic Relations Court judge has permitted
the taking of pictures, the first instance of this kind in a New York
court. The Appellate Division of the N.Y. Supreme Court has criticized
his action.

The Press Barred. In the Black murder case a California judge
accepted the defendant's waiver of public trial and promptly ordered
all spectators, including newsmen from the court room. A higher court
ordered the judge to open his court room to the press or explain his
ban, but in the meantime the case had been tried. Northern California
ACLU and the press of the state will carry the case for freedom of
access to higher courts and final determination.

Jury "Bugging." In October, 1955 it was revealed that a micro-
phone had been concealed in a jury room during the deliberations on
five civil cases in a Federal court. This surveillance was part of a sci-
entific study of jury behavior being conducted by experts from a law
school under a foundation grant. The judge and the attorneys concerned
with the cases had given their permission.

ACLU executive director Patrick Murphy Malin publicly condemned
this practice as a violation of the right to jury trial guaranteed by the
Sixth and Seventh Amendments, because such listening would under-
mine the impartial nature of the jury room: "Everybody concerned in a
case should have the firm assurance that the jury is as impartial as
humanly possible—as free as scrupulous observance of rules can make
it from any kind of actual or potential surveillance, embarrassment or
coercion." Congressional reaction was also strong, and in late 1956 a
law was passed forbidding any action of this kind.

THE FEDERAL EXECUTIVE DEPARTMENTS
1. The Kutcher Case

James Kutcher, a veteran who lost both legs at Anzio in the service
of the United States, has from 1948 to 1956 been engaged in another
"war"; this time with the U.S. Government. The variety and scope of his battles warrants presenting his difficulties as a classic case in the history of executive department decisions violative of civil liberties.

In 1948, Kutcher was dismissed from his $42-a-week job with the Veterans Administration because of his membership and activity in the Socialist Workers Party, a group on the Attorney General's list. He went to court seeking reinstatement.

In 1952, Kutcher's father was threatened with eviction from a housing project, under the Gwinn amendment, because he had in his home his son James. (See above p. 30, on the Gwinn amendment.)

In 1955, Kutcher was denied his $282-a-month pension as a wounded veteran because he allegedly said the government is "composed of people who are cheaters and crooks and oppress the working people," and because he allegedly urged fellow SWP members to "cause strikes and get in key positions and get the SWP in control of the government." Kutcher denied making these statements; the VA refused to present its witnesses and evidence for confrontation and cross-examination.

In February, 1956, the Veterans Administration reversed its stand on the pension withdrawal because "all available evidence does not measure up to the quantum of proof."

In the meantime, state supreme courts and federal courts have in a variety of rulings held the Gwinn amendment either illegally applied or unconstitutional; the U.S. Supreme Court has refused even to review such of these rulings as were presented to it. Eventually, in the summer of 1956, the Department of Justice ruled that the amendment, which had been attached to an appropriations bill, was no longer in force.

Finally, in June, 1956, the VA ordered Kutcher restored to his job "with full seniority" after a U.S. Court of Appeals ruled that the veteran had been denied due process, that SWP membership alone was not a "valid reason for dismissal," and that other charges were irrelevant, unsupported by findings, or too vague to stand even if supported.

The American Civil Liberties Union has intervened in court and by public protest in each of Kutcher's controversies with the government; the Union has taken its stand on the man's right to freedom of speech and association, and against the denying to him of due process. The ACLU has particularly noted the anomaly of charging Kutcher with giving "support to the enemy" when the Socialist Workers Party is bitterly anti-Communist.

2. The Departments and U.S. Civilian Employees

General ACLU Criticism. Irving Ferman, ACLU Washington Office director, attacked several provisions of the government's employee
"BE PATIENT WHILE I STUDY YOUR CASE
FOR A YEAR OR SO"
security program in testimony before the Senate Post Office and Civil Service Subcommittee. Particular objection was made to automatic and unrealistic application of criteria involving sympathetic association with supposedly subversive relatives. Positive suggestions offered included the granting of hearings, providing an appeal before an independent hearing body, and procedures whereby an employee could deal with adverse information in his file.

The Cole case, noted above (p. 27), has an important bearing on these general objections.

**Cases.** A VA employee was dismissed in 1954 because of membership in the San Francisco Council for Civic Unity. Immediate protests resulted in clearance of the organization and a withdrawal of this charge against the individual. The employee then sought a hearing but his request was ignored for nearly six months; then five months after a “special interview” he was restored to a comparable job. Verdict—guiltless; time—30 months.

In the Gaberman case, the U.S. Navy cleared a man by continuing his reserve officer commission, but denied him Navy civilian employment because of associations of many years ago and because of allegedly Communist relatives. An ACLU cooperating attorney is attempting to set this record straight.

Irving Markheim, once a California National Guard undercover agent in the Communist Party, claims that he is now adjudged a “security risk” as a former “Communist.”

Professor Albert Sprague Coolidge was asked by the Library of Congress to serve in an advisory capacity to an official government music foundation. He was then rejected on the basis of “derogatory information” against him in the FBI files. The ACLU strongly protested its action saying that, in the absence of charges, Coolidge “stands in the position of one vaguely accused and unable to defend himself.” The Union observed that “the national security program is intended to protect sensitive areas of government work—not the programming of classical music.”

Executive director Malin said that the ACLU has a special interest in this case because Professor Coolidge is a vice-chairman of the Union’s national committee and chairman of the Massachusetts affiliate. Malin noted the long-standing requirement that officers of the Union shall not support totalitarian groups and must “be unequivocally loyal to democratic government and civil liberties for all people.” Coolidge, said Malin, has met this standard throughout his association with the ACLU.

### 3. The Military Departments; Military Personnel

**Army Personnel Security Program.** Rowland Watts, ACLU staff counsel, released in August, 1955 a report prepared for the Workers
Defense League on "The Draftee and Internal Security"; a supplementary report by Watts was submitted to the Army in May, 1956. The supplement noted substantial improvement but continuing weakness with respect to the standard of full due process in handling Army personnel security matters.

The improvements noted were: 1—information about alleged subversive activities or association must now also indicate that subversive motivation or influence existed, 2—the fact of membership in a front organization must be supported by evidence that the individual had knowledge of or belief in subversive activity, 3—mere kinship with allegedly subversive persons must be supplemented by proof that a person was sympathetically influenced in thought or action by their ideology, 4—the offering of character references who turn out to be allegedly subversive will not stand against an individual unless he is shown to have been influenced by them, and 5—Army security investigators will receive better training, with particular emphasis upon obtaining evidence which would have probative value in a court of law.

Unfortunately, the following defective standards and procedure still operate: 1—pre-induction activities continue to be a determinant when the Army decides whether a man shall be allowed to serve after being drafted and in general to fulfill his military training, 2—control over a man's civilian activities by the Army is continued after his two years of active duty, 3—deferment of induction, or Army service in specially assigned duties, continues to be practiced when the only charges are against the individual's family or associates, and 4—since it may be logically inferred that a youth was sympathetically influenced by his parents as he grew up in his home, he should not be required to repudiate them; the question of family relationships should be eliminated because it is "repugnant to our concepts of sanctity of family life"; if there is a burden of proof it should not fall on the man.

The Army has announced that it is now screening for security before induction; this practice will save some headaches for military personnel but does not meet the ACLU's fundamental objections to consideration of pre-induction activity.

"Less-than-Honorable Discharges." Several hundred men are known to have received "general," or "undesirable" discharges from the Army despite excellent records during their period of service. These discharges have been based on pre-induction activity or association which in most instances was not concealed, the men having filled out Army form DD-98 which asks many questions about the inductee's past life. Executive director Malin objected: "It is our belief that it is improper, illegal and unconstitutional to give other than an honorable discharge to a person who has served honorably in the armed forces . . ." and who "has fully disclosed all the information requested of him by the Army."
DD-98. The ACLU has also objected to the questionnaire itself as vague, loose and not meeting the standards of due process. Particular note was made of the question about membership in organizations on the Attorney General's list, without any indication that a man might have been engaged only in the innocent activities of such organizations or that he might not have had knowledge of their nature. Recently the Department of Defense has substantially modified this form to meet some of these objections.

Breach of Faith. The Union was deeply disturbed by an apparent breach of faith on the part of the Army. In a particular case an ACLU cooperating attorney was told by the Army that "no man may be given less than an honorable discharge for activities prior to the time of induction as long as he disclosed these activities to the Army whenever requested to do so." Later it was learned that at the very time of the ACLU inquiry Army regulations actually required that unfavorable discharges be given. Army officials have not seen fit to explain this contradiction.

Cases. None of the pending cases designed to test the fundamental constitutional due process issue have yet been considered by the U.S. Supreme Court. These cases involve both new inductions and the reopening of cases where less-than-honorable discharges have already been given.

George P. Ho. The Army some years ago relieved George P. Ho of his commission as an officer allegedly because of deficiency in leadership qualities. Ho, however, believes that the action came because of his strong stand and expressed criticism of the U.S. government for not giving more aid to Nationalist China in its fight against Communist China. The ACLU cannot adjudicate these conflicting claims but it notes that considerable time was given, at Ho's hearing, to questions about the officer's political opinions (although no loyalty issue existed); such questions should not even be asked.

Progress of this case has been delayed because Ho claimed a hearing had been held, the Army said it had no record of such action, and then two years later positive proof emerged from the Army's own correspondence. These circumstances, as well as the basic issue, led the ACLU to recommend a Congressional investigation of the Ho case.

Parris Island Tragedy. At the time of the death of six Marine Corps recruits, the ACLU wrote to Marine Corps commandant General Randolph M. Pate commending his determination to hold a full investigation, without fear or favor. The Union, however, noted that its files contained information about other alleged instances of brutality in the Corps, and urged comprehensive review and public statement
covering the whole area of punishment in training programs. It was also urged that scrupulous due process be accorded the Marine sergeant charged with responsibility for the deaths. Subsequently, the Corps instituted a system of inspection and complaint notice separate from post commands.

**Prisoner of War Allowances.** The Foreign Claims Settlement Commission is currently holding hearings throughout the U.S. with respect to certain former soldiers, who, it is charged, should not receive their prisoner-of-war bonus pay because they collaborated with the Communists in Korea. The ACLU has protested the fact that the charges against the men are in the form of secret evidence furnished by the Army, which they cannot confront. The Union can see hardly any reason for keeping this evidence secret since it no longer involves national security, and in any event there should be a presumption of innocence with the burden of proof placed on those making the charges.

The unhealthy nature of these POW proceedings is demonstrated by the case of Robert L. Simpson, a veteran claiming 33 months' bonus pay amounting to $2495. In a December, 1955 hearing, held on short notice without a stenographer present, the claim was denied on the basis of unrevealed evidence. Intervention by Northern California ACLU and by Senator Thomas C. Hennings, Jr., led to a full hearing with record made; $1090 of the claim was granted, the remainder was disallowed on the basis of the undisclosed evidence. Senator Hennings then stated that his Subcommittee on Constitutional Rights would investigate the handling of Korean War POW claims. The Commission thereupon paid the balance of $1405.

4. **The Departments; Private Industry and Its Employees**

The government, in its handling of security matters and in its drive against the Communist Party has acted in several ways which the ACLU considers violative of civil liberties.

**Social Security Benefits.** The Social Security Administration in 1956 cut off social security benefits to eight Communists, one widow of a Communist, and the widow and three children of a former Communist. The government acted on the theory that employees of the Communist Party are in the service of a foreign government; they and their dependents are therefore not entitled to benefits. The ACLU has protested on the ground that the status of the Communist Party has not been finally determined either by the Subversive Activities Control Board or the courts, that another branch of government—the Treasury—regards the Party as an American business (demonstrated
by the attempt to collect taxes), and that in any event the action is vindictive. In the case of the late George Hewitt, the man had left the Party and served the government as a witness in Communist cases; it is his widow and children who are deprived by an action which the Union characterizes as failing "to show the understanding and concern for human rights which is the mark of American democracy." The Hewitt case attracted wide public notice and the SSA reversed its decision. In two important decisions by a referee, it was held that whatever the relationship might be between the Soviet government and the Party, the Party is clearly an American employer and has been recognized as such by the Internal Revenue Collector and the Social Security Administration itself.

**Wellman Case.** Saul Wellman, disabled war veteran and Michigan Communist Party leader, has been denied pension benefits by the Veterans Administration because of his conviction under the Smith Act. A suit on Wellman's behalf has been filed by the ACLU, the Union departing from its traditional non-partisan friend-of-the-court position because of the importance of the civil liberties issue involved; the ACLU participation is exclusively on the legal issues and does not constitute any support of the Communist Party or any participation in its activities.

Under the law, revocation of a pension may follow upon proof of treason, sabotage, mutiny, or rendering of assistance to the enemy—and on these grounds only. Wellman's conviction was for conspiracy to advocate the overthrow of the government "at some indefinite time in the future."

**Treasury Department Raids.** The Treasury Department, claiming back taxes of $389,000 from the Communist Party and $46,000 from the *Daily Worker* (Communist newspaper), seized these organizations' office equipment, files, subscription lists, etc. Ordinarily such action is taken only after due notice, and in instances where there is danger of assets being dispersed. Here the assets were of nominal value, there was no indication of dispersion, and the assessment against the Party was made the day after the raid, without notice. The ACLU protested this action, stating: "Certainly the government has the right to collect taxes . . . However, both the timing and method used . . . lead to grave doubts that the precipitate action was taken for any reason but further harassment of the Communist Party. The issues raised by Communist tyranny are real and pervasive, but this method of political attack smacks more of Communist totalitarianism than American democracy." By arrangement some of the assets were returned.

**Coast Guard Clearance.** In the important case of Parker vs. Lester a U.S. Circuit Court of Appeals ruled in 1955 that the Coast Guard,
under its security program, could not deny to privately-employed merchant seamen the right to know their accusers and to cross-examine them. The court in balancing security procedure against due process rights said: "... surely it is better that ... [security] agencies suffer some handicap than that the citizens of a freedom-loving country shall be denied that which has always been considered their birthright." The decision may affect the whole security program governing employees of private industry who have access to classified government material.

After the court decision the Coast Guard issued new regulations, but Northern California ACLU, which has had wide experience in these cases, considers it may be possible that they are substantially worse than the old ones; among other matters, the seaman must now answer a questionnaire which asks about connection with groups listed by the Attorney General as subversive.

Section 7e. See above, pp. 37, 38, for the Union's criticism of Section 7e of the Industrial Security Manual which permits the government to demand information from private defense contractors relating to all their employees, whether they are employed in sensitive jobs or not.

5. Matters of Citizenship; Passports

Loss of Citizenship by the Native-born. Albert L. Trop, a U.S. soldier during World War II, escaped from a military hospital in Casablanca, was caught and placed in solitary confinement, escaped again, but after a few days surrendered. He made no attempt to contact the enemy or to leave the area of U.S. jurisdiction. He was convicted of desertion. In 1952 he was denied a passport on the ground that his conviction had deprived him of his citizenship. The ACLU filed suit challenging the constitutionality of that part of the 1940 Nationality Act which the government relies on; the Union contended that Congress does not have the power to take away citizenship on the basis of a court-martial conviction which offers no evidence of allegiance to another nation. The case was lost in district court and has now been argued in the U.S. Court of Appeals.

The related Gonzales case involves a man who was taken to Mexico as an infant and remained there until he was 22; he allegedly stayed out of the U.S. in order to avoid the draft, and on this ground the government moved to abrogate his citizenship. The ACLU and its Southern California affiliate filed a joint amicus brief with the U.S. Supreme Court protesting that a native-born citizen cannot be deprived of his status except on evidence of voluntary choice of another nationality. The Court did not reach the constitutional issue but ruled in favor of Gonzales because the government's proof was inadequate; apparently the burden of proving intent is squarely placed on the government's
shoulders. Shortly thereafter, Northern California ACLU entered the
case of Rufus Bean, a man who, after serving three years for draft
evasion (by flight to Mexico), is now being excluded by immigration
authorities as a self-expatriate.

**Proposed New Laws.** The series of cases centering around the
Shachtman decision by the U.S. Supreme Court has led to a number of
proposals, the most important of which is H.R. 9991 introduced by
Representative Francis E. Walter. This bill would clarify passport pro-
cedure but permits the Passport office to withhold information upon
which denial is based if disclosure would affect “national security,
safety and public interest,” or result in the “disclosure of investiga-
tive sources or investigative methods.” The bill was shelved in House
committee.

Leonard Boudin, New York attorney who has defended a number
of persons examined by legislative investigating committees or in-
volved in security hearings, was denied a passport on the basis of
undisclosed information. When a U.S. Court of Appeals ordered that
the basis for denial be disclosed, the government ended the matter by
issuing the passport.

### 6. Aliens

**Law and Administration: General Criticism.** ACLU of Southern
California has issued a pamphlet, “The Lamp and the Law,” again
asserting the general view of the Union that there are grave procedural
defects in the present immigration law which are contrary to the spirit
of civil liberties. On the other hand, the ACLU has congratulated the
Immigration Service for changes in procedure which no longer require
special inquiry officers both to present evidence and to evaluate it,
and no longer result in automatic arrest of aliens served with de-
portation notices.

The mixed administrative picture continues. The ACLU has com-
mended the State Department for allowing Chinese students to return
to the People’s Republic if they so desire. However, the Union ex-
pressed grave doubts about the return to Russia of a group of seamen
who appeared to be under pressure by Russian officials in the U.S.,
and who were given inadequate opportunity by immigration authorities
to make clear their own free desire.

**Deportation Cases.** Hasan Tiro, a former Indonesian official who
has been sharply critical of his home government, was ordered de-
ported; after intervention by the ACLU, the American Cultural Free-
dom Committee and others his removal was held up pending the fate
of a “private” bill. In the Hyun case, the U.S. Supreme Court by a
4-4 split permitted to stand the order of deportation of a man who has
been critical of the South Korean government; the issue was the taking of evidence against him in Hawaii while he was in custody in California. His case is not settled as he has raised another issue, that of forced repatriation in the face of virtually certain punishment and possible death. Illinois Division ACLU is filing an amicus brief on behalf of Tony Marino, an Italian immigrant who spoke no English at the time of his murder conviction in 1925, and who had no counsel. The U.S. Supreme Court ordered a new trial; this was not held and Marino was paroled. Now, in 1956, the Immigration Service is seeking to deport the man as a convicted felon.

The government has abandoned its fight of many years to deport Harry Bridges, West Coast Labor leader.

**Undisclosed Evidence.** In Jay vs. Boyd the U.S. Supreme Court has upheld the right of the government to use confidential information as a basis for denying discretionary relief in deportation proceedings. This decision clears up possible contradictions in lower court rulings in the Maetzu and Matranga cases. However, the Immigration Service has announced that it will no longer use such information in deportation cases, a change in practice upon which the ACLU has complimented the Service.

**LEGISLATIVE COMMITTEE HEARINGS**

*House Un-American Activities Committee Mandate.* The ACLU’s long-held objection to the mandate of the House Un-American Activities Committee to investigate “un-American propaganda,” which the Union regards as a violation of the First Amendment, was again emphasized in the summer of 1956 when that Committee questioned two actions of the Fund for the Republic. These actions were the subsidizing of a study of blacklisting which concluded that persons accused of Communist ties had been denied jobs in the radio, TV and motion picture industries, and the awarding of a $5,000 prize to the Plymouth Friends Meeting for its refusal to fire a librarian who had invoked the Fifth Amendment in a Congressional committee hearing.

The Union noted that “Inside or outside its mandate, the Committee has heretofore usually limited its investigation of opinion and association to that which it has held to be related to illegal action . . . but large parts of the questionings in the recent hearings . . . have overstepped even the Committee’s own established boundaries.”

*Procedural Due Process.* No significant new rules have been adopted during the past year for the governing of legislative committee hearings; there appears to have been less protest against the hearings, perhaps because fewer hearings were held.
However, the ACLU has on a number of occasions felt obliged to urge Congressional committees to respect due process. The Senate Post Office and Civil Service Committee (Sen. Olin D. Johnston, chairman) was cautioned against disclosure of confidential personnel security files as it undertook its study of the government security program. The New York affiliate asked the House Un-American Activities Committee (Rep. Francis E. Walter, chairman) to refrain from questioning persons about their political beliefs in a scheduled investigation of Communist influence in the entertainment field. The ACLU and the NYCLU took similar action when the Senate Internal Security Subcommittee (Sen. James O. Eastland, chairman) came to New York City to investigate alleged Communist infiltration of the press. Other Union affiliates offered similar warnings as Congressional committees held hearings in other cities.

**Senatorial Seniority.** The rules of the Senate place in the post of chairman of a committee the Senator senior in service among the majority party members. When Senator Eastland became chairman of the Senate Internal Security Subcommittee, the Washington State ACLU presented to the Senators from Washington their objection to this automatic procedure, because of the affiliate's belief that civil liberties were not well served by the automatic rule.

**The Icardi Case.** Federal District Judge Raymond B. Keech ordered a verdict of acquittal for Aldo L. Icardi, charged with perjury because of the answers he gave to a House Armed Forces subcommittee investigating the World War II murder of Major William V. Holohan in Italy. Icardi was a U.S. Army lieutenant in Italy, on Holohan's OSS team, at the time of the crime. Judge Keech spelled out limitations on committee power in these terms:

"While a Committee or subcommittee of the Congress has the right to inquire whether there is a likelihood that a crime has been committed touching upon a field within its general jurisdiction and also ascertain whether an executive department charged with the prosecution of such crime has acted properly, this authority cannot be extended to sanction a legislative trial and conviction of the individual toward whom the evidence points the finger of suspicion . . . the court therefore finds, as a matter of law, that at the time the subcommittee questioned the defendant Icardi it was not functioning as a proper tribunal."

Judge Keech stated that the subcommittee appeared to be functioning as a "committeeing magistrate" by stating in a report that there was "probable cause" for charging Icardi with murder.

The court also ruled that even if the subcommittee had been functioning competently, the allegedly false answers did not relate to a "material matter."
The Watkins Case. J. T. Watkins, a labor union organizer, admitted to Communist Party membership from 1942-47 when questioned by the House Un-American Activities Committee, but refused on principle to name other persons. Charged with contempt, he was acquitted by a 2-1 vote of the U.S. Court of Appeals on the ground that the questions asked were irrelevant to the Congressional inquiry because they covered old ground and were intended only to expose. The case then went to the full Court of Appeals and the decision was against Watkins by a 6-2 vote.

The case has been appealed to the U.S. Supreme Court, the ACLU filing an amicus brief.

Lamont Case. On appeal, the government was again unsuccessful in getting court support for its indictment of Corliss Lamont who refused to answer the Senate Permanent Subcommittee on Investigations, when it was headed by Senator McCarthy in 1953. (See 1954-55 Annual Report, p. 64.) The Court decisions did not confront the constitutional issue of freedom for a writer not to be questioned about his writings.
Part III. EQUALITY BEFORE THE LAW

"Basically, this is a struggle today not between North and South, or whites and Negroes, or between the national and international points of view. It is a struggle between those who believe in democracy and those who do not."


RACIAL MINORITIES, WOMEN

1. General Laws and Broad Problems

Federal Civil Rights Bills. After much discussion and preparation the Congress received the civil rights program of the Eisenhower administration in a presentation by Attorney General Brownell. Its chief points were:

1. Establishment of a bi-partisan commission on civil rights.
2. Setting up of a new Civil Rights Division within the Department of Justice under an Assistant Attorney General.
3. Permitting the federal prosecution of private persons for intimidating voters in any election involving federal office.
4. Authorizing the Attorney General to institute civil actions (chiefly injunctive), on behalf of persons deprived of their civil rights.
5. Eliminating the present requirement that all administrative and state court remedies be exhausted before the Federal courts can take jurisdiction in civil rights cases.

Patrick Murphy Malin testified on the proposed legislation before the Senate Judiciary Committee in May, 1956, emphasizing that "except for the First Amendment rights . . . there is no right more basic to citizenship in a free society under a democratic government than the right to vote." Malin also supported the other elements of the program, particularly the provision authorizing the Attorney General to institute civil actions. He said that "it would seem to serve both wisdom and conscience to have the federal government empowered to ask a federal
judge for the declaratory relief of an injunction against a threatened violation of a civil right."

The administration program was passed by the House with some modification; the Senate Judiciary Committee (Sen. James O. Eastland, chairman), did not report out the bills.

**Attacks on the NAACP.** A number of Southern state legislatures and officials have in a variety of ways attempted to hamper or intimidate the National Association for the Advancement of Colored People. South Carolina has barred NAACP members from public employment; an Alabama county requires fees for organizers and a fee for each member solicited; Georgia proposes to make it a felony to "threaten" the contemplated private school system after it is set up; Mississippi is considering a law to make it a misdemeanor to "incite riot, or breach of the peace, or public disturbance, or disorderly assembly, by soliciting or advocating, or urging, or encouraging disobedience to any law of the state of Mississippi, and nonconformance with the established traditions, customs and usages of the state of Mississippi"; Texas is conducting a massive investigation of the operations and records of the NAACP. The ACLU has stated that these laws, and related actions, are "reprisal measures . . . and clearly violate the freedom of association protected by the First Amendment"; the Union has pledged legal assistance where possible.

**Big Gains without Drama.** The Board of Commissioners of the District of Columbia has announced that it will enforce the 75-year-old anti-discrimination laws with respect to all places of public accommodation covered by this legislation. Throughout the border states and in west Texas many thousands of Negroes are being quietly taken into the public school systems, accorded an increasing measure of entry to public places, and generally becoming equal with other Americans before the law.

**Minority Self-help.** The famous Montgomery, Ala., bus boycott has resulted in the indictment of 115 persons under a law which was designed, when passed in 1921, to curb violence in labor disputes. The ACLU has stated that it considers the law unconstitutional when so applied, and notes that the position of those engaged in boycott may well be sustained by the U.S. Supreme Court in line with its rulings against discrimination in intra-state bus transportation.

**Race Relations Law Reporter.** In this period of complex readjustment, valuable help to lawyers, judges and legislators will come from a new bi-monthly, *Race Relations Law Reporter*. This comprehensive publication (the first issue ran to 300 pages) is published by the Vanderbilt University Law School under a grant from the Fund for the Republic.
"SOMEBODY FROM OUTSIDE MUST HAVE INFLUENCED THEM"
2. Education

The Powell Amendment. The ACLU, fully aware of important non-civil liberties aspects of proposed federal aid to education, announced its support of the Powell anti-segregation amendment. The Union urged that “in implementation of the [1954] court decision, no expenditure of federal funds should be made, though they may be suspended and held in escrow, to any segregated school unit unless within three years it expresses a position that it intends to implement the court ruling.”

Hillsboro, Ohio. Segregation has never existed in the junior and senior high schools of Hillsboro, but was practiced in the elementary schools. Subsequent to the U.S. Supreme Court 1954 decision the local school board took action to strengthen this lower level segregation by gerrymandering school districts. A test case came into the state courts, the Ohio Civil Liberties Union planning to intervene. Fortunately, the board reversed itself and the situation is apparently on the way toward a solution.

Firing and Hiring of a Dean. Chester C. Travelstead, dean of the University of South Carolina School of Education, wrote a personal letter to Governor Timmerman of that state, and made a speech to a group of students and faculty, in which he declared that he could no longer support enforced segregation. The Carolina university trustees dismissed the dean; almost immediately thereafter it was announced that he would take the same post at the University of New Mexico.

Autherine Lucy. The rioting which arose from the attendance of a young Negro woman at the University of Alabama led the ACLU to demand action by the Department of Justice. Pointing out that the student’s admittance had been ordered by a Federal court, the Union urged criminal contempt proceedings lest this incident set a pattern of wholesale denial of civil rights. Later, the university expelled both the student leader of the demonstrations and Miss Lucy, the latter for having made charges against university officials which she could not support.

Englewood, N. J. The Englewood school board was charged with redistricting in such a fashion as to preserve an essentially Negro junior high school. The New Jersey state Commissioner of Education ruled that the redistricting was improper because it did not conform to adopted standards.

The Position of the Roman Catholic Church. Throughout the South, and particularly in areas where controversy is bitter, the Roman Catholic Church continues to lead religious group action in the struggle against segregation. The church has set the example in such areas as the archdiocese of New Orleans where it is moving toward the integration of its own parochial schools.
By-products of the Segregation Issue. The American Psychiatric Association shifted its 1956 convention site from Dallas to Chicago because of discriminatory practices in public accommodations in the Texas city. "Religious Emphasis Week" on the University of Mississippi campus was cancelled when a minister who had been invited to speak refused to promise not to discuss the segregation issue; other churchmen joined in his support. The Association of American Law Schools rejected a proposal to limit membership to institutions which do not discriminate. The American Association of University Professors, in convention, supported the principles set forth by the U.S. Supreme Court with respect to segregation in public education, and expressed the belief that private institutions should adopt the same principles.

3. Jobs and Public Accommodations

U.S. Navy. In 1955, the ACLU released a special report on remaining "pockets of discrimination" in the Navy. Notice was taken of: 1—the fact that nearly all stewards were Negro and that cooks and bakers were preponderantly white. 2—too great emphasis upon sponsors (and not enough upon scholastic record) in the selection of ROTC applicants, such emphasis opening the door to excessive influence by those recommending white applicants, 3—the slight representation of Negro officers in assignment to "line duty" (duty involving the chief function of the Navy as a military force), 4—inadequate publicizing of opportunities for Negroes in the service, and 5—inadequate assignment of Negroes in the Navy to overseas missions and U.S. embassies. An exchange of letters between the Union and the Navy indicated considerable difference of opinion on the facts; the ACLU has re-affirmed its opinion and will press the issue.

Nursing Profession. Although discrimination against Negro nurses is still an important problem in some areas and institutions, the American Nurses Association has a fully developed intergroup program which reports facts and takes action.

Connecticut Legislation. The state of Connecticut is among the leaders in legislative attack on the discrimination problem. New laws prohibit discriminatory advertising for employees and give the state Civil Rights Commission power to initiate complaints.

Pasadena Swimming Pool. A California court has ruled that denial of access to a swimming pool, to a Negro child, was based on a reasonable exclusion of non-residents. Southern California ACLU will appeal the decision on the ground that non-resident white children were not also challenged.
Golf Course and Restaurant. Atlanta, Ga., now permits use of its municipal golf course on a non-segregated basis. In Birmingham, Ala., an Air Force plane made a forced landing; the pilot, a Negro officer, was denied service at the airport cafeteria. Twenty-one white members of the crew protested without success, and then refused to eat in the place.

Religious Discrimination. A new Florida law prohibits advertising by places of public accommodation which states that they exclude persons on religious grounds.

4. The Home

Federal Housing Program. Although the government has condemned discrimination in housing and urged builders and communities to end such practice, the ACLU has been obliged to protest the failure of Federal housing authorities to practice what is preached. "... the experience of the Title I programs has shown that most of the housing constructed will be segregated. Negro families who have been moved out in the relocation process are either not provided with housing—causing crammed living accommodations and re-institution of slums—, or because of excessive rents or outright discriminatory rental policies cannot move into Title I projects." The government statement that occupancy patterns are not its business will not stand in face of the fact that the mortgage insurance program is a dispensing of government benefits: "By sanctioning mortgage aid to builders who follow discriminatory housing practices, FHA is fostering the creation of all-white suburbs."

Patrick Murphy Malin, ACLU executive head, and Judge J. Waties Waring, chairman of the organization's due process-equality committee, have called on Senate and House subcommittees to hold local hearings on "the evils and results of segregated housing."

The ACLU has also joined its protest to those of many others in regard to the dismissal "for budgetary considerations" of Dr. Frank Horne and his assistant Miss Corienne R. Morrow from the government Housing and Home Finance Agency. Dr. Horne, an expert in housing, has been a proponent of a Federal anti-discrimination policy.

State and Local Housing. Idaho has repealed its alien land law which placed disabilities on aliens seeking title to real property. In Columbus, Ohio, a Federal court ordered public housing opened to all persons regardless of race or color. The decision came after a 10-month fight carried on by the NAACP. In Alameda, California, a dentist of Japanese extraction, a U.S. Army veteran, was refused sale of a home; the potential seller claimed he was threatened with violence, and real
estate agents said they were warned they would be thrown off the county real estate board if they negotiated sales to Orientals. In another Southern California case, the local ACLU group has filed an intervening brief in the $42,000 damage suit brought by a realtor who was expelled from the Southeast Realty Board because he handled "undesirable property transactions," specifically a sale to a Mexican-American.

Fund for the Republic. The foundation has announced the allocation of $100,000 for a nation-wide survey of the housing of all minority groups. The study will cover both public and private housing, with particular attention to the problems of Negroes in large centers; Earl B. Schwulst, President and Chairman of the Board of the Bowery Savings Bank in New York, heads a commission of 17 businessmen and educators in charge.

5. Vote Denial; Violence

ACLU Request. The Senate Subcommittee on Constitutional Rights (Senator Thomas Hennings, chairman) has been asked by the ACLU to investigate the denial of voting rights to Negro citizens in the South. In a telegram to Senator Hennings, Patrick Murphy Malin said that "recent events in the South, especially in the state of Mississippi, clearly show that a large body of American citizens is being denied this fundamental right [to vote] . . . through intimidation and coercion . . . resulting even in murder."

Florida. The Greater Miami affiliate of the ACLU has urged Governor LeRoy Collins to investigate the withdrawal of eleven Negro voters from the registration lists of Liberty County, following up on reported burning of crosses.

Mississippi. The NAACP has complained to the Department of Justice about the Negro voting situation in Mississippi; a new state constitutional amendment requires voters to be able to read, write and interpret the state constitution; also the "citizens councils" are believed to have had an effect on the 22,000 registered Negro voters. Attorney General Brownell announced that irregularities would be investigated. In the meantime, Tom Tubb, chairman of the state Democratic Executive Committee ordered the press barred from the meeting of a special committee of his group which is studying the matter; Tubb said "Negroes perhaps played too large a part in the last election."

Better News. All color references have been eliminated from Nebraska voter registrations. In Cincinnati, Ohio, Theodore M. Berry was elected to his fourth term on the City Council with the largest
vote he has ever had, in spite of public attacks on him and the ACLU—on whose Cincinnati chapter executive board he serves. In December, Berry was named Vice-Mayor by the Council. Mr. Berry is a Negro.

**Violence: the General Picture.** Although there have been a number of reported cases of violence directed against Negroes in connection with voting, home occupation, and use of public accommodations, the total number of such instances has not been large. Credit for this must be given mainly to the Negro members of troubled communities, and to their local and national leaders. Patient but unrelenting use of the courts, and non-violent mass protest, have been the dominant patterns of Negro effort to obtain equality before the law.

**Trumbull Park.** In the Chicago Trumbull Park housing project, three years after the first Negro family moved in, 27 families are still being given daily protection by 100 members of the police force. Numerous civic groups, including the Illinois Division of the ACLU, continue their effort to achieve a solution of this classic instance of racial prejudice.

**Rape Convictions.** In Louisiana, an all-white jury convicted a white man of attempted rape of a Negro woman—apparently the first such judgment in that state. In Florida, a similar jury convicted a white man of rape, and by a single vote majority in favor of clemency permitted a life sentence instead of the death penalty.

6. **The American Indian**

A number of local situations have arisen respecting the application of state and local laws and ordinances to Indians. For example, the Minnesota ACLU branch intervened with the Governor's office in regard to a Granite Falls ordinance prohibiting the sale of 3.2% beer to Indians; a regulation of this type is unconstitutional because it discriminates on the basis of race.

**Court Award.** The U.S. Supreme Court in May, 1956, by a unanimous decision reinstated an award of $100,000 to a group of Navajo Indians whose livestock had been slaughtered by Federal agents in Utah.

7. **Women**

**Jury Duty.** Jury duty service for women is presently compulsory in 24 states, the Canal Zone and Hawaii. It is on a voluntary basis in 18 states, the District of Columbia, Puerto Rico and the Virgin Islands. And it is barred in Alabama, Mississippi and South Carolina. The
denial of opportunity to serve is one of the last remaining specific inequalities of women before the law.

Equal Pay. A number of bills calling for equal pay to women in areas of work under Federal control were introduced in the last Congress but none passed.

Equal Rights Amendment. The ACLU gave further consideration to this proposed constitutional amendment but saw no reason to reverse its previous view that such an amendment might upset existing desirable protective laws for women workers, and that the scope of the Amendment—limited to rights under law—is not broad enough to warrant changing the Constitution.

LABOR

1. General Labor Problems

Political Action. U.S. District Judge Frank A. Picard has dismissed an indictment of the AFL-CIO United Auto Workers Union which charged violation of the Taft-Hartley Act through sponsorship of TV shows on which political candidates appeared. Without ruling on the fundamental constitutional question of a labor organization's right to expend funds for such purposes, the court held that a ruling against the union would jeopardize the rights of newspapers to print editorials, and the right of a delegate to a convention (whether his expenses were paid by a union or a business corporation) even to speak. The judge referred to the 1948 case against Philip Murray where a unanimous U.S. Supreme Court killed an indictment.

The ACLU, which intervened on behalf of Murray's rights, will again study the whole problem of contributions in political campaigns by labor, business and trade organizations.

The Non-Communist Affidavit. Senator Pat McNamara of Michigan has introduced a bill which would repeal the Taft-Hartley Act requirement that officers of labor unions sign a non-Communist oath before their organizations can use National Labor Relations Board facilities. Executive director Patrick Murphy Malin of the ACLU wrote Senator McNamara supporting his action on the ground that the requirement imposes "a kind of second-class citizenship on labor unions, which is not in keeping with the principle of equality for all."

In the case of Arkansas vs. Fuller the U.S. Supreme Court has ruled that non-compliance with the affidavit requirement does not bar a union from picketing for recognition.

Fair Employment Practice. Pennsylvania in 1955 became the eleventh state to adopt FEP legislation.
Unions as Employers. The International Teamsters Union has refused to recognize the right of its office employees to bargain collectively. The NLRB has ruled that the union as an employer must grant the same rights as other employers; the case has been appealed to the U.S. Supreme Court and jurisdiction has been assumed by that body. In a telegram to the Teamsters Union, the ACLU protested this violation of the collective bargaining principle on which labor and the ACLU have been in accord over a period of decades.

The Picket Line. In connection with the Westinghouse strikes of 1955-56, the ACLU reasserted its opposition to all violence. It was pointed out that labor should not use the picket line to prevent, by intimidation or violence, anyone entering or leaving a place of work. Likewise, no violence or intimidation should be used by management to interfere with peaceful picketing. And it is the responsibility of law officers only to use such force as is necessary to maintain order and to regulate traffic; certainly no police officer should align himself on one side or the other in a labor dispute.

In a January, 1956, decision by a New York court it was apparently held that picketing which damages an employer's business may be barred by an injunction even though the picketing is orderly and otherwise lawful. This case would appear to contradict prevailing views of labor's right to picket.

2. The Individual Workers

Barnet Case. The New York Times discharged one of its staff after he had pleaded the Fifth Amendment before a Congressional investigating committee. An exchange of letters between the Times and the ACLU established that the newspaper had not dismissed the man exclusively because of his pleading, but because of other factors which could not be disclosed since the case might go to arbitration. The Union thereupon urged that arbitration be held in order that a full record might be made permitting judgment on possible civil liberties issues. A difference of opinion on the arbitration point developed between the Times unit of the newspaper Guild and the grievance committee of that union. Presently, an appellate court has held that the case is subject to arbitration.

Finger-printing. The sporadic tendency of city officials to fingerprint workers in certain occupations took form in Baltimore, Md., where this procedure was applied to night club employees by the Liquor Board. In court, where the Maryland ACLU intervened, the practice was struck down.
Part IV. INTERNATIONAL CIVIL LIBERTIES

The activities of the Union in relation to civil liberties internationally cover diverse relations in a wide field, but all are concerned solely with the responsibilities of the U.S. government. They are:

1. The position of the U.S. on civil rights and liberties at the United Nations.
2. The admission to the U.S. of aliens having business with the United Nations.
3. The issues before Congress affecting civil liberties internationally.
4. The rights of U.S. employees of international organizations.
5. Civil liberties in U.S. territories on which the U.S. reports to the United Nations.
6. Civil rights and liberties in foreign areas occupied and governed by U.S. armed forces (now only the Ryukyu islands).

1. At the United Nations

Little progress has been made at the United Nations to extend civil liberties by international agreement. The human rights covenants, intended to put into legal form the guarantees of the Universal Declaration of Human Rights of 1948, are before the Assembly with slight prospect of completion owing to a controversy over the inclusion of the right of self-determination of peoples—regarded by many governments, including the U.S., as alien to guarantees of individual liberties. Some effort, still abortive, has been made to break up the inclusive covenants into parts more likely to win ratification of a substantial number of States, and thus to deal with the issue of self-determination separately and possibly more effectively. The International League for the Rights of Man, with which the Union is affiliated, has taken that position.

The only apparent advance in the last year is the adoption by the Assembly of a provision for advisory services in human rights to be rendered both by the secretariat and by non-governmental agencies. Freedom of international information by press, newsreels and radio, long bogged down in controversy, is again on the agenda for this year, but with slight prospects of overcoming basic divergences.
The Union contributed material to the United Nations' current world-wide study of discrimination in religion, and secured it from other national agencies.

U.S. representatives in the Trusteeship Council were commended for supporting the principle of target dates on the road toward self-government or independence of dependent peoples.

Union representatives have attended regularly the so-called briefing sessions held at the United Nations to familiarize non-governmental agencies with the U.S. positions.

2. Admission of Aliens

The Internal Security Act of 1950 provides that aliens who may be excluded under its provisions may be admitted by special permission of the Attorney-General. That permission has been granted in most such cases of non-governmental representatives attending UN meetings, but with restrictions confining them to a narrow area in Manhattan and forbidding them to make speeches or give interviews. The Union has repeatedly protested this nonsensical restriction without effect. But in one case, that of a French representative of the World Federation of Trade Unions, permission by the Attorney-General was refused on the ground that he was under indictment in France. Though France had no objection, the U.S. did. Under sharp criticism by UN agencies and protests by the Union and other organizations, the government retreated and granted a visa, but too late to be of use.

3. Issues before Congress

The perennial Bricker amendment, which blocks all present chances of U.S. participation in international treaties to promote human rights, was again favorably reported to the Senate, but did not come up on the calendar for vote. It died with the session, but the effort and the controversy will continue. Though cast in a new and simpler form, the proposal is still intended to restrict federal powers derived from treaties and to protect "states' rights." The Union vigorously opposed it.

A bill to make it a crime for any American citizen to accept employment with an international agency without prior loyalty clearance by the Attorney-General was favorably reported to the Senate but died on the calendar. The Union opposed it.

4. Rights of UN Employees

The long controversy over U.S. "subversives" among employees of the United Nations came to an apparent close with the adoption by the General Assembly of a new system setting up a procedure for
handling dismissals. Its protective provisions are, however, qualified by the right of any government to institute a proceeding against an employee, thus intruding political motives into a judicial process. The Union opposed it without effect. No case has since arisen. In the cases previously brought the United States lost its contentions in the appeals agencies of international organizations, but the right of directors to pay indemnities in place of giving reinstatement lost the employees their jobs.

The International Organizations Loyalty Board, set up by presidential order, has completed its screening of all Americans employed in international agencies—and with a tribute to their loyalty. Only a few employees were dismissed as a result of its hearings. The committee set up by the New York City bar association to make a study of the loyalty-security program, financed by the Fund for the Republic, concluded that the International Loyalty Board should be abolished, since no employees in these agencies deal with matters affecting national security. It would also appear as if the decision of the Supreme Court holding that only security positions may lawfully be covered might result in the Board's dissolution.

5. United States Territories

Puerto Rico. Although Puerto Rico is a self-governing Commonwealth on which the U.S. no longer reports to the U.N., Federal laws apply to it. Prosecution of the leaders of the tiny Communist Party was instituted by the U.S. Attorney, but the trial has not yet taken place. The Union has assisted the defense by advice, but takes no formal part, though opposing the prosecution, as it does all such cases under the Smith Act. A revision of the Commonwealth sedition act, similar to the Smith Act, appears to be in prospect following the U.S. Supreme Court decision invalidating state sedition laws—though Puerto Rico in that respect may not fall within the Court's jurisdiction.

Roger Baldwin, on invitation of Gov. Luis Munoz Marin, visited Puerto Rico to set up a study of civil rights with a view to improving law and practice. It is progressing under a committee headed by the Attorney-General.

Virgin Islands. The legislature of the Virgin Islands, dissatisfied with the revised organic act of 1954, limiting local government, has established a commission of legislators and citizens to revise it. Mr. Baldwin conferred with members of the commission in St. Thomas, offering services by the Union in promoting its work. The offer was accepted, and it is expected that one or more advisers will aid the commission to draft a satisfactory bill for introduction in Congress in 1957.
Pacific Islands. The U.S. has jurisdiction over these islands or groups of islands in the Pacific—American Samoa (pop. 20,000), Guam (pop. 60,000), and the Pacific Trust Territory (pop. 55,000). On each it reports annually to the United Nations, where the reports are examined in open debate in the Trusteeship Council (for the Trust Territory) and the Committee on Information from Non-self-governing Territories.

The Union studied the U.S. reports and debates and saw no occasion for making representations. The United Nations debates raised no issues of civil rights beyond those being handled apparently satisfactorily by the U.S. Removal of island peoples for atomic bomb tests, with resettlement and compensation, caused some comment, but arrangements appear likely to satisfy claims. Legislation to extend self-government in Guam appears likely to come up in the next Congress. No moves are contemplated at present for legislation affecting American Samoa.

6. The Ryukyus

The last remaining area of military occupation and government by the U.S. as a result of the war is the Ryukyu islands, of which Okinawa with three-quarters of a million inhabitants is the center. It is governed entirely by military officers through a native executive appointed by the U.S. commander. The executive in turn appoints all administrative and judicial officials. The elected legislature exercises only very limited powers. The Union has repeatedly protested this system, suggesting that military security would not be compromised by granting substantial self-government to the Okinawans, as the U.S. did in other occupied countries. The military have been totally unresponsive.

A committee of the House of Representatives, which inquired into the acquisition of land by the military, did not deal with the rights of Okinawans either in that or any other matter. Its report, which advocated that the U.S. should get title to lands taken, touched off demonstrations in Tokyo and Okinawa not only for keeping title in native hands but for immediate reversion of the islands to Japan, with an American base, as in Japan proper. The committee's report has not yet been considered by Congress. The Union will continue to urge that it deal with the system of government, on which some assurance has been given that it will, and with reconsideration of its recommendations on land acquisition methods.

The Union has continued its affiliation with the International League for the Rights of Man, an agency accredited by the United Nations as a consultant, and with the Conference Group of U.S. National Organizations on the U.N. Policies on international affairs are initiated by the Committee on International Civil Liberties, and on U.S. dependencies by the Committee on Civil Rights in U.S. Territories.
Part V. STRUCTURE AND PERSONNEL

MEMBERSHIP AND THE CORPORATION

A member of the Union shall be a person or organization paying dues of two dollars or more annually to the national American Civil Liberties Union or one of its affiliates. The National Committee is elected by the members of the Union, and the Board of Directors is elected by the members of the Board of Directors, the National Committee, and the members of the boards of affiliates.

Corporation Officers

Chairman—Ernest Angell
Secretary—Katrina McCormick Barnes
Assistant Secretary—Rowland Watts
Treasurer—B. W. Huebsch
Assistant Treasurers—John F. Finerty
Patrick Murphy Malin
Jeffrey E. Fuller
Executive Director—Patrick Murphy Malin

Personnel Changes

Board of Directors. Four of the members listed in the 1954-55 Annual Report are not now on the Board: Mr. Bolte who resigned in June 1956, Mr. Howe who resigned in February 1956, and Professor Myers who resigned in April 1956, because their work prevented their attendance at meetings; Mr. Fry who failed of election in 1955. The following two new members were elected in 1955:

Mrs. Sophia Yarnall Jacobs—president, Urban League of Greater New York
Ordway Tead—vice-president, Harper & Brothers

Mr. Tead resigned in September 1956 because of having to curtail activities following an operation.
Louis M. Hacker, Dean of the School of General Studies at Columbia University, was elected in September 1956 by the Board for a one-year term. The Board now numbers 29 of a maximum 35 provided under the by-laws.

**National Committee.** Two members listed in the 1954-55 Annual Report are not now on the Committee: Professor MacLeish who requested not to be renominated in 1955 because of having to be out of the country, and Dr. Charles S. Johnson who died in October 1956. The following five new members were elected in 1955:

- Sarah Gibson Blanding (N.Y.)—president, Vassar College
- Howard F. Burns (Ohio)—attorney
- Ralph F. Fuchs (D.C.)—general secretary, American Association of University Professors
- Quincy Howe (N.Y.)—news commentator, American Broadcasting System
- Loren Miller (Calif.)—attorney

The National Committee now numbers 77 of a maximum 100 provided under the by-laws.

There has been only one change in the officers since the 1954-55 Annual Report. Rowland Watts was elected in February 1956 as Assistant Secretary of the Corporation.

**Staff.** In August 1955 Herbert Monte Levy, Staff Counsel, resigned to go into private practice. On February 1, 1956, Rowland Watts became Staff Counsel. Mr. Watts had been general secretary of the Workers Defense League.
ACLU AFFILIATES


Colorado: COLORADO BRANCH, ACLU, 1870 Broadway, Denver 2. William F. Reynard, Chairman. Harold V. Knight, Executive Director. Chapter in Boulder.

Connecticut: CONNECTICUT CIVIL LIBERTIES UNION, 29 Eldert Street, New Haven 11, Ralph S. Brown, Jr., Chairman. Mrs. Roy Mersky, Secretary. Chapters in Fairfield County, Hartford and New Haven.

Florida: ACLU OF GREATER MIAMI. Prof. Richard C. Royce, Chairman. Dr. A. Richard Finchell, Olympia Building, Miami, Secretary.


Indiana: INDIANA CIVIL LIBERTIES UNION, 635 North Pennsylvania Avenue, Indianapolis 4. Merle H. Miller, Chairman. Mrs. Ruth Smith, Executive Secretary. Chapters in Bloomington, Gary, Lafayette and South Bend.

Iowa: IOWA CIVIL LIBERTIES UNION, 4211 Grand Avenue, Des Moines 12. Kenneth Everhart, Chairman. Miss Garnet Guild, Secretary.

Kentucky: KENTUCKY CIVIL LIBERTIES UNION. Patrick S. Kirwan, Chairman. Arthur S. Kling, 1917 Maplewood Place, Louisville 5, Secretary-Treasurer.


Maryland: MARYLAND BRANCH, ACLU, 10 East Centre Street, Baltimore 1. Joseph K. Atkins, Chairman, Executive Board. Mrs. Jeanne Weisgal, Secretary.


Michigan: METROPOLITAN DETROIT BRANCH, ACLU. Rev. Edgar M. Wahlberg, Chairman. Walter Bergman, 2747 Oakman Court, Detroit 38, Secretary.

* Indicates a full-time office is maintained.

Missouri: ST. LOUIS CIVIL LIBERTIES COMMITTEE. Dr. Samuel Guze, Chairman. Miss Gene Krummenacher, 6030 Kingsbury Avenue, St. Louis 12, Secretary.


NIAGARA FRONTIER BRANCH, ACLU. Dr. George Strauss, 124 Merrimac Street, Buffalo 14, Chairman.

Ohio: OHIO CIVIL LIBERTIES UNION, * 740 West Superior Avenue, Cleveland 13. Ralph Rudd, Chairman. William Sanborn, Executive Director. Chapters in Cincinnati, Cleveland, Columbus, Dayton, Oberlin, Toledo, Yellow Springs and Youngstown.


GREATER PHILADELPHIA BRANCH, ACLU, * 260 South 15 Street, Philadelphia 2. Clark Byse, President. Spencer Coxe, Executive Director.

Washington: STATE OF WASHINGTON CHAPTER, ACLU, 1114 Thirty-seventh Avenue North, Seattle 2. Francis Hoague, Chairman. R. Boland Brooks, Executive Secretary.


* Indicates a full-time 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.)

**Alabama**—Morrison B. Williams, Route 1, Box 15, Autaugaville

**Alaska**—Victor Fischer, 1601 F Street, Anchorage

**Arizona**—C. M. Wright, 128 North Church Avenue, Tucson 1

**Arkansas**—Georg G. Iggers, 195 West Lafayette Street, Fayetteville

**Delaware**—William Prickett, 1310 King Street, Box 1329, Wilmington 99

**Georgia**—William V. George, 47 Oak Street, Forest Park

**Hawaii**—Miss Mildred Towle, 431 Namahana Street, Honolulu

**Idaho**—Alvin Denman, Idaho Falls

**Kansas**—Raymond Briman, New England Building, Topeka

**Maine**—Prof. Warren B. Catlin, Bowdoin College, Brunswick

**Mississippi**—Jo Drake Arrington, 411 Hawes Building, Gulfport

**Montana**—Leo C. Graybill, 609 Third Avenue North, Great Falls

**Nebraska**—Prof. Frederick K. Beutel, University of Nebraska, Lincoln

**Nevada**—Martin J. Scanlan, 130 South Virginia Street, Reno

**New Hampshire**—Winthrop Wadleigh, 43 Market Street, Manchester

**New Jersey**—Emil Oxfeld, 744 Broad Street, Newark 2

**New Mexico**—Sumner Stanley Koch, 1451 Deo Linda, Santa Fe

**North Carolina**—James Mattocks, Professional Building, High Point

**North Dakota**—Harold W. Bangert, 400 American Life Building, Fargo

**Oklahoma**—Rev. Frank O. Holmes, First Unitarian Church, Oklahoma City

**Puerto Rico**—Guillermo Cintron Ayuso, P.O. Box No. 4566, San Juan

**Rhode Island**—Milton Stanzler, 1019 Hospital Trust Building, Providence 3

**South Carolina**—John Bolt Culbertson, P.O. Box 1325, Greenville

**South Dakota**—Benjamin Margulies, 418 Western Surety Building, Sioux Falls

**Tennessee**—James J. La Penna, 512 Commerce Union Bank Building, Nashville

**Texas**—Prof. Clarence E. Ayres, University of Texas, Austin 12

**Utah**—Prof. Spencer L. Kimball, University of Utah, Salt Lake City

**Vermont**—Louis Lisman, 166 College Street, Burlington

**Virgin Islands**—George H. T. Dudley, Box 717, Charlotte Amalie, St. Thomas

**Virginia**—Moss A. Plunkett, Box 492, Roanoke

**West Virginia**—Horace S. Meldahl, P.O. Box 1, Charleston

**Wyoming**—Rev. John P. McConnell, 408 South 11th Street, Laramie

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Part VI. MEMBERSHIP AND FINANCES

Fiscal Year February 1, 1955, through January 31, 1956

The membership of the Union (and its integrated affiliates) once again grew to a record figure: a net total of over 35,000 on January 31, 1956, a 17% rise during the fiscal year. Membership income during the twelve-month period reached more than $326,500, a 23% rise over the 1954-55 amount.

Total 1955-56 budgeted income amounted to over $358,300, including $100 investment income, almost $500 in honorariums, close to $1,000 from sale of pamphlets, a $500 grant for office improvement, a $10,000 grant from the Robert Marshall Civil Liberties Trust for legal work, and nearly $20,000 in bequests.

Budgeted expenditures totaled $343,500, including almost $130,000 transferred to affiliates as their share of joint income from members in their areas. Of the Marshall Trust $10,000 grant, somewhat over $4,000 went to affiliates for local litigation, and the balance into national office cases.

$14,800, the excess of income over outgo, was added to the Union's reserve fund, bringing it up to $71,300. This reserve is actually a revolving fund which enables the ACLU to get through its eight relatively "lean" income months when expenditures are greater than income.

The average member contributed $9.30. Approximately 15% of the Union's members contributed under $5, 50% between $5 and $9, 30% between $10 and $24, 3% between $25 and $49, 1% between $50 and $99, and 1% $100 and over. Contributors of $200 or more during the 1955-56 fiscal year were:

William Prescott Allen, Texas; Mrs. Evelyn P. Baldwin, New York; Mrs. Katrina McCormick Barnes, New York; Cyril J. Bath, Ohio; Howard K. Beale, Sr., Wisconsin; Mrs. Helen M. Beardsley, California; Robert A. Bernstein, California; Mrs. Harry Braverman, California; Mrs. Nina Bull, New York; Andrew H. Burnett, California; Mrs. Esther Smith Byrne, California; Mrs. Alexander Campbell, New York; Mr. and Mrs. Roger S. Clapp, Massachusetts; Miss Fanny Travis Cochran, Pennsylvania; Martin J. Cole, New York; Edward T. Cone, New Jersey; Professor and Mrs. Albert Sprague Coolidge, Massachusetts; Mr. and Mrs. Stephen Crary, Massachusetts; W. T. Deininger, El Salvador, C.A.; Mrs. Margaret DeSilver, New York; Alex Deutsch, California; Mrs. Thomas M. Dillingham, California; Robert T. Drake, Illinois; Edward J. Ennis, New York; Henry G. Ferguson, Washington, D.C.; Mrs. Stanton A. Friedberg, Illinois; Miss Gloria Gartz, California; Sidney Gerber, Washington (state); Mr. and Mrs. J. W. Gitt, Pennsylvania; William Roger Greeley, Massachusetts; Richard Grumbacher, Maryland; Mr. and Mrs. Gilbert Harrison, District of Columbia; Mr. and Mrs. George H. Hogle, New York; B. W. Huebsch, New York; International Ladies Garment Workers Union, New York; Mrs. Katherine G. Kauf-
man, New Jersey; Mrs. William Korn (for the Mayer Family), New York; Robert Maxwell Lauer, Delaware; Mrs. Frank Freeman Lee, California; Senator Herbert H. Lehman, New York; William Levitt, Pennsylvania; Mrs. Jo Ann List-Israel, New York; David Lurvey, Indiana; Mr. and Mr. Patrick Murphy Malin, New York; Merle H. Miller, Indiana; Seniel Ostrow, California; Jules J. Paglin, Louisiana; Mrs. Walter C. Paine, Maine; Don Parsons, Illinois; Dr. Linus Pauling, Jr., Territory of Hawaii; Harry Z. and Bernard Perel, Illinois; Prof. R. B. Pettengill, Ohio; Philadelphia Joint Board, Amalgamated Clothing Workers of America, Pennsylvania; Gifford Phillips, California; Frank C. Person, Pennsylvania; Annie J. Pitou, California; George D. Pratt, Jr., Connecticut; Mrs. Jane A. Pratt, Connecticut; H. Oliver Rea, New York; Charlotte Rosenbaum, Illinois; Mrs. Alice F. Schott, New York; Henry W. Shelton, California; Mrs. Eleanor Lloyd Smith, California; Lloyd Melvin Smith, California; Dr. and Mrs. John Spiegel, Massachusetts; J. David Stern, New York; Swarthmore Chest, Pennsylvania; Mr. and Mrs. Lee Thomas, Kentucky; Mr. and Mrs. Frank Untermeyer; Illinois; Betsy Van Allen, New York; Philip Wain, California; Clore Warne, California; Duane E. Wilder, Pennsylvania; Mrs. Betty Zukor, California.

One anonymous contribution of $200, three of $250, and three of $500 were also received.

Aside from budgeted operations, the ACLU supervised the following:

(1) The Maxine Hilson Estate, set up to pay Mr. Baldwin's part-time salary as International Work Adviser, which showed at the fiscal year's end a net gain of $1,422, with book value of investments $39,537 (market value $54,541).

(2) Disbursement of $1,974 from the Robert Marshall Civil Liberties Trust on lawyers fees and expenses in eleven cases involving the Government loyalty-security program. $242 was in this ACLU fund at the beginning of the year, $1,750 was received from the Trust, and $18 remained at the end of the twelve months.

(3) The raising of $911 through the pages of Civil Liberties in contributions earmarked for the Braden Kentucky Sedition Act appeal. $831 of this was forwarded to Louis Lusky, the Union's co-counsel in the case. The remaining $80 went to him shortly after the close of this fiscal year.

<table>
<thead>
<tr>
<th>1955-56 MEMBERSHIP ENROLLMENT</th>
</tr>
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<tbody>
<tr>
<td>NUMBER OF MEMBERS FEBRUARY 1, 1955 ..........</td>
</tr>
<tr>
<td>New members enrolled during fiscal year ..........</td>
</tr>
<tr>
<td>Dropped: deceased, resigned, delinquent, etc. ..........</td>
</tr>
<tr>
<td>Net increase during fiscal year ..........</td>
</tr>
<tr>
<td>NUMBER OF MEMBERS JANUARY 31, 1956 ..........</td>
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1955-56 FINANCIAL REPORT

<table>
<thead>
<tr>
<th>INCOME</th>
<th>Number</th>
<th>Amount</th>
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<tbody>
<tr>
<td>New members' initial contributions</td>
<td>8,493</td>
<td>$54,359.00</td>
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<tr>
<td>Membership renewals</td>
<td>21,123</td>
<td>204,970.90</td>
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<tr>
<td>Special Funds contributions</td>
<td>7,654</td>
<td>67,208.77</td>
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<tr>
<td><strong>TOTAL MEMBERSHIP INCOME</strong></td>
<td><strong>37,270</strong></td>
<td><strong>$326,538.67</strong></td>
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<table>
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<tr>
<th>INCOME</th>
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<tbody>
<tr>
<td>Investment income (net: less expenses)</td>
<td>100.92</td>
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<tr>
<td>Executive Director's honorariums</td>
<td>487.50</td>
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<tr>
<td>Sale of pamphlets</td>
<td>986.09</td>
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<tr>
<td>Special grant for office improvement</td>
<td>500.00</td>
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<tr>
<td>Grant from Robert Marshall Civil Liberties Trust</td>
<td>10,000.00</td>
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Bequests from the estates of former members:
- Charles M. Hepler | $10,000.00 |
- Paul L. Knorr | 3,147.03 |
- Mrs. Evelyn T. D. Morley | 2,628.26 |
- John B. Knorr | 2,067.75 |
- Edward Perry Morton | 966.43 |
- Edward L. Clarke | 559.96 |
- Richard Mayer | 252.92 |
- William W. Norton | 117.56 |
| **Bequests total** | **19,739.91** |

**TOTAL, ALL INCOME** | **$358,353.09**

EXPENDITURES

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<tr>
<th>EXPENDITURES</th>
<th>GENERAL OPERATIONS</th>
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<tr>
<td>SALARIES, five executives, two exec. assistants</td>
<td>$52,500.08</td>
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<tr>
<td>SALARIES, fifteen clerical employees</td>
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**OTHER ADMINISTRATIVE EXPENSES**

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<tbody>
<tr>
<td>Postage</td>
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<td>Equipment, supplies, services, etc.</td>
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<td>Rent</td>
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<td>Payroll taxes and insurance</td>
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<td>Telephone and telegraph</td>
<td>3,300.05</td>
</tr>
<tr>
<td>Auditor</td>
<td>1,800.00</td>
</tr>
<tr>
<td>Books, subscriptions, clippings, etc.</td>
<td>1,566.14</td>
</tr>
<tr>
<td>Lettershop</td>
<td>1,332.00</td>
</tr>
<tr>
<td>Executive Director’s travel</td>
<td>1,256.71</td>
</tr>
<tr>
<td>Bank charges</td>
<td>929.77</td>
</tr>
<tr>
<td>Board meetings</td>
<td>446.41</td>
</tr>
<tr>
<td><strong>TOTAL, ALL EXPENDITURES</strong></td>
<td><strong>$42,276.07</strong></td>
</tr>
</tbody>
</table>

**MEMBERSHIP SERVICES**

<table>
<thead>
<tr>
<th>EXEPENDITURES</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>New membership recruitment, total costs</td>
<td>$13,062.08</td>
</tr>
<tr>
<td>1954-55 Annual Report</td>
<td>6,679.90</td>
</tr>
<tr>
<td>Civil Liberties monthly paper</td>
<td>5,643.70</td>
</tr>
<tr>
<td>Special Funds appeals, total costs</td>
<td>3,892.00</td>
</tr>
<tr>
<td>Separable membership maintenance costs</td>
<td>2,575.21</td>
</tr>
<tr>
<td><strong>TOTAL, ALL EXPENDITURES</strong></td>
<td><strong>$31,852.01</strong></td>
</tr>
</tbody>
</table>
Litigation

Neal death sentence appeal ............................................................ $2,401.34
Dailey Gwinn Amendment case .................................................. 461.87
Naim miscegenation case ............................................................. 473.98
Donaducy criminal libel case .......................................................... 363.05
Bendik double jeopardy case ............................................................ 356.10
Lawrence vs. Newark Housing Authority ........................................ 350.00
Blackman vs. Chicago Housing Authority ...................................... 300.00
Communist Party vs. Subversive Activities Control Board ........... 292.90
Chiatt wire tapping case ................................................................. 289.08
Kentucky Sedition Act case ............................................................. 280.25
"Lysistrata" censorship case .......................................................... 266.39
Peters loyalty program case .............................................................. 226.08
Clark vs. Chicago Housing Authority ............................................. 200.00
Sixty-six cases under $200 .............................................................. 1,233.44

$7,494.48

* Full details on these cases will be found elsewhere in this Report. It should be noted that expenditures indicated above cover only out-of-pocket items such as printing of briefs, travel, long distance phone calls, etc. The Union's corps of volunteer lawyers work without fees.

Pamphlets

"The People's Right to Know" ................................................................. $2,266.16
"The Supreme Court and Civil Liberties" ............................................. 1,156.66
"Censorship of Comic Books" ............................................................. 411.25
Eleven reprints, etc., under $200 ....................................................... 716.44

$4,550.51

Board Committees

Indian Civil Rights Committee ......................................................... $363.75
Public Relations Committee ............................................................... 291.37
Free Speech and Association Committee ........................................... 269.78
Labor Civil Rights Committee ............................................................ 206.73
Academic Freedom Committee .......................................................... 195.44
Six committees under $100 ................................................................. 354.09

$1,681.16

International Civil Liberties ............................................................... $610.50

Washington Office

Salaries, director and secretary ......................................................... 11,242.89
Administrative expenses ................................................................. 5,661.21
To National Civil Liberties Clearing House ....................................... 1,250.00

$18,154.10
TRANSFERS TO INTEGRATED AFFILIATES of their share of all contributions (except those specially earmarked) received by the national ACLU from members in their respective areas.

Southern California Branch $25,024.25
New York Civil Liberties Union 22,622.05
Illinois Division 21,710.44
Philadelphia and Pennsylvania Branches 15,473.84
Civil Liberties Union of Massachusetts 12,879.29
Ohio Civil Liberties Union 7,770.99
Indiana Civil Liberties Union 5,816.67
State of Washington Chapter 4,028.71
Ohio-Indiana-Michigan Regional Office 3,947.20
Colorado Branch 2,682.20
Maryland Branch 1,216.93
Minnesota Branch 1,057.58
Metropolitan Detroit Branch 945.15
Wisconsin Civil Liberties Union 887.01
St. Louis Civil Liberties Committee 803.55
New Haven Civil Liberties Council 446.41
ACLU of Oregon 404.80
Greater Miami Chapter 389.05
Hartford Chapter 382.20
Iowa Civil Liberties Union 376.20
Fairfield County (Conn.) Chapter 328.31
Niagara Frontier Branch (Buffalo) 318.26
Kentucky Civil Liberties Union 248.92

$129,760.01

To AFFILIATES FOR LITIGATION. The following affiliates applied for and received indicated amounts from the Marshall Trust $10,000 grant to finance local legal work. Details available from affiliates.

New York Civil Liberties Union $1,183.49
Southern California Branch 1,122.31
Illinois Division 825.00
Northern California Branch 511.24
Greater Philadelphia Branch 249.99
Colorado Branch 124.77
Ohio Civil Liberties Union 64.95

$4,081.75

NATIONAL EXPENDITURES ON AFFILIATES

Chicago Conference, March 1955 $ 823.15
Other expenditures: travel, etc. 1,135.08

$1,958.23

EXPENDITURES, GRAND TOTAL $343,555.61
BALANCE SHEET

ASSETS as of January 31, 1956

Cash $33,462.65

Accounts receivable:
  Airlines deposit 425.00
  Overpayments to affiliates 2,404.00
  Miscellaneous 64.84

Loans receivable:
  Illinois Division 2,600.00
  Ohio Civil Liberties Union 2,600.00
  Greater Philadelphia Branch 2,325.00
  C.L.U. of Massachusetts 1,800.00

Investments 21,314.91
Furniture and fixtures 6,000.00

TOTAL ASSETS $72,996.40

LIABILITIES

Accounts payable 91.15
Withholding taxes payable 1,525.20
Marshall Trust loyalty case reserve 17.71
Kentucky Sedition Case Fund 80.00

TOTAL LIABILITIES $1,714.06

NET WORTH

Net Worth as of February 1, 1955 $56,484.86
PLUS excess of income over expenditures 14,797.48

NET WORTH AS OF JANUARY 31, 1956 $71,282.34

TOTAL, LIABILITIES AND NET WORTH $72,996.40

Baldwin Salary Section

NET WORTH, February 1, 1955 $38,114.29
Income from investments, net $5,022.39
Paid: Mr. Baldwin's part-time salary 3,600.00

EXCESS, income over expenditures $1,422.39

NET WORTH, January 31, 1956 $39,536.68

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 value of the securities held, present fairly the financial position of the American Civil Liberties Union, Inc., at the close of business January 31, 1956, 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.

APPEL 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 — JANUARY 1957

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 category when ordering.

A. The ACLU's 1955-56 Annual Report. 96 pp. 50¢

1. CLEARING THE MAIN CHANNELS, ACLU's 1954-55 Annual Report. 144 pp. 50¢

2. THE BILL OF RIGHTS (suitable for framing). 1956, 4 pp. Free

3. HOW GOES THE BILL OF RIGHTS?, by Patrick Murphy Malin. 1953, 2 pp. 5¢

(continued inside back cover)

Join the American Civil Liberties Union!

ACLU members of the following classification receive Civil Liberties each month and this 1955-56 Annual Report (and future annual reports), and are entitled to single copies of the 35 pamphlets listed here as 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, Connecticut, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Ohio, Oregon, Pennsylvania, Washington (state), Wisconsin, and Greater New York, Philadelphia, St. Louis, Detroit, Buffalo, and Miami. If you live in one of these states or city areas, your chapter will automatically 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 adherence to Communist, Fascist, KKK, or other totalitarian doctrine.

Here is my $........................ membership contribution to the work of the ACLU, fifty cents of which is for a one-year subscription to Civil Liberties.

Please print clearly

NAME .................................................................................................................................................................................................................................................................................................................................

ADDRESS ......................................................................................................................................................................................................................................................................................................................

CITY ................................................ ZONE .............. STATE ........................................

Occupation .............................................................................................................................................................................................................................................................................................................

Annual Report, 1955-56
7. ACADEMIC FREEDOM: SOME RECENT PHILADELPHIA EPISODES, published by Greater Philadelphia Branch, ACLU. 1954. 36 pp. 25¢
8. ANTI-COMMUNISM AND CIVIL LIBERTIES, by Bishop Bernard J. Sheil. 1954, 6 pp. 5¢
9. IF YOU ARE ARRESTED. Your rights and obligations. 1956, 4 pp. Free
10. THE SUPREME COURT AND CIVIL LIBERTIES, by Osmond K. Fraenkel. 1955, 106 pp. 50¢
11. ACADEMIC DUE PROCESS. On procedures in academic freedom cases. 1955, 8 pp. 10¢
12. ACADEMIC FREEDOM AND ACADEMIC RESPONSIBILITY. Statement of principles. 1955. 16 pp. 10¢
13. CENSORSHIP OF COMIC BOOKS. 1955, 16 pp. 15¢
15. AMERICA'S NEED: A NEW BIRTH OF FREEDOM. ACLU's 1953-54 Annual Report. 128 pp. 50¢
16. TWENTY QUESTIONS ON CIVIL LIBERTIES. An ACLU quiz. 1956, 2 pp. Free
17. DEMOCRACY IN LABOR UNIONS. ACLU report and policy statement. 1952, 16 pp. 25¢
18. CONFORMITY IN THE ARTS, by Elmer Rice. On current trends in censorship. 1953, 4 pp. 5¢
20. ACADEMIC FREEDOM AND CIVIL LIBERTIES OF STUDENTS. Policy statement. 1956, 12 pp. 10¢
21. HENCEFORWARD SHALL BE FREE. Excerpts from Emancipation Proclamation, etc. 1956, 4 pp. 5¢
23. COMMUNISM AND CONFORMITY, by George F. Kennan. 1953, 1 p. 5¢
24. HAVE WE THE COURAGE TO BE FREE?, by Arthur Hays Sulzberger. 1953, 8 pp. 10¢
25. CIVIL LIBERTIES AND THE INTERNATIONAL SCENE. Summary of major human rights issues before the U.N. 1953, 4 pp. 5¢
26. STRONG IN THEIR PRIDE AND FREE, by Harry P. Cain (A condensation). 1955, 6 pp. 5¢
28. LEGISLATIVE INVESTIGATIONS. 1956. 6 pp. Free

Published by Others, Distributed by ACLU

31. STRONG IN THEIR PRIDE AND FREE, by Harry P. Cain, full text of item 26 from Congressional Record. 1955, 16 pp. 5¢
32. IS WIRETAPPING JUSTIFIED?, by Patrick Murphy Malin. From Annals of American Academy of Political and Social Science. 1955, 7 pp. 10¢
33. THE ALTERNATIVE, by Archibald MacLeish. Roger N. Baldwin Civil Liberties Foundation. 1955, 16 pp. 25¢
34. DILEMMAS OF LIBERALISM, by Francis Biddle. Baldwin Foundation. 1953, 24 pp. 25¢
35. THIRTY-FIVE YEARS WITH FREEDOM OF SPEECH, by Zechariah Chafee, Jr. Baldwin Foundation. 1952, 40 pp. 25¢
37. FAIR INVESTIGATING PROCEDURES WILL CHECK MCCARTHY. Congressional Record reprint of speeches by Senators Herbert H. Lehman and Wayne Morse. 1954, 7 pp. 5¢
42. PRESIDENT TRUMAN'S VETO MESSAGE ON INTERNAL SECURITY ACT. From Cong. Rec. 1950. 4 pp. 5¢
44. UNIVERSAL DECLARATION OF HUMAN RIGHTS. United Nations. 1948, 8 pp. 5¢
45. IT CAN BE DONE! On ending segregation in public schools. NAACP. 1955, 12 pp. 5¢
48. PRESENTING THE INTERNATIONAL LEAGUE FOR THE RIGHTS OF MAN, with which the ACLU is affiliated. 1952, 6 pp. Free
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 everyone—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.

See Membership Blank On Page 96

*If you already belong, won't you pass this Annual Report on to a friend, when you have finished it, urging him or her to join the ACLU.

BEQUESTS TO THE ACLU

During the past six years the American Civil Liberties Union has received by bequest a total of $102,000 from the estates of thirty-four members. The legacies ranged in amount from $25 to $25,000.

The Union regards such gifts with special pride and with a special sense of obligation, because this money represents the final dedication of these ACLU members to the preservation of civil liberties in our democracy.

Members desiring to mention the Union in their Wills may wish to use this language: “I give $........................ to the American Civil Liberties Union, Inc., a New York corporation.”

Price of this pamphlet: 50¢ postpaid.
For quantity prices, see page 96.