"we hold these truths . . ."

FREEDOM
JUSTICE
EQUALITY

REPORT ON CIVIL LIBERTIES
JANUARY 1951 — JUNE 1953

AMERICAN CIVIL LIBERTIES UNION
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Published November 1953

AMERICAN CIVIL LIBERTIES UNION
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Foreword

This report on the main developments in the field of civil liberties and the work of the American Civil Liberties Union covers the thirty months from January 1, 1951 to June 30, 1953, as the report printed in June 1951 covered the eighteen months from July 1, 1949 to December 31, 1950. I am deeply apologetic for the trouble and disappointment caused to our members, to libraries, and to others by this postponement and compression, which is one of our serious faults. But there is a reason, as controlling as it is simple: the last three years and a half have brought challenges to civil liberties in unprecedented number and severity, variety and novelty, and unprecedented demands from many quarters that the Union should immediately and sizably expand to help meet the emergency. Now that the Korean truce promises some reduction in emergency pressure, we can plan to resume yearly publication, beginning with the 34th Annual Report, which will cover the twelve months July 1, 1953-June 30, 1954.

I want our members and other readers of this report to know something of the debt owed to my executive and clerical colleagues on the headquarters staff in New York and Washington and in the offices of our larger local organizations across the country. Headquarters work, for example, is just about 300% of what it was in early 1950; but the executive staff has increased only 40% to the equivalent of only seven full-time members, and the clerical staff has increased only 60% to a total of only seventeen. In accordance with Board instruction, clerical salaries (under union agreement) have been raised to the normal market level and executive salaries to nearly normal; but what is not normal is the tremendous increase in hourly productivity, and the incalculable amount of overtime work.

Surrounding our tiny employed staffs stand the unpaid many who have always done most of the Union's work, and who now enable it to carry on what must be several million dollars worth of activity (at commercial rates for such time and talent) on a budget which—despite its tripling since 1949—is even this year well under $300,000. The Board of Directors and the National Committee, the governing bodies of our local organizations, the members and advisers of our specialized committees, the cooperating attorneys, the State Correspondents, the national and local office volunteers, and the general members (who serve civil liberties not only by their contributions but also by being informed and alert and active)—all these are saving "the sum of things," not for pay but for love of freedom and justice and equality.
THE FOUNDATIONS OF DEMOCRACY

America's liberal democracy is built on freedom, justice and equality. The main elements in these foundation-stones are what we call civil liberties. They are freedom of inquiry and communication, justice in due process and fair trial, and equality before the law.

The civil liberty of freedom in American democracy is not a charter of anarchy. As set forth chiefly in the First Amendment to the federal Constitution, it is freedom of religion, and freedom of speech and press and peaceful assembly and petition.

The civil liberty of justice in American democracy is not a guarantee that every decision will be correct. As set forth chiefly in the remainder of the original Bill of Rights (the first ten Amendments), it is scrupulous observance of rules of procedure established in advance, as opposed to arbitrary decision in a particular instance by whoever has power. It means specification of charges, full and fair hearing, reasoned findings and considered judgment, and opportunity for appeal and review.

The civil liberty of equality in American democracy is not an assurance that everyone shall in fact be the same—physically, mentally or morally. As set forth chiefly in the Thirteenth, Fourteenth, Fifteenth and Nineteenth Amendments, it means treating everyone on the basis of individual merit and demerit, not of accidental membership in any group. It means keeping separate things separate, permitting distinction in treatment only on the basis of strictly relevant functional grounds.

These civil liberties are not only fundamental because they are in the Constitution; they are in the Constitution because they are fundamental, for a liberal democracy. They are neither for nor against any particular proposal for solving any of the host of other problems with which every society is confronted—from the problem of sex relations to the problem of foreign policy. But they are the prime articles of our liberal democracy's experimental faith (variously derived from its adherents' religious belief, humanistic philosophy or personal preference) in solving all problems by keeping the channels open.

Risks For Liberty

Liberty is the power to do as you please, and nobody has ever had it—completely. Even within the limits imposed by the nature of the land and sea and air around him, man—however simple and free his social arrangements—has always sought to avoid anarchy as well as tyranny. But a free society takes its major risks on the side of liberty. On any specific matter, it may make a decision which is "reactionary" or "conservative" or "reformist" or "revolutionary." But the basic purpose it seeks to serve by every decision is "liberal"—in the primitive sense of that much-abused word. It aims every time at the best possible balance between freedom and order in each set of circumstances, for the sake of the largest possible freedom of all sorts for all men as soon and as permanently as possible.
Democracy is the form of government designed to serve that end; it is government, but it is government of the people and by the people and for the people. Autocracy is always superficially attractive, especially when the rapid growth of technological complexity at home, and the sudden rise of ruthless aggression abroad, multiply bewilderment and insecurity. Man repeatedly hankers after the intelligent and benevolent philosopher-king, most of all if he can be that king. But, always and everywhere, he sooner or later discovers that it is usually someone else who is the king, and that the king—or his dynastic successor—is not intelligent or benevolent. So, with the spread and deepening of knowledge, democracy—after even the worst setback—has taken a new and firmer lease on life. Because of what he most essentially is, man chooses the risks of freedom.

Minority Protection

America's liberal democracy assumes those risks by employing republican and representative institutions, and by stressing not only majority decision but also minority protection—and rights for every individual person, as a person, within any majority or minority. Those civil liberties are the core of the "rule of law" which is the heart of our kind of government and society, whose pillars are freedom and justice and equality.

Read the sections of this report for detailed exposition of how freedom of inquiry and communication, justice in due process and fair trial, and equality before the law stand today. This introduction can only touch the most salient points.

As for equality before the law, we happily stand close to having organized discrimination outlawed by the high courts, and are benefitting from a widespread and manifold activity of individual citizens and groups in all sections of the country toward eliminating it. But we shall for a long time have to deal with lag and reaction—in lower court judges, in legislators and administrative officials at all government levels, in our neighbors and in ourselves. There are no lynchings, but there are bombings. The filibuster and party-platform insincerity block the federal civil rights program. Labor union organizers, especially in the South, do not yet have full rights of free speech; and Negroes, even in the North, do not yet have full rights as labor union members. (A dynamic society, developing large intra-social groups, is never out of the woods. As they win civil liberties and perhaps semi-public status for themselves, their organized power increasingly represents a frequent threat to the civil liberties of their own members and of outsiders.)

As for justice in due process and fair trial, we can once again happily report that—in its long-established judicial sense—it is being generally upheld by the high courts. But the terrifying problem of keeping rudimentary order and decency in our vast cities will continue to confront us with the baffling incidental problem of greater or lesser disregard for due process by police and prosecutors and lower court judges. And the growing use of government in our whole national life will continue to confront us with
such departures from the rule of law as that involved in President Truman's seizure of the steel plants, and in the failure of Congress to lay a self-denying ordinance on its committee procedures—under which the ever larger and more vital group of government employees, as well as others, are brought to "trial by publicity," accused and judged and sentenced in a court which is not a court. (A particular use of government may, on balance, serve civil liberties, as well as being defensible on other grounds; but every such use entails some additional problem for civil liberties. Government means control, and governmental officials are constantly tempted to impede the civil liberties of those whom they control.)

As for freedom of inquiry and communication, though there has been some notable improvement in recent months, we must unhappily recognize that it—the tap-root and trunk of the tree of liberty and democracy—is in grave danger. This is not a matter of the lunatic fringe being unable to hire a hall or mount a soap-box on the street-corner. This is the far more serious matter of official pre-censorship or pressure-group boycott of mass media—newspapers and magazines and books, motion pictures and the theatre, radio and television—often motivated by noble, but no less dangerous, anxiety over moral and religious values in an era of special strain and disruption. It is the equally serious matter of attempts to make our schools and colleges and universities—particularly the public schools—"non-controversial." (How can anyone really conceive of having non-controversial schools which would also be truly representative of a controversial community, or of adequately educating students for later life in a free society without having them experience variety and freedom in their schooling—gradually, as their age allows—in content and method and personnel and opinion, on all the great questions of human existence? This problem is infinitely more important and more enduring than the problem of Communist teachers, who never have been more than a microscopic and feeble crew, significant only in a few places. Too often the effort to solve that problem is trapping us into a general undermining of variety and freedom, which is our basic educational aim.)

Above all, freedom of inquiry and communication and our civil liberties generally are threatened from the outside by the violent and implacable masters of the Soviet Union, and on the inside by excrences of our natural and indispensable determination to guard against acts of treasonable or revolutionary subversion. Defense against the threat from the outside—including its internal manifestations of espionage, sabotage and treacherous misuse of positions of power and trust—is principally a job for diplomatic and military and police experts. Defense of civil liberties from our own reactive excesses is a job for all of us.

There is no justification for despair. We are in the earliest stages of unfamiliarity in handling chronic and world-wide tension and conflict. Britain did not permanently lose her civil liberties because Pitt suspended some of them when Napoleon stood poised at Boulogne. But there is, equally, no justification for neglect. Unused organs of the body politic, like unused
organs of the human body, quickly become atrophied or infected. Britain regained and expanded her civil liberties after Napoleon, in great part because Fox and others—just as patriotic as Pitt—never relaxed in their effort to make the foreign conflict worth waging by keeping the people free while the nation was being kept free.

We have laws, and competent enforcement agencies, to deal with acts of treasonable or revolutionary subversion. If we need more, we can and should get them. Civil liberties are no barrier to the prevention and punishment of such illegal acts. Civil liberties require only what they have always required: equality before the law for all who abide by the law, fair trial even for those charged with violating the law, and free speech this side of the line of clear and present danger of illegal acts. (That line may well be drawn at a different place in judging where, under all the circumstances, the free speech of a secret conspiratorial group aiming at sabotage carries such a clear and present danger, by contrast with the place where it is drawn for the open-air preaching of a single anarchist; but we should always apply the appropriate test of imminent action.)

Exercise of Courage

The preservation of civil liberties requires no magic—simply courageous exercise. But we cannot preserve equality for all who abide by the law if, in the name of national security, we condone a backstairs campaign against employing Jews because three or four Jews have been among the convicted atomic spies. We cannot preserve due process if, in the name of national security, federal government agencies refuse to afford their employees about whom derogatory information has been supplied the opportunity to cross-examine those who supplied it (unless they are official counter-intelligence agents or the like). We cannot preserve free speech without speaking freely on any subject under the sun, and seeing to it that even our most hated opponents may do likewise.

It is the intolerance of dissent, and the fear to express dissent, which represent the worst damage done by the congressional investigations and what is generally called "McCarthyism"—though I believe, as George Kennan said at Notre Dame University on May 15 last, that "these forces are too diffuse to be described by their association with the name of any one man or any one political concept." Congress has the right and duty to investigate illegal acts (whether committed by teachers or preachers, editors or lawyers, bankers or farmers); it has the right and duty to insure that its appropriations for the executive and the judiciary are not squandered by malfeasance or misfeasance; it has the right and duty to probe for information pertinent to possible legislation within its constitutional powers. But legislation which would curb speech or association, this side of the line of clear and present danger of illegal acts (even the Supreme Court's decision upholding the Smith Act's prohibition of mere advocacy still formally acknowledged that limitation), is not within those constitutional powers; nor is legislation which would
destroy or reduce the constitutional safeguards of due process, or equal pro-
tection of the laws.

So—this is so simple and so vital that it is astonishing how seldom it is
said, and heeded—it is unconstitutional, as well as extremely unwise in a
free society, for legislators to cause such effects even by investigation. Some
legislators claim that they have the right and duty to "expose"—not only
illegal acts, and executive or judicial malfeasance and misfeasance, and in-
formation pertinent to constitutionally permissible legislation—but anything
which they consider dangerous and which other people cannot or will not
expose. To that claim we must make this blunt reply: No legislature has any
right even to "expose" anything which is not pertinent to constitutionally
permissible legislation, just as the executive and the judiciary have no right
to exceed their respective constitutional powers. Our government is one of
limited powers, as the Tenth Amendment makes explicit. "The powers not
delegated to the United States by the Constitution, nor prohibited by it to
the States, are reserved to the States respectively, or to the people." Under the
American system, when something lying beyond the limited powers of our
government (which is not the nation, but only one instrumentality of the
people) needs exposing—as often happens—then the people themselves do
the exposing, by free speech.

The privilege against self-incrimination, as one protection from any sort
of coerced confession, is still—despite the incidental harm it has always
done in helping the guilty—an indispensable safeguard in a free society;
but the use of the privilege does not constitute a challenge to the propriety
of a question or the competency of an investigation. Nor—though it is a
consummation devoutly to be wished—can we realistically expect that in-
defensible use of the highly necessary power of legislative investigation will
be effectively checked in the near future by judicial interpretation, on First
Amendment or other constitutional ground. But it is long past time for
Senators and Congressmen, for the harassed heads of executive agencies, for
newspapers and all the people of this country, to take action without waiting
for judicial refinements, and—as good policy for freedom—scrupulously to
limit the mandates and methods and publicity and influence of such investiga-
tions. In this connection, we are happy to note that there are representatives of
all these groups who are now speaking out courageously.

The Choice

Some people say, "You must choose either Communism or McCarthyism." The
ACLU chooses neither. We choose civil liberties. We will continue to
oppose tyrannical Soviet Communism as the chief threat to our civil liberties
from the outside, and "McCarthyism" as the chief threat to our civil liberties
on the inside. The overwhelming majority of Americans have all their lives
been both free men and patriots, without making a noise about it. They were
not duped by Nazism in the 1930's, and have not been duped by Communism
at any time. They need not be at all embarrassed by today's shrill cries from
people who never did believe in civil liberties for anyone besides themselves, or from those ex-Communists who are still against civil liberties.

Nor need we be forced to choose panic or complacency. We can choose hard work, plus a little patience—not too much—born of perspective. We may share the anxiety that catastrophe may overcome us, because our social intelligence and morality may prove unable to cope with our technological complexity and hydrogen bombs. But neither catastrophe nor the avoidance of catastrophe has ever been sure; the only sure thing is that we can, if we will, work to avoid catastrophe, once again giving effect to the American hope, which has never been permanently defeated. That hope depends at bottom on the eternally vigilant and active maintenance of civil liberties—freedom of inquiry and communication, justice in due process and fair trial, equality before the law—because they are the open channels we need for moving toward the solution of all problems.

George Washington said: "Let us raise a standard to which the wise and the honest can repair. The event is in the hand of God." The final outcome of America's glorious experiment in liberal democracy is not for us to see. But, for the brief moment of our individual lives, we do hold in our hands the standard and the effort.

**THE ACLU — EVOLUTION OF METHODS**

Maintaining and retrieving, applying and developing civil liberties requires multiple action. It requires action on the judicial, executive and legislative sectors of the federal, state and local governmental front. It requires action on all sectors of the public opinion front, not only for the support of what must be done on the governmental front but also for the accomplishment of what must be done by the people directly—to make the spirit as well as the letter of our constitutional guarantees effective throughout our national life. Democratic freedom requires public officials who both observe and enforce the law of civil liberties. It requires individual citizens and groups (and lawyers who may be called on to represent them) who are informed and alert and active in asserting their own civil liberties. And it requires that every one of us respect, and help defend, every civil liberty for everybody every time. This is freedom's only final guarantee.

The American Civil Liberties Union exists simply to help create that condition of universal and eternal vigilance, and meanwhile—a long meanwhile—to provide an organized watch-dog service to supplement, by both prodding and resisting, the actions of officials and laymen. As the only permanent nation-wide non-partisan body devoted solely and comprehensively to that purpose, the Union is an example of that distinctive American phenomenon, a private organization composed of individual citizens dedicated to public business—in the Union's case, the most important public business of all.

Litigation continues to be the Union's chief field of activity, ever widening in absolute dimensions. And the Union's chief role in this area continues
to be that of a friend of the court arguing civil liberties points in the appellate courts, with an occasional appearance from the earliest trial stage onward—in a test case, or some other case in which the Union can properly supply an attorney because there are no other questions of law or fact involved besides the plain civil liberties points. But, relative to other fields of activity, this litigative work occupies less space than formerly. Knowledge of civil liberties law is happily spreading among the nation's lawyers generally (the Union has recently taken a little time from its defensive activities to hasten this constructive development, in cooperation with some of the leading law schools). Thus, their service to individual or group clients carries a larger by-product of service to the whole cause of civil liberties, even in the absence of the friend-of-the-court representation. Also, the very increase of group organizations, with impressive legal staffs, has led to such a rise in the number of requests for permission to appear as friend of the court, that courts—the U.S. Supreme Court in particular—are tending to reduce the percentage of such requests granted. However, the Union will continue to seek permission whenever it thinks there is special need—either to supplement the civil liberties points presented by the parties' own attorneys, or because the court and the public need to have those points presented also by an organization with no other interest at stake.

**Legal Aid**

The Union is not a legal aid society, in the sense of supplying complete attorney service to clients who, for financial or other reasons, are unable to obtain lawyers by themselves. It does try, informally, to put such persons in touch with competent lawyers, who will then act (independently of the Union) as attorneys for clients. And it heartily supports all efforts on the part of bar associations to increase the availability of adequate counsel in such cases, either by court appointment or otherwise. For here is one of the most vital needs of a democratic government and a free society: that persons who are necessitous, or in any way unpopular, should have the best possible legal representation when civil liberties are involved. But, for the clearest possible understanding in all quarters as to what civil liberties mean, and what they do not mean, it will continue to be necessary for the ACLU to concentrate on its own specialized service, organically separate from any agency rendering other necessary services.

We are experiencing a tremendous increase in the relative, as well as absolute, importance of the Union's work with government executives and legislators, from city halls to Pennsylvania Avenue and Capitol Hill. This has a two-fold cause: whereas civil liberties law used to be almost entirely a matter of the Constitution itself and judicial interpretation thereof, there are now numerous actual or proposed statutes, to be supported or opposed; and, because life is growingly complex in matters involving civil liberties as well as in other matters, there is a proportionate increase in the amount of discretion left to executives and administrators. Hence, the Union had
last year for the first time to add a full-time Washington office director to its headquarters staff.

As for the general education of public opinion, though this too is increasingly important, it seems unlikely that the Union will ever have enough money to make a mass impact through the mass media—attractive though such a prospect might be. However long the Union's recent gratifyingly rapid growth in membership may continue, the indispensable legislative component in our work will probably bar a Treasury ruling which would make gifts to us tax-exempt. At any rate, we shall for a while have to content ourselves with doing the educational part of our work through our own financially-limited publications, through our growing membership, and through the stimulation and coordination of civil liberties interest in other agencies.

This naturally brings up the Ford Foundation's recent grant of $15,000,000 to the Fund for the Republic, which it established in late 1952 for work in the field of civil liberties generally. Its plans are still in the formative stage. The ACLU is profoundly thankful for the great gain to civil liberties which may result from the direct or indirect expenditure of this (for the field of civil liberties) astronomically large fund. We will—as we have done since the first announcement of the Ford Foundation in 1950—cooperate with its officials as closely as they wish. But the Fund is unlikely to overlap the Union's unique total pattern of work except in regard to general education of public opinion, or to contribute financially to the Union. The reason why there will be little overlapping or subsidizing is perfectly simple: foundations, being tax-exempt in their creation, are usually not able to undertake legislative work or to supply funds to anyone else who does undertake it. So, the ACLU will go on being needed, and will go on needing more members and their dues and contributions.

**Membership Need**

We need more members, not primarily for their money, but for their manpower. For, in the last analysis, it is only a great host of informed and alert and active people who can keep civil liberties alive and kicking all across the country. The ACLU must not be an esoteric cult worshiping itself. It must be relentlessly interested in passing the test of actual success, in gaining as many civil liberties as possible for all Americans as soon and as permanently as possible. There are right now literally millions of Americans who ought logically to belong to the ACLU, and the section of this report headed "Membership and Finance" indicates that we have lately made a substantial beginning to enroll them. We must never in the slightest degree dilute any policy decision in order to swell our numbers, but we can without the faintest dishonor seek energetically to recruit everybody who on balance genuinely agrees with our program. Our purpose itself demands nothing less.

The same sort of thing holds true about our general popularity or unpopularity. We must never be influenced in the slightest degree, in making any policy decision, by the desire to court popularity—or unpopularity. We
must simply do our job as we see it, and confine our "public-relations" activity to doing what we can to be correctly understood and not gratuitously misunderstood. Despite the parlous circumstances of the last three years, it happily seems true that the Union is—not merely in absolute terms, but even in proportion to the increasing national strain—more and more correctly understood, and less and less misunderstood. So, for example, when the national convention of the American Legion in August 1952 passed a resolution that the Union be investigated, the reply which we made—within a few hours—was followed by most emphatic editorial expressions of confidence from all sections of the country, and there has been no investigation. We try to do something about every attack on the ACLU, or against any of its "family," as we most usefully did in helping Bishop Oxnam of our National Committee prepare for his triumphant appearance before the House Un-American Activities Committee. But each time there is an attack we have to ask ourselves two questions: how really effective is our reply going to be, with the means at our disposal; and how much return for the whole civil liberties cause will there be from our investment of time and energy in such a reply, by comparison with all else that needs to be done with those scarce and precious resources. Mostly, we just have to go on about our business.

Our Policies

Our policies are made by the Board and the Corporation, not by the executive director and the staff. This implies debate, not over the "client" himself (he is none of our business, though we often cordially dislike him), but over what civil liberties require in his case. It implies debate, not because Board members represent—as they do, by deliberate intent—wide variety of opinion on every other subject besides civil liberties (Communists and all other totalitarians are barred for the very reason of their disbelief in our central principle of civil liberties for everybody), but because the detailed application of a civil liberties principle causes us the same sort of trouble it causes the United States Supreme Court! We are specialists in civil liberties, but we are not fanatics who, for example, are blind to the vital necessity that a "sensitive" position in the federal government should be barred to a person who represents a security risk, arising perhaps from an affiliation legal for a citizen but dangerous in an employee. We think it is irresponsible just to make grandiose one-sided pronouncements, leaving entirely to others the thankless job of drawing exact lines. But, though the Union thus has internal debate, as well as human fallibility in the decisions to which that debate is a prelude, it always pushes the frontier of civil liberties as far as its own conscience allows, and thus at least forces the judges and the administrators and the legislators and the public to come closer to clarification.

But the difficulty of these hard choices is multiplied many times by the experiment which the Union is now conducting toward extensive autonomy for its local organizations and extensive democratization of its national organization. We need a high degree of local autonomy and national demo-
cratization for many obvious reasons, but the cause of American civil liberties also needs some degree of unity among those who take that proud name—to reduce public confusion about the essence of civil liberties, to achieve the utmost possible effect on problems which are identical or similar over the length and breadth of the land, to facilitate the helping of the relatively weak areas by the relatively strong, and to economize mechanical operations like membership promotion and maintenance. The policy decisions we must make place a premium on speed, and on frequent face-to-face discussion by a continuing group of experts. We could conceivably gain that premium by either the extreme of detailed centralization of control, or the extreme of such loose decentralization that not even general unity would remain. What we are experimenting with is an admitted compromise between those extremes; it may eventually fail, but our present judgment is that the Corporation members have enough brains and good-will gradually to make it succeed.

From the autumn of 1952 through the spring of 1953, the Board devoted much time to a thorough re-study of the following related problems: the nature of the Communist Party, the defense of civil liberties regardless of associations, and the allowable consideration of associations in certain areas of employment; the authority of legislative investigations and the propriety of their questioning, the exercise of the privilege against self-incrimination under the Fifth Amendment, and the allowable consideration of such exercise in certain areas of employment. The series of statements formulated to summarize the Union's position on these related problems is now being voted on by all Corporation members—including the National Committee (elected by the Union's general members) and the boards of the local organizations (representing the general membership in their respective areas). Under the Union's constitution and by-laws, the Board must act in accordance with the majority vote on a Corporation referendum, "except where it believes there are vitally important reasons for not doing so—which it shall explain to the Corporation members."

Our basic administrative problem is as plain as the nose on a face. We are being pressed to do too much with too little. We will continue to do all we can to increase our man-hour productivity, and to increase membership and income. But, in the latter effort, we need the help of every member in getting a host of new members at once. America's civil liberties are yours, and the ACLU can do only what you enable it to do.
FREEDOM OF EXPRESSION

Censorship and Boycott in Mass Media

The ACLU continues to be concerned with the numerous attempts to suppress free speech by censorship, and has considerably expanded activity in this area, through its National Council on Freedom from Censorship.

NEWSPAPERS, MAGAZINES AND BOOKS

The general concern of the press for its right of access to the sources of news prompted the Freedom of Information Committee of the American Society of Newspaper Editors to sponsor a study of the problem which resulted in a comprehensive analysis by Harold L. Cross, former New York Herald Tribune counsel. The report is critical of the prevailing atmosphere and finds indication that government officials are not disposed to relax their grip on the blue pencil.

In September 1951, President Truman issued a sweeping order authorizing "regulations establishing minimum standards for the classification, transmission and handling by departments and agencies of the executive branch of official information which requires safeguarding in the interest of the security of the United States."

This order was interpreted by even non-"sensitive" departments of the government as a green light for clamping down on many sorts of information, so, shortly after the order was issued, Executive Director Patrick Murphy Malin and ACLU Board member James B. Kerney, Jr., editor and publisher of the Trenton Times, conferred with the Presidential press secretary and released a statement pointing out that there was too much secrecy in Washington in non-security government affairs, and that the new regulations provided inadequate procedures for review of classifications.

The Press' Concern

The press promptly expressed concern, because it feared that the order might lessen the power of the people to have knowledge of the way in which the government operates, and because it might lead to concealment of wrongdoing and inefficiency by the government. Congress authorized a temporary committee, headed by Senator Blair Moody (D. Mich.), formerly a Washington newspaper man, to inquire into the question of whether the directive was properly within the government's authority. In its interim staff report, it found that the danger of the Presidential order was that, under the guise of security, the agencies and officials might try "to hide errors, mistakes or misconduct." The report suggested that a watch-dog committee be created to maintain a continuous surveillance of actions taken under the order and suggested that such a role might be performed by either the committee or the National Security Council.

In June 1952, President Eisenhower announced a drastic revision. Abolished were: (1) the "restricted" classification which had been the target
of most of the criticism; and (2) the authority to originate classifications within 29 agencies (permitting in 16 others only the heads to set classifications). Although the order did not affect such agencies as the Defense Department and Atomic Energy Commission, it called for "strict supervision" of all classifications in these agencies.

A movement to deprive Washington correspondents of the Russian news agency, Tass, of their congressional press gallery privileges failed when the Standing Committee of Correspondents, which accredits correspondents for admission to the galleries, decided unanimously that the Tass correspondents should retain their seats. Several months before, the American Society of Newspaper Editors asked that the Tass correspondents be expelled on the ground that Tass "is primarily a propaganda and intelligence agency"; in a poll taken about that time by Editor and Publisher, the trade magazine of the newspaper industry, newspaper editors voted 2-1 for expulsion. The Standing Committee of Correspondents, refusing to expel the Tass correspondents, issued a statement "that the principles of free press cannot be upheld by abridging them . . . cynical bonds on the free press throughout the Communist world constitute a long step backward to the dark ages of ignorance and intolerance."

Access to News

The right of access to news sources was challenged in a lurid prostitution case in New York, where a society play-boy, Minot Jelke, was accused of living off the earnings of several "ladies of the evening" whom he was charged with having forced into prostitution. Because of the expected nature of the testimony on one unnatural sex practice, Judge Francis J. Valente ruled that: "It becomes the duty of the Court . . . in good conscience, in the sound administration of justice, and in the interests of good morals, to draw the curtain on the offensive obscenity of this . . . trial." He, therefore, excluded the public and the press from all of the trial proceedings where the evidence of the prosecution was given.

Immediately upon the issuance of Judge Valente's order, several New York newspapers appealed to the Appellate Division of the state Supreme Court to allow their admission, on the ground that the court's order was an act of censorship, unauthorized by statute, and invasive of the press right of access to news. The New York Civil Liberties Union and the ACLU's National Council on Freedom from Censorship filed a brief amicus, arguing that the court's action denied the defendant a public trial, to which he was constitutionally entitled, and that the Judge's order was a clear act of censorship since no newspaper, in good conscience, would publish obscene material, and if it did so, there were adequate state remedies under the obscenity law. The Appellate Division, in a 3-2 decision, affirmed Judge Valente's order, holding merely that it was within his general discretion as a trial judge, but the two dissenting judges recognized the fair trial and free press arguments. The case is being taken to the New York Court of Appeals.
When Senator Joseph R. McCarthy early in 1952 threatened Time magazine with reprisal because of an article it published criticizing his activities, the ACLU urged forty-four Senators who had earlier signed a manifesto on freedom of the press to uphold "the principles so eloquently set forth in the manifesto." In October 1951 the Republican contingent of the Senate, with the exception of Senators Millikin and Tobey but including Senator McCarthy, had released a manifesto which criticized President Truman's security information order and included the pledge that "we shall rally to the defense of any person against whom reprisals are directed as the result of the exercise of his constitutional right of freedom of speech." The ACLU open letter stated that the form of reprisal announced by Senator McCarthy, "an attempt to dissuade advertisers from advertising in Time, was certainly a most severe form of punishment." The letter also called on Senator McCarthy to rescind his announced reprisal, and stated that if he were libeled "proper recourse is to the courts where the issue can be decided in accordance with well-established judicial principles—not by a single Senator acting as prosecutor, judge and jury." None of these Senators took any action. Senator McCarthy has since again attacked Time, and made the same threats.

Witness

The ACLU saw a threat to freedom of the press when the same Senator, in the course of an investigation into subversive literature in U.S. libraries abroad, called as a witness The New York Post editor, James A. Wechsler, a Union Board member. Although ostensibly Wechsler was to be queried on one of his books purportedly found in one of the libraries, the work was never identified and the probe soon developed into an inquest on Wechsler's always-admitted former membership in the Communist Party, which he left in 1937. Senator McCarthy doubted Mr. Wechsler's assertion that he had become a vocal anti-Communist, and the character of the anti-McCarthy—but strongly anti-Communist—editorial policy of The New York Post came into issue. Upon examination of the transcript, the Union issued a statement:

"Senator McCarthy's committee is fully entitled to investigate possible illegal acts (which do not include mere membership in any organization) and the possible unwisdom of government operations—including the use of a particular book by American information offices abroad. But it is not entitled to question the author of such a book about something which is both perfectly legal and utterly unrelated to the proper subject matter of the committee's investigation—namely, in Mr. Wechsler's case, the way he edits his newspaper, judgment on which is no more the business of Senator McCarthy's committee than it is the business of the ACLU.

"Newspaper men deserve no special exemption from questioning about illegal acts, but the fact that Mr. Wechsler is an editor makes even worse the threat to civil liberties which is implicit in Senator McCarthy's questioning."

Mr. Wechsler, at the conclusion of the hearings, announced he was for-
warding the record to the Freedom on Information Committee of the American Society of Newspaper Editors for determination as to whether a freedom of the press issue was presented. The ACLU vigorously supported this request.

As a corollary to the 1952 steel strike issue, President Truman, in discussing the extent of executive power, stated that under sufficiently critical circumstances the President could seize the newspapers and radio of the country. An immediate protest by Executive Director Patrick Murphy Malin stressed the significant difference between the communications industry and general business and commerce. "Whatever the scope and limit of the federal executive's inherent or implied powers, it is dangerous even to suggest that they might ever be used to violate the letter or spirit of the First Amendment's denial even to Congress of the power to abridge freedom of the press, which the Supreme Court has defended in nearly absolute terms." The White House observation that such seizure was "absolutely unlikely" did not, in the opinion of the ACLU, close the matter, and the President was asked to issue a further "prompt, candid, comprehensive and crystal clear pronouncement."

Bills to curb the press in Florida and Minnesota were defeated in 1951. The seventh in a series of such bills was introduced into the Florida legislature, calling for an investigation of Miami Herald publisher John S. Knight, to ascertain whether he was "aiding the Communist conspiracy to sabotage free press . . . and trying to attain political control," but was defeated. In Minnesota, a bill to restrict papers in their criticism of political candidates died in the Senate after passing the House.

The "Bookburners"

In June 1953, President Eisenhower, in his remarks at the Dartmouth Commencement, said: "Don't join the book burners. Don't think you are going to conceal faults by concealing evidence that they ever existed. Don't be afraid to go in your library and read every book as long as any document does not offend your own ideas of decency. That should be the only censorship." This strong anti-censorship statement was followed by a letter from the President to the annual conference of the American Library Association which vigorously defended libraries as the guardian of free inquiry. "The libraries . . . are and must ever remain the home of free inquiring minds. To them our citizens—of all ages and races, of all creeds and political persuasions—must ever be able to turn with clear confidence that there they can freely seek the whole truth, unwarped by fashion and uncompromised by expediency."

Controversial government censorship had occurred in the action of the State Department to remove from overseas libraries books allegedly favorable to Communism, or written by persons charged with being either Communists or fellow-travelers. This move was accelerated by Senator McCarthy; he claimed that his investigation revealed the presence of much Communist literature in U.S. Information Service Libraries. The State Department, in a confused and inept order, originally called for removal of all books by
"controversial" writers and "Communists, fellow-travelers, and etc." When it was pointed out that the last of these groups, at any rate, could not be well defined, the order was revised. Between February 19 and June 21, 1953 no less than six confidential State Department directives were issued resulting in (according to The New York Times) removal of several hundred books by about forty authors, including such diverse figures as Whittaker Chambers and a group of writers who had claimed the privilege against self-incrimination in reply to inquiries about Communist affiliations.

The ACLU told Secretary of State Dulles that it did not expect the government to sponsor ideas with which it disagreed, but that judgment as to books carried should not be based on the authorship but on the character of the book itself. Senator Wiley's Committee on Foreign Relations was asked to investigate the entire situation. In July a new and comprehensive policy was announced which largely met ACLU standards; books are to be judged on content, and controversy within the U.S. is to receive forthright representation.

"Controversial" Publications

In San Antonio, zealots bent on designating "Communist" and "subversive" books in the public library created a controversy, which is still unsettled. The opponents of book labeling, including many conservatives, vigorously opposed the proposal and at this writing seem to have stemmed the tide. In commenting on this case, the ACLU said "Our interest is single: to maintain everywhere conditions which make possible the broadest exchange of ideas within a democracy. Freedom of thought, freedom for both the writer and the reader, would in our opinion be most adversely affected through the implicit censorship inherent in book labeling."

In Jersey City, poet Mark Van Doren's books were put back on the shelves of the New Jersey Junior College after an eleven-month ban. Four of Van Doren's books, all non-political, had been removed, apparently at the request of Bernard Hartnett, a member of the Jersey City School Board, who objected to the author's allegedly "subversive" opinions and associations. The school board did not take any official position, and the members were reluctant to discuss Hartnett's action. Finally, after a campaign by the Hudson County Americans for Democratic Action, supported by the ACLU, the board acted. With Hartnett elected to a different office, the members voted to put the books back on the shelves.

A comic interlude in censorship occurred at the University of California. The Student Union's store banned the National Guardian, a left-wing weekly, after students protested that it was Communist; the store management said it was policy to bar any publication if three students complained about it. The picture changed, however, when the necessary number of complaints were lodged against the Hearst San Francisco Examiner, Reader's Digest, Life, Time, and the Saturday Evening Post. The policy was altered and all these publications, as well as the National Guardian, returned to the counters.
In May of 1952, the House of Representatives created a select (Gathings) committee to investigate the extent of obscenity and immorality in current literature and "the adequacy of existing laws to prevent publication and distribution of books" containing such material. With the exception of one or two well-intentioned articles calling attention to the increased amount of alleged smutty literature, there seemed no particular national situation to require a Congressional investigation which contained with it seeds of government censorship. The Gathings Committee hearings were conducted with propriety, and book-publishing and other anti-censorship forces were well represented. Various chiefs of police frankly acknowledged the character of their extra-legal censorship activities, chiefly directed against pocket books, and particularly against those with lurid covers. The ACLU appeared at the hearing and warned against any further laws in the field, which it felt already had adequate legislation. The Committee wound up its work in December and issued a report with which two of its members, Representatives Celler and Walters, strongly disagreed. The majority, although claiming to eschew notions of censorship, criticized all decisions knocking out book censorship and wound up with an appeal to the publishing industry to recognize what it called "public opposition" to matters deemed "borderline" or "objectionable." Legislation-wise, it recommended the extension by Congress to private transportation of its present prohibition against interstate transportation of obscene material on common carriers. The minority pointed out simply but sharply: "It is not the province of any Congressional committee to determine what is good, bad or indifferent literature." A bill to create a further committee in 1953 was tied up in Congress, and there does not appear to be any likelihood that it will be resuscitated. The recommended section of the obscenity ban died in Congress; another committee recommendation to permit postal authorities to impound mail of an allegedly obscene nature was blocked in the House.

**State and Local Curbs**

Governor Thomas E. Dewey of New York vetoed a bill which would have punished the publication of comic books which improperly emphasize crime. The New York Civil Liberties Union had strongly urged such a veto on the ground that the law would be so "vague and indefinite as to prohibit publication of much that is within the protection of the First Amendment."

In Georgia, for the first time as far as could be determined, the state established by law a book censorship board. The book censorship commission, after having successfully gotten a distributor voluntarily to withdraw three books from circulation, was forced by the book distributor to hold public hearings on objections to the "informal requests" of the commission; the books in question were *Spring Fire, Women's Barracks, Place Called Estherville*.

In Minnesota, a move to extend the state obscenity law to cover "dialogue of a sexual nature or language immoral and depraving in its nature or tending
toward the corruption of the morals of youth, [or] offensive against common decency” was defeated by a coalition of forces spearheaded by the Minnesota Civil Liberties Union and The Minneapolis Star. The National Council on Freedom from Censorship supplied a memorandum which was widely distributed and used as a source of attack. State legislators agreed with amazement that the bill created more controversy than any other of that session.

Although censorship of specific books, chiefly on moral grounds, met with varying degrees of success, at least one substantial court victory was gained. In April 1953, the New Jersey Superior Court ruled that a Middlesex County prosecutor had acted arbitrarily in violation of freedom of the press in working with a local citizens committee to ban a series of pocketbooks as allegedly obscene.

**Court Decision**

Judge Louis E. Goodman of the Federal District Court in San Francisco upheld the U.S. Custom ban on Henry Miller’s novels, *The Tropic of Capricorn* and *The Tropic of Cancer*, for alleged obscenity. The case began two years ago, when a Stanford University professor, J. Murray Luck, bought the two books in Paris and mailed them to his home in Palo Alto; when customs agents refused to let the books into the country, Luck filed suit with the assistance of the Northern California ACLU, which claimed that at most only 13% of *The Tropic of Capricorn* was objectionable. The court rejected "any such quantitative test," and Judge Goodman said that "the conclusion is justified that either the alleged literary ability of the author deserted him or that he had his eye on the box office."

Prompt action by the ACLU resulted in the dismissal of an indictment against Edward Midgard, a Seattle writer, whose pamphlet on marriage instruction, *The Perfect Embrace*, had been deemed obscene by the grand jury. Midgard based his defense on the freedom of press. ACLU counsel filed a brief in Justice’s Court in Midgard’s behalf, citing the long history of similar cases to show that the total effect of a publication on its readers is the accepted test for obscenity, rather than individual selections that might be obnoxious, and stating that “The term ‘obscene’ as used in the statutes proscribing obscene books refers to lust rather than to immodesty or indelicacy.” The indictment against Midgard was dismissed without a written opinion.

In a book raid in Dubuque, Iowa, city and county officials swooped down on the public library and two department stores to seize copies of *Stretch on the River*, a novel by Dubuque-born Richard Bissell, and classic works by Rabelais, Boccaccio, and Fielding. The raid apparently was not aimed at banning the books, but was an attempt to settle the censorship issue raised by the newly revived campaign of the Dubuque Parent-Teachers Association, Catholic Mothers Club, and other groups to stop sale of reprints they considered objectionable. After weeks of reading the novels, and hearing the testimony of “expert witnesses” the Dubuque County Grand Jury failed to return indictments. According to a county official, “That ends the whole matter.”
In the Caribbean Command, the well-known novel of Army life, *From Here to Eternity*, is reported to have been banned; the censorship has been questioned and the Pentagon is reported to be "looking into it." Although the bunks of G.I.'s throughout the world are decorated with pin-up girls in various states of undress, Army posts kept out many comic books on the grounds that some of the females depicted were "sexy" and "indecent." The most notable act of censorship, however, was the court-martial of Lt. Colonel Melvin B. Voorhees, who, ironically, was the former chief censor for the Eighth Army in Korea; he had previously edited the *Tacoma Washington Times*. Colonel Voorhees was tried and convicted under Army regulations on the ground that he neglected to submit the manuscript of his book, *Korean Tales*, to the Department for review, and had disregarded the order of his commanding officer to withdraw the book from circulation. The Army Military Board of Review expressed itself as baffled by the Army censorship rules, but upheld the court-martial verdict on a single count only, by a 2-1 vote; an appeal to the Civilian Court of Military Appeals will be taken in the case.

The complex nature of the censorship problem is shown when extreme statements are made about a group or organization. Joseph Beauharnais was convicted in Chicago of violating an Illinois group-libel law making it criminal to distribute any publication portraying "depravity, criminality, unchastity, or lack of virtue of a class of citizens, of any race, color, creed or religion which . . . exposes (them) to contempt, derision, or obloquy . . . ." Beauharnais had distributed a pamphlet setting forth a fund-raising petition to the Chicago City Council asking for segregation, including a statement referring to the "aggressions, rapes, robberies, knives, guns and marijuana of the Negro." The ACLU, declaring its complete disagreement with and opposition to Beauharnais's views, nevertheless took an appeal to the U.S. Supreme Court because of the civil liberties issues involved: (1) the statute was said to be unconstitutionally vague, and (2) it violated Beauharnais's right to free speech, since his conviction occurred in the absence of a finding of a clear and present danger. But, in the majority opinion of the Supreme Court, delivered by Justice Frankfurter, both contentions were rejected, and it was held that libelous words are outside the protection of the First Amendment. Four separate dissenting opinions by Justices Reed, Douglas, Jackson, and Black upheld the ACLU position that the law was unconstitutional. Justice Black concluded, "If there be minority groups who hail this holding as their victory, they might consider the possible relevancy of this ancient remark: 'another such victory and I am undone.'" The ACLU regrets the action of the court in the Beauharnais case; it is difficult to see how appropriate criteria for group libel can be arrived at, and there remains the real danger that such laws may be used to suppress merely distasteful and unpopular utterance.
The Miracle case is one of chief importance in the modern history of censorship. This picture tells the story of a mentally-ill girl who is seduced by a stranger she believes to be Saint Joseph. The film was passed by the U.S. Customs, approved and "highly recommended" by the National Board of Review and given the New York Film Critics Award as the best foreign picture of 1950. But, on its being shown, numerous protests were voiced. Cardinal Spellman called on every Roman Catholic in the United States to boycott the film and theatres showing it; the Catholic Welfare Conference of the State of New York called for stronger censorship laws. The Catholic War Veterans and the Holy Name Society picketed the theatre where The Miracle was being shown; several pickets carried placards, and shouted, "This is the kind of picture the Communists want" and "Don't be a Communist—all the Communists are inside."

The Board of Regents of the State of New York was asked by unfriendly critics of the film to revoke its twice-issued license, on the ground of sacrilege. The ACLU and other organizations warned that revocation "at the insistence of private pressure groups would permit them to dictate what other Americans may not see or hear." But the Board yielded, the license was withdrawn, and the issue was joined. The Miracle ban was upheld in the New York courts and the case went to the U.S. Supreme Court. There, on May 26, 1952, a unanimous decision brought both the showing of this picture and films in general under the protection of the First Amendment, and eliminated sacrilege as a criterion for the denial of a license.

Justice Clark, speaking for the Court, and in general agreement with the ACLU brief, said:

"It cannot be doubted that motion pictures are a significant medium for the communication of ideas. They may affect public attitudes and behavior in a variety of ways, ranging from direct espousal of a political or social doctrine to the subtle shaping of thought which characterizes all artistic expression . . . we conclude that expression by means of motion pictures is included within the free speech and free press guaranty of the First and Fourteenth Amendments . . . ."

As for the criterion: "In seeking to apply the broad and all inclusive definition of 'sacrilegious' given by the New York Courts, the censor is set adrift upon a boundless sea, amid a myriad of conflicting currents of religious views, with no charts but those provided by the most vocal and powerful orthodoxies . . . it is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine whether they appear in publications, speeches, or motion pictures . . . ."

The ACLU hopes that, in addition to deciding the free speech and sacrilege issues, the Supreme Court action will serve as a warning to all private pressure groups who may attempt to make the authority of government serve their special interest through the agency of censorship.
One week later, on June 2, 1952, the Supreme Court declared unconstitutional a Marshall, Texas, ordinance which prohibited, as "prejudicial to the best interests of the people of the City," the showing of *Pinky*, a film dealing with race problems. Thus it appears that the moving pictures have received important recognition of their right to freedom. Plans are being laid for the testing of the whole censorship licensing procedure in several states. There is reason to think that other censorship cases will be settled in the light of *The Miracle* verdict; bans, such as those on *La Ronde* by New York (upheld in May, 1953, by the New York Court of Appeals), *City Lights* by Memphis and *Diamond Lil* (a play) by Atlanta, are not likely to stand unless the issue of unmistakable obscenity is successfully raised, on which point the Supreme Court is apparently willing to consider the propriety of pre-censorship.

The force of *The Miracle* decision appears not yet to be fully felt; boards in the seven states censoring motion pictures continue in full operation along with those of the fifty-odd cities which also censor films. Related issues have arisen in other states. The Ohio Supreme Court found that the film *M* was not of a "moral, educational or amusingly harmless nature," and upheld its banning. In Illinois, the Chicago Division of the ACLU tested the refusal of the Chicago Police Commissioner to issue a license for *The Miracle* on the ground that it was immoral and indecent; in July, 1953, an Illinois court ruled against the police. In Maryland the state's most influential paper, *The Baltimore Sun*, had said editorially that the censorship board should be abolished: "Marylanders do not need to have their movies passed on in advance by politicians any more than they need to have their newspapers, books, radio programs, and television shows passed on by politicians." Anti-censorship forces were heartened by a Toledo, Ohio, municipal court ruling that newsreels were not subject to censorship, a decision not appealed by the censorship board. A bill by State Senator Charles Mosher, backed by the Motion Picture Association and local branches of the ACLU, to abolish the board was defeated, but a bill to exclude newsreels from precensorship appeared on the way to adoption.

**Pressure Groups**

The present main drive against films comes from pressure groups such as the American Legion, which in many large cities and small towns throughout the country, by picketing or threat of picketing, forced cancellation of Charles Chaplin's film *Limelight*. No objection was raised to the film; the attack has been against Chaplin's affiliations with left-wing causes and groups and his controversial personal life.

When Cardinal Spellman not only urged Catholics to refrain from attending *The Moon Is Blue*, but also urged a continuing boycott of the theatres where the film was shown, he raised the issue of pressure group censorship with which the ACLU has been deeply concerned. The Union defends, as being within both the letter and the spirit of the Constitution,
any simple expression by any individual or group of disapproval of any book (or film, play, periodical, radio program, etc.) or any attempt simply to dissuade others from buying it. The ACLU also recognizes, as far as legal right is concerned, the use of such orderly and lawful means as peaceful and unobstructive picketing and the organization of a specific and primary boycott, even when they imply some degree of coercion. However, in view of the fact that the field of communication differs significantly from the general field of industry and commerce, the Union actively opposes, as being especially contrary to the spirit of the Constitution, the use of such means in the following ways: (1) as pressure, or explicit threat thereof, at any time prior to the actual offering of a motion picture, etc., to the public; and (2) even after the actual offering to the public, in the form of a general or secondary boycott—designed, for example, to close a theatre entirely or to close other theatres whose proprietors ally themselves with the proprietor of the first theatre. The ACLU believes that intimidation and reprisal have no place in the field of ideas.

The Union, while recognizing Cardinal Spellman's right of protest against the film, offered its aid to theatres which, because of their showing it, faced a continuing boycott.

**Basic Concern**

The fundamental nature of ACLU's concern with free speech, without regard to the economic or political views expressed, is evidenced by its position in the *Fresh Laid Plans* case. This movie cartoon is a barnyard fable satirizing New Deal economic planning and the government's agricultural program. The film, produced by John Sutherland for Harding College of Benson, Arkansas, with the aid of the Alfred E. Sloan Foundation, and distributed by Metro-Goldwyn-Mayer, was sharply criticized by Alfred P. Stedman, farm editor of the *St. Paul Pioneer Press*, who called it a "one-sided political editorial." Executive Director Malin replied in a letter that "just as your right to protest must be safeguarded, so must Mr. Sutherland be free to express himself."

In the spring of 1953, the ACLU Board of Directors adopted a strong statement against the motion picture code, which it considers a serious limitation on freedom of expression in the motion picture field. "Whereas in the motion picture industry the major producers have combined to prohibit the use of certain subject matter in motion picture scripts, there is an effective restraint in ideas. The ACLU's interest is (that) the code, in effect, covers practically the entire industry and makes practically impossible the distribution or exhibition of any U.S.-made motion picture not produced in compliance with code standards." As a matter of fact, the signs are that the producers may no longer feel themselves always bound by the restrictions of the Breen office. The film, *The Moon Is Blue*, adapted from a successful Broadway play and made by one of the better-known independent Hollywood pro-
ducers, has gone on exhibition and been licensed in several states, even though it has not received the industry seal of approval.

Of all the great media of communication, the theatre suffered least from the censors and conformists. As far as could be determined, only one play was judicially deemed obscene.

In Providence, Rhode Island, in the spring of 1953, the producer of Tobacco Road was found guilty and fined $100 for putting on an obscene play. The arrest came after the producer, Edward Gould, had obtained a temporary injunction against police closing of the play after the local censor, the police lieutenant, had refused to issue a license for its production. The National Council on Freedom from Censorship assisted Mr. Gould, both financially and with a brief as friend of the court, filed by Gurney Edwards, ACLU Providence representative. The latter argued that the play, a recognized classic of its type, should not be suppressed unless there was a clear indication that the words and action were obscene. A new trial, this time before a jury, was to have been held in June, but has been postponed until the fall.

The New Jersey Supreme Court, in an opinion which broke new ground, held the theatre to be a form of communication protected by the First Amendment. It overruled the Newark City Commissioner's refusal to issue a license to a Minsky burlesque. The denial had held that burlesque was a form of indecent art, a claim the high court felt could not justify a prior restraint.

In Memphis, Tennessee, the Board of Censors refused to license an adaptation of Erskine Caldwell's Tragic Ground, on the ground that the production "literally reeks with obscenity, vulgarity and profanity." The producer ultimately put the play on in a night club outside of town, half-way between Memphis and West Memphis.

A furor over the successful Broadway play, I Am a Camera, in St. Paul, resulted in an attempt by the Mayor to set up an advisory citizen's committee to decide what might be shown in the city Auditorium Theatre. The move, condemned by all theatrical circles, seemed likely to isolate the city dramatically. No action has been reported.

In New York City, the producer of Wonderful Town, a musical smash-hit, cancelled a performance when columnist Ed Sullivan called attention to the purchase by The National Guardian, a left-wing publication, of a block of 300 seats at a benefit performance. As the National Council on Freedom from Censorship pointed out, outside of the inherent threat to freedom of the theatre where loyalty tests may be required of ticket purchasers, the real sufferer was an animal hospital, which had sold 500 tickets for the same performance.

RADIO AND TELEVISION

A major concern of the Union was that diversification of communication be maintained and increased. In 1951 there were two major networks, Columbia Broadcasting System (CBS) and the National Broadcasting Company (NBC). A third network, Dumont, in no real way provided competition.
Considerable debate was therefore engendered when the American Broadcasting Company, a smaller competitor of the two big networks, announced that it would seek to merge with the United Paramount Theatres, an affiliate divorced from Paramount Pictures as a result of the government's anti-trust suit against motion picture producers. The ACLU obtained the volunteer services of an experienced observer at the hearings conducted by an FCC trial examiner, and in August, 1952, stated that "no valid objection on civil liberties grounds" could be raised to the contemplated merger . . . the arguments made against the merger on the ground that it would possibly create a monopoly are far outweighed by the likelihood of strengthening the American Broadcasting Company so that it would be fully capable of providing a third major outlet for the dissemination of information and opinion, thus insuring greater diversification of communication and increasing competition between the American Broadcasting Company and its two principal competitors, the Columbia Broadcasting System and the National Broadcasting Company." The FCC, in the spring of 1953, ultimately approved the merger.

The question of whether theatre-TV and subscription-TV raises any issues of civil liberties was debated; as to the former, the Union held that to the extent it created diversity it should be supported, but that since it would not interfere with allocation of frequencies, it raised no civil liberties issue as such. The problem of subscription-TV, not being immediate, was left to a sub-committee of the Radio Committee for determination.

The largest policy question that the Union had to wrestle with in this area revolved around the problem of televising congressional hearings. A referendum was taken of the Corporation on three questions of ACLU policy with regard to televising of (1) courtroom proceedings; (2) legislative proceedings; (3) legislative investigating committee hearings. With regard to legislative proceedings, the Corporation found no difficulty in relating the role of television to that of the press, although it urged the immediate adoption of rules of responsible, ethical debate, in view of the possibility that privileged slander might be televised. On the matter of courtroom proceedings, the Corporation overwhelmingly found that the necessity for due process and judicial decorum overrode the press-like qualities of television. With regard to legislative investigating committee proceedings, the position was taken that no hearings should be televised until and unless the committees adopted fair rules and practices. At the same time the Union opposed a New York law prohibiting any televising or broadcasting of investigating committee hearings where witnesses appearing are under subpoena. The Union felt that the law, being so absolute, would deny freedom of the press even when the standards of due process are met. The Radio Committee recommended to the broadcasting and televising networks that, prior to adoption of fair hearing procedures, they examine their own practices. Among the minimum standards suggested by the Committee were: (1) When a station or network is being identified, or at least preceding and following televising of a hearing, announcement should be made
that the proceedings are merely hearings held by a congressional investigating committee and are in no sense trials or other judicial process. (2) A distinction should be made between voluntary and subpoenaed witnesses. Therefore, witnesses under subpoena should be given the opportunity for good time after their appearance to make a brief comment or statement. It should be an affirmative obligation of the station to check with the witnesses after their testimony has been completed as to whether they wish to make a statement. (3) Persons mentioned unfavorably in the course of testimony should have an opportunity for reply, if possible on the same day or at least by the time of a rebroadcast of that hearing. (4) Care should be exercised in the televising of proceedings, that witnesses are fairly treated in the camera technique of photographing witnesses.

Upon recommendation of the Radio Committee, the Board also adopted a resolution not to oppose commercial sponsorship of televised hearings once the fair procedure standard is met, if the hearings are handled fairly and in good taste and witnesses voluntarily consent to being televised.

**Radio-TV Code**

Under the threat of an impending congressional investigation of alleged immoral and improper content of radio and television programs, the National Association of Radio and Television Broadcasters adopted a television code of ethics. The Union promptly lodged a protest against the code in June 1952, and asked for a hearing before the Federal Communications Commission on the ground that while there could be no objection to the application of criteria of good taste by each television station, the Code provided an extreme form of censorship, which also was a combination in restraint of trade in ideas. The FCC denied the request for a public hearing, but ACLU made its points once more when a House subcommittee investigating alleged immorality in radio and television programs held hearings. The Union argued that the Code violated the freedom of the people of this country and of the broadcasting industry itself, and that adequate laws already existed to punish any program which might be obscene. The hearings concluded, without the subcommittee recommending any additional legislation, but endorsing the Code and suggesting a wait-and-see approach on the part of Congress.

The presidential election campaign, of course, provided radio stations, the FCC, and the ACLU, with many problems. Minority parties had the usual difficulties in getting free time, the purchase of time for most of the smaller groups proving to be beyond their pocketbooks. Everybody, it appeared, seemed unhappy with Section 315 of the Federal Communications Commission Act, which requires broadcasters to afford equal opportunities to all candidates if facilities are either sold or given to one. The Union took up the cudgels for Senator Joseph McCarthy, when station KING-TV in Seattle, cancelled, on grounds of possible libel, a speech by McCarthy in support of Senator Harry Cain. The Union held that the intent of Section 315 was being violated and that the station should have permitted McCarthy's speech,
requiring of him an indemnification agreement for any possible damages. Under funds provided by the Kaltenborn Foundation, the ACLU will sponsor a study of radio and TV allocations of time to political aspirants. The inquiry will be directed by Professor Charles Siepmann of the New York University Communications Department.

The sensitivity of networks to what they believe to be special interest group sensibilities, led the ACLU vigorously to oppose the action of CBS and NBC in refusing to telecast an Easter film, *I Beheld His Glory*, sponsored by the National Council of Churches, on the grounds that it might prove offensive to certain members of the Jewish community. NBC rested its case on the ground that, as the responsible programming agency, it felt the film would "foment anti-Semitism." CBS went much further, stating that controversial subjects should be discussed only in forum-type programs and not "through plays or dramas or formats other than discussions, talks and debates." The National Council on Freedom from Censorship generally objected to action which might set a precedent for the exclusion of "majority" views; the Council met with responsible network officials to discuss the collision of principles between the desire to protect minority sensibilities and to foster discussion, and offered to serve as a co-ordinating agency between minority groups and the networks in order to iron out difficulties arising from this conflict.

"Blacklisting"

The most conspicuous example of blacklisting has occurred in the radio and television industry. As noted in the last annual report, the Union's interest in this problem was sharpened when actress Jean Muir was dropped by the General Foods Corporation from its television program, "The Aldrich Family" because of her inclusion in a private publication, *Red Channels*, which lists 151 radio-television performers and their alleged Communist associations and sympathies. Miss Muir's dismissal was made without any semblance of a hearing, which, the Union said, threatened the "spirit of due process of fair trial."

Spurred by the charge that not only alleged pro-Communists were victims of a blacklist but that active anti-Communists were also subject to a blacklist operated by Communists and their supporters, the Union appointed one of its Board members, the well-known correspondent and novelist, Merle Miller, to conduct a searching inquiry into blacklisting practices, "from whatever quarter it emanates." The Union emphasized that its purpose was not to condemn the right of protest, or to suppress any publications, but to oppose such protests when their object was censorship or suppression.

After five months of research into all phases of the problem, Mr. Miller prepared his report, which featured the following points:

1. Private blacklisting, organized and unorganized, exists in radio and television, by both pro-Communists and anti-Communists.
2. The blacklisting attempts of anti-Communists have been more visible, extensive, and effective than those of the pro-Communists. (*Red Channels* is a printed document, whereas the Communist blacklist, like the Communist Party, operates in secret, Mr. Miller said.)

3. The effectiveness of the anti-Communist blacklist reflects the fear of business loss from the "bad publicity" which is attached to the use of "controversial" personalities.

4. Persons blacklisted are rarely given the real reason; simple refusal to hire or rehire is the general rule.

5. The stated purposes of the publishers of *Red Channels* and its parent publication, *Counterattack*, and of others publishing lists of alleged Communist or Communist-front connections of radio-TV personalities are (a) to promote national security, (b) to curtail the income of persons who supply funds to Communist or Communist-front groups, and (c) to diminish the prestige accruing to such organizations by way of sympathetic "big names."

6. Only governmental security agencies can really protect the interest of national security in radio-TV by deciding when the industry "is sensitive" and who is a "security risk."

7. The use of loyalty oaths by networks is ineffective because disloyal persons would perjure themselves without hesitation, and unwise because many conscientious persons will be outraged and the ordinary person intimidated.

8. The radio-TV industry, commercial sponsors, and advertising agencies can safeguard their economic interest through an individual and corporate determination to use the criterion of offering the best available talent.

9. The majority of Americans who regard a radio-TV performer as obnoxious because of real or alleged Communist or Communist-front connections should do exactly what Communists would *not* do—act in accordance with democratic principles by attacking the disliked individual by argument not by suppression.

In ACLU's official statement on the subject, appearing as an introduction to Mr. Miller's report which was published by Doubleday and Company on April 9, 1952, as a book, *The Judges and the Judged*, Ernest Angell, Chairman of the Board of Directors, and Patrick Murphy Malin, Executive Director, point out that (a) "in a free society" the government has the right to preserve national security, but that it is the only proper authority for designating positions where security may be at stake and to decide what persons should be excluded from them; (b) "In all other positions in a free society employment should be decided on the basis of qualifications strictly relevant to the particular task involved. . . . Radio-TV actors, writers *et al* should be tested for employment by the single standard of competent performance, as long as their acts and associations are lawful ones. . . . (c) individuals or groups have a legal right to express disapproval of the employment of
radio-TV performers, including peaceful picketing, but when the objective of such action is censorship or suppression, "they are acting contrary to the spirit of the First Amendment. Its ideal is that we should handle differences of opinion (as distinct from illegal action) by argument, not suppression"; (d) If private persons or groups continue "to purvey information reflecting on a person's loyalty... then the least they owe to the free people of this country is to observe the elementary canons of due process." This means accuracy and completeness of information (favorable as well as unfavorable) and providing the individual a full and fair hearing before a qualified third party; (e) to face the challenge to civil liberties in the radio-TV field requires the industry to develop "the determination to pay what little cost may be involved to support free speech, due process and non-discrimination. Nobody can be expected to sponsor ideas which he rejects, but the great bulk of the radio-television blacklisting problem has to do simply with performers in programs whose ideas have already been accepted by the sponsor."

**Book's Reception**

Mr. Miller's book received an overwhelmingly favorable reception. Most reviewers, including those of the New York Times, New York Herald Tribune, Saturday Review of Literature, Birmingham News, Los Angeles News and Chicago Sun-Times lauded the Union for undertaking the inquiry and praised the book highly. The post-publication charges made against the book in the New Leader by Mr. Merlyn S. Pitzele, an ACLU Board member, were investigated for the Board by a special committee. The Committee consisted of: Ernest Angell, attorney and Chairman of the ACLU Board, and former Chairman of the Second Regional Loyalty Board; Whitney North Seymour, attorney and Vice-Chairman of the ACLU Board, and former president of the Bar Association of the City of New York; and William L. White, member of the ACLU Board, editor and publisher of the Emporia (Kansas) Gazette and a roving editor of the Reader's Digest. Considerable time was devoted by the committee to its task, and a careful weighing was made of all the charges and the relevant documentary material and other information. The committee unanimously reported: (a) that there were some important errors and omissions which should be corrected in any future edition of the book, but which were unintentional; (b) that, with regard to the remaining charges, the information on which they were based was either erroneous or the subject matter too trivial or debatable to draw any conclusions adverse to the correctness of the book; and (c) that the evidence offered by the book and not requiring correction justified the central conclusions reached by the author, and the continued sponsorship of the book by the Union based on those conclusions. The committee's report was approved by the Board.

Coincident with publication of The Judges and the Judged, and based on its findings, the Union filed a formal complaint with the Federal Communications Commission that blacklisting against both alleged pro- and anti-Communists was being practiced by the four major TV networks, CBS, NBC,
ABC, and DuMont, and stations in New York and Santa Monica, California. The complaint stated that blacklisting of writers, artists and performers was against the public interest; and radio-TV licensees who practice or condone it lack the proper character qualifications to hold licenses. The Union petitioned the FCC to conduct a general investigation into the extent of radio-TV blacklisting and to deny the networks and stations renewal of their licenses unless they pledged not to discriminate in employment upon a political basis.

The Union's action received widespread publicity and early in June the FCC voted to grant the networks only a temporary renewal of their licenses pending disposition of the ACLU's complaint. Immediately the FCC came under heavy attack by Counterattack and news commentator Fulton Lewis, Jr., and on June 11, 1953, the Commission reversed itself, though the general questions raised by the Union were left on its docket for possible future action.

The Union has petitioned the FCC for a rehearing of its June 11 order, asserting that the Commission had acted before the Union filed its brief in reply to the networks' and stations' answer to the ACLU's charges—a brief the Commission itself had requested. The ACLU said: "... this action of June 11 would, unless reconsideration is forthcoming, be considered—as indeed it has already been—a yielding to pressures of the sort that have resulted in the blacklisting our complaint is designed to remedy." In the brief filed with the FCC, the Union noted that the networks did not deny engaging in blacklisting practices and asked again that public hearings be held.

Throughout 1952 and 1953 blacklisting continued, not only in the radio and TV fields, but in motion pictures as well. In the former, it is estimated that some 250 persons have been effectively excluded from active work although it is undoubtedly true that some of the Red Channels listees are finding employment. In the motion picture field, some 200 or more persons are thought to be blacklisted. The lists now apparently in use have been prepared by the American Legion and other patriotic and religious groups. In a state-owned auditorium in Harrisburg, Pennsylvania, Pearl Primus, famous American dancer, was barred because the American Legion charged her with having been a Communist Party member. On the other hand, Gypsy Rose Lee, listed in Red Channels and attacked by the American Legion, was kept on the air by the American Broadcasting Company.

Investigations

Congressional committees have been generally active in investigating subversive activities in the radio-TV and motion picture industries. The ACLU criticized the manner in which the McCarran Committee made an investigation into the alleged left-wing influences in the Radio Writers' Guild; the Union also noted the possible threat to free expression in the broad mandate of the House Un-American Activities Committee.

The Union also protested against the action of the American Federation of Radio Artists which denied membership to (1) Communists, and (2) persons accused of being Communist by government agencies, and (3) per-
sons belonging to organizations listed as subversive by the Attorney General, if such membership came after 1945. To all of these criteria, the ACLU objected because the spirit of American constitutional freedoms is violated by the exclusion or expulsion of persons from ordinary membership in labor unions for political opinion alone.

Two important cases involve motion picture personnel. One involved RKO's refusal to give screen credit to writer Paul Jarrico, who had stood on the Fifth Amendment when called before the House Un-American Activities Committee. The Court upheld the company's claim that Jarrico had breached the "morals" clause in his contract and that his reliance on the Fifth Amendment held him up to "public contempt, shame and ridicule." Since no final findings of fact and conclusions of law have been filed by either party, no appeal has thus far been taken. In another case, 23 actors, actresses, writers and technicians filed suit against major studios and the Un-American Activities Committee, charging a conspiracy to blacklist them because of their refusal to testify at Congressional committee hearings on grounds of possible self-incrimination. At the present writing no further court action has been taken except the filing of a motion to discuss the complaint, filed on behalf of the committee.

Even the magazine field seemed subject to the blacklist pressures. Collier's fired one of its story editors, Bucklin Moon, allegedly at the suggestion of a West Coast anti-Communist group, which pointed out Moon's presumed sponsorship of Communist or Communist-front activities. An inquiry by the National Council on Freedom from Censorship as to the reasons was met with the answer that the reasons for Moon's discharge were private and not those described in newspaper accounts of the action.

Miscellaneous Free Speech Problems

PUBLIC MEETINGS

In a decision of possibly far-reaching consequence, the U.S. Supreme Court, in February 1953, upheld the conviction of a Jehovah's Witness for conducting religious services in a Portsmouth, New Hampshire, park after the City Council's refusal to grant the license required by a city ordinance. This 6-2 ruling was based on the theory that the licensing requirement for use of a public park for religious services was a valid regulation for the preservation of peace and order, and that, therefore, even though a license was wrongfully refused, the applicant's only relief was not the exercise of his right, but rather an appeal to the courts. A vigorous dissent was entered by Justices Black and Douglas on the ground that the ordinance requiring a license is a violation of free speech and that, therefore, the minister conducting religious services was free to disregard the requirement.

In another Supreme Court decision, this time unanimous the Court held unconstitutional a city ordinance in Pawtucket, Rhode Island, which prohibited religious meetings in a public park, while permitting church services
The decision, handed down in a Jehovah's Witness case, held that the ordinance could not be interpreted or administered so as to treat meetings conducted by Jehovah's Witnesses differently from religious meetings of other sects, which amounted to "the state preferring some religious groups over this one."

The right to hold public meetings was restricted in 1950 through the "Peekskill riot" ordinances passed by the town of Cortlandt, New York, but these were declared mostly unconstitutional in 1952 by Justice Robert Doscher of the Supreme Court in Westchester County. The ordinances, passed shortly after the riots following the attempted appearance on two occasions in 1949 of singer Paul Robeson, required an application for a permit to be made seven days before any public gathering, and forbade acts which disturb the public peace and quiet by causing consternation and alarm. The court, agreeing with the ACLU position in its test case that the laws were unconstitutional because they interfered with freedom of speech and assembly, voided them on the ground that "It is almost impossible to envisage where the heritage of protest ends and the violation of this ordinance begins."

The ACLU Southern California branch sought to test the constitutionality of the California vagrancy statute under which Irwin Edelman was arrested in a public park, apparently on the theory that he was a dissolute person because of previous convictions for speech-making in the parks. The U.S. Supreme Court returned the case on the grounds that the federal question argued should first be determined by the state Supreme Court.

A situation involving the right to hold public meetings arose within the public school system in New York City. On July 19, 1951 the Board of Education adopted a resolution denying the use of school buildings for meetings held by the Communist Party and "any group that the Board or the Superintendent of Schools has reason to believe to be totalitarian, Fascist, Communist, or subversive." This ban was applied to the Teachers Union and the State Commissioner of Education upheld the Board because of "the controversial nature of the use" without making "any determination concerning the Board's claim that the Teachers Union is, as a matter of fact, subversive." The New York Civil Liberties Union protested that the word "subversive" was a hopelessly vague criterion, that freedom of assembly in public buildings was subjected to unchallengeable administrative discretion, and that no opportunity was given the organization involved to define or defend its nature. A year later, in June 1952, the NYCLU held a meeting in a New York school, not to defend the Teachers Union, but to protest the Board's general policy.

Perhaps the most dramatic conflict between the forces seeking to prevent what they consider "disloyal" elements from using public schools, and those who are no less insistent upon fighting subversion but are nevertheless believers in free speech and assembly, arose in Harrison, New York.

The school board, under pressure from various patriotic organizations, after considerable debate passed an unusual resolution requiring execution of
loyalty oaths by teachers and employees of the school district, present and future members of the Board of Education, speakers and lecturers appearing at school functions, and members of organizations requesting the use of facilities. In the original resolution passed in October 1952, each and every member of any organization seeking use of the school facilities would have to subscribe to the oath. This absurd requirement was modified a month later, when it was agreed that only officers and chairmen of standing committees need so sign.

A citizens committee, backed by the New York Civil Liberties Union, appealed to the New York Commissioner of Education to rescind the rule. The committee charged that the oath violated the constitutional protections of free speech and assembly, and is not authorized by the Feinberg Law, under which the Board of Regents is required to draw up a list of subversive organizations. The petition is pending before the State Commissioner of Education.

In other instances, objections to specific speakers were raised either before or after the occasion. It is encouraging to note that civil liberties generally prevailed.

Bethune Case

In the spring of 1952, the eminent Negro leader, Dr. Mary M. Bethune, was scheduled to speak in a school auditorium in Englewood, N.J., under the auspices of the Women's Auxiliary of the American Legion. The Englewood Anti-Communist League accused Dr. Bethune of membership in several organizations on the Attorney General's list, and the Board of Education cancelled permission for use of the school building. A storm of popular indignation, and Dr. Bethune's flat denial of the charge, led to official clearance and a withdrawal of the ban. The outcome was satisfactory, but the incident serves as a warning of how easily rumor can interfere with freedom.

In Baltimore, a vote by the City Council to prevent Owen Lattimore from addressing a high school assembly came to nothing when the local school commissioners refused to accept the ban. ACLU's Maryland Civil Liberties Committee applauded the position of the school board, which declared that "We do not agree that high school students should be shielded from all controversial subjects and personalities. . . . Mr. Lattimore has not yet been found guilty of disloyalty."

When the World Federalists met at Baltimore, some overzealous police officers undertook to write down the license numbers of cars owned by members of the audience. The meeting was addressed by Norman Cousins, a member of the Board of the ACLU. The Maryland Civil Liberties Committee and Baltimore newspapers strongly condemned this form of intimidation. Their protest apparently proved effective, because there was no such police action at a meeting called by the Maryland Civil Liberties Committee to present an award to Professor Ernest Boas, who had been raising money for the defense of Owen Lattimore.
PICKETING AND HANDBILLS

A picket line was thrown around the Soviet delegation to the U.N. by persons protesting the treatment of Catholic priests in Hungary. The Russian officials protested to Warren R. Austin, U.S. Delegate to the U.N., but Austin affirmed the right to peaceful picketing; the ACLU lauded the U.S. Delegate for his stand.

The New York Civil Liberties Union, sought from the state Court of Appeals, reversal of an order by a lower court judge requiring a woman to refrain from picketing his court with anti-Catholic signs. The NYCLU pointed out that, while it wholly disapproved of her ideas, her picketing created no clear and present danger to fair trials or the "due administration of justice," and that the judge's order violated freedom of speech. The case was won in July, 1953 by a 4-3 vote in the Court of Appeals.

The right to distribute handbills was upheld by a Police Court in Providence, Rhode Island, which found unconstitutional a local ordinance banning the distribution of handbills on the streets and sidewalks. ACLU had filed a brief as friend of the court stating that the ordinance abridged the constitutional rights of free speech and press. Judge Arcano declared that the fact that the handbills contained Communist literature had no bearing on the case, and pointed out that the ordinance applied to everyone without exception, and that, therefore, the universally applicable constitutional safeguards also applied.

The Appellate Department of the California Superior Court refused to consider the constitutionality of a Burbank handbill ordinance which prohibits the distribution of any material tending to incite riots or advocating the overthrow of the United States Government, but provided some gain for civil liberties by holding that the particular Communist handbill involved, which dealt with the war in Korea, was legally distributed because it neither advised nor encouraged any illegal act. ACLU's Southern California branch, appearing as a friend of the court, was interested in the ordinance's constitutionality.

LOBBYING

In the spring of 1953, the Supreme Court in a 7-0 decision held that Edward A. Rumely, an official of the Committee for Constitutional Government, had been improperly convicted for contempt of Congress in refusing to provide a House Committee investigating lobbying activities with the names and addresses of persons buying literature from him. In an opinion written by Justice Frankfurter, the Court ruled that a delicate constitutional issue would arise if it were held that the authority of the investigating committee extended into an inquiry as to private persons to whom Rumely sold books. Therefore, it construed the authorization of the investigation to mean investigation only into representations made directly to the Congress, its members or its committees. Thus, the inquiry directed to Rumely was in excess of the committee's authority, and the contempt citation must fall.

Justice Douglas wrote a concurring opinion, joined in by Justice Black.
They contended that the inquiry made of Rumely was indeed authorized by law, but that it was a violation of the First Amendment protecting freedom of speech to require that a publisher disclose the identity of those who buy his books. This requirement, they said, "is indeed the beginning of surveillance of the press... the purchase of a book or pamphlet today may result in a subpoena tomorrow... through the harassment of hearings... government will hold a club over speech and over the press."

The ACLU had considered the Rumely case at the same time as the case of William Patterson, head of the Communist-dominated Civil Rights Congress. Patterson had been cited for contempt of Congress on the same day as Rumely for refusing to disclose membership records of his organization. The ACLU did not intervene in these cases, believing in the Rumely case that the Committee's inquiry, in an attempt to determine whether the lobbying laws had been circumvented, did not violate civil liberties, and in the Patterson case, that prior court decisions upheld the Committee's right to make the inquiry.

Two cases involving the constitutionality of the lobbying laws came up in Washington. In the first case, the National Association of Manufacturers was granted an injunction by a unanimous three-judge court which held unconstitutional the provisions of the federal Lobbying Act requiring registration of persons who directly or indirectly solicit, collect or receive money to be used principally to influence, directly or indirectly, federal legislation. The court held that these provisions were not sufficiently definite, and that a penalty for violation of the Act which prohibits the attempt to influence legislation for three years is a violation of the protection of freedom of speech and the right of the people to petition the government for redress of grievances. The Court did not pass upon that part of the Act requiring a person who attempts to influence legislation for pay to register with the Congress. The government appealed the decision to the Supreme Court, which declared the case moot since the Attorney General who was originally sued had been replaced by a new Attorney General. But shortly thereafter, in the case of U.S. v. Harriss, involving criminal proceedings against persons who had allegedly engaged in lobbying for pay, the District Court of the District of Columbia invalidated the entire Lobbying Act. The government appealed this decision to the U.S. Supreme Court, which granted review. The case will probably be argued this fall.

**FILIBUSTER AND CLOTURE**

Although the ACLU defends minorities against the tyranny of a majority, this does not mean that it condones the paralysis of a democratic majority by minority obstructionist tactics. Obstruction, in the Senate of the United States, has taken the form of the filibuster.

FEPC legislation has been defeated by filibuster, and the same technique has unreasonably delayed voting on statehood for Alaska and Hawaii, and threatened or paralyzed the conduct of important legislative business in other
areas. And it is certain that the spectacle of a minority retaining the power to filibuster away the democratic rights of their colleagues in the Senate continues to impair our prestige abroad. The fact that this practice is most frequently invoked to prevent the extension of civil rights to certain racial, religious and ethnic groups in our population, remains a potent propaganda weapon for our enemies; it also makes a mockery of our ideas of equality and opportunity in the eyes of our friends.

Remedial modification of existing Senate rules is embodied in a variety of resolutions which have been offered by Senators Morse, Ives, Lehman and the late Senator Wherry. The Union, while not objecting to Senator Lehman's resolution, favors the proposal of Senator Morse which would permit cloture (termination of debate) by a majority of those senators voting, after which no senator would be entitled to speak more than one hour on the pending matter, although any senator might yield to another any part of his unused time. This procedure would be an enormous improvement over the present rule which permits cloture only by sixty-four votes, two-thirds of all the membership of the Senate.

In October, 1951 ACLU Executive Director Malin testified before the Senate Committee on Rules and Administration and summarized the Union position in these words:

Dictatorships act quickly and tyrannically. Democracies—to preserve their nature—must act relatively slowly, after mature deliberation. But their legislatures must act, in domestic and foreign policy; and there was never a time in history when their ability to act was more crucial than it is today. The Senate is under the compulsion of the time in which we live to act now to make itself free to decide for or against vital legislative proposals. Our democracy cannot afford indefinite postponement of decision. The purpose of free speech is to aid decision—for or against, right or wrong—not to prevent decision. Decision by filibuster is analogous to decision by dictatorship. It is the tyrannical decision by a minority over a majority.

In conclusion, I want to re-emphasize that our opposition to the filibuster is fundamental and impartial. We are enthusiastically in favor of civil rights legislation, but—even if we were utterly hostile to it—we should still be as opposed to the filibuster as we always have been. We are glad that the bill to suspend habeas corpus, offered in 1863 was defeated; but we deplore the method used to defeat it, by filibuster.

In January, 1953 the ACLU joined with 52 other national organizations in the Leadership Conference on Civil Rights, spearheading the fight on the filibuster.

The traditionally non-partisan nature of ACLU interest was demonstrated with regard to the 1953 Senate debate on the tidelands oil bill. The ACLU pointed out to a group of senators opposing the bill that even the appearance
of filibustering must be avoided, whatever the issue, for the sake of democratic action and decision.

FORCED LISTENING

A puzzling civil liberties problem, within the relatively unexplored legal area of the "right to privacy," was raised by the broadcasting of radio programs in Washington, D.C. streetcars and busses. The ACLU friend-of-the-court brief on the appeal stated that the persons travelling cannot escape either the music or the commercials thrust upon them, and that such an "imposition of forced listening is viciously repugnant to the spiritual and intellectual assumptions of American life. It is the recognized symbol of totalitarianism, exhibiting the brute power of collective force at its ugliest and most dangerous incidence—on the mind." The Circuit Court of Appeals ruled against the practice but the U.S. Supreme Court ruled otherwise. All eight of the participating justices assumed or held with the Court of Appeals that the broadcasts were subject to constitutional limitation. Six justices, speaking through Justice Burton, saw no invasion of liberties, stating: "The liberty of each individual in a public vehicle . . . is subject to reasonable limitation in relation to the rights of others." As to the objectors' rights of free speech under the First Amendment, the six justices said: "There is no substantial claim that the programs have been used for objectionable propaganda." Justice Black, concurring generally with the majority, did dissent to the extent that the majority approved the broadcasting of news or propaganda of any kind on the programs. Justice Douglas dissented broadly, stating: "The street car audience is a captive audience." Justice Frankfurter disqualified himself, claiming that "my feelings are so strongly engaged as a victim of the practice in controversy that I had better not participate in judicial judgment upon it." By June, 1953, these broadcasts had been abandoned as unprofitable in Washington and most other cities.

Security and Loyalty Measures

FEDERAL GOVERNMENT

The definition of treason is laid down in the Constitution, which provides that treason against the United States shall consist only in levying war against the country or giving aid and comfort to its enemies. Backed up by a possible penalty of death laid down in the U.S. Criminal Code (18 U.S.C. s2381) and penalties of up to seven years imprisonment for concealment of acts of treason ("misprision of treason"—18 U.S.C. s2382), the laws against treason do not become operative until there is a formally declared state of war—despite the broader meaning often given to the term in popular speech.

Since 1861 the Federal Criminal Code has made punishable conspiracy to "overthrow, put down, or destroy by force, the government of the U.S. . . . or to oppose by force the authority thereof, or by force to prevent, hinder or delay the execution of any law of the U.S. . . ." (18 U.S.C. s2384). That
law was supplemented six years later by a law punishing conspiracy to commit any offense against the government with overt acts, no force being required. Apparently, there have never been any prosecutions against revolutionists under either of these laws.

The Criminal Code contains comprehensive legislation against espionage. (18 U.S.C. §791-7). Material which violates the Espionage Act or advocates treason, insurrection, or conspiracy to commit espionage or offer forcible resistance to a law of the U.S., etc., is non-mailable. There are federal laws severely punishing sabotage, comprehensively defined to cover willful injury or destruction to any national defense premises, utilities, or premises, as well as intentional production of defective war materials. (18 U.S.C. §2151-6).

In 1940, under the Alien Registration (Smith) Act, the espionage act of 1917 was made applicable in time of peace so as to punish anyone who advocated disloyalty in the armed forces. And, as is more generally known, other clauses of the Smith Act (18 U.S.C. §2385) made it a felony to advocate or conspire to advocate the overthrow of any government in the U.S. by force, or to be an organizer or a knowing member of any group of persons advocating such overthrow. For some years there have been laws on the statute books requiring the registration of those who act as agents of a foreign government and any organization subject to foreign control, if they are engaged in political activities or if they aim to control, seize or overthrow the government of the U.S. by force. The Internal Security (McCarran) Act of 1950 makes it a criminal offense to conspire to do any act which would substantially contribute to the establishment in the U.S. of a foreign-controlled totalitarian dictatorship (50 U.S.C. §783 (a)).

The chief agency charged with enforcing such laws is the Federal Bureau of Investigation, comprising several thousand expert officers. In addition to its function in preventing or punishing actual crimes, the FBI accumulates information relating to a great many persons, particularly government employees and applicants. According to the law, this information is not evaluated by the agency itself but made available, under rules laid down by the Department of Justice (the controlling authority over the FBI), to other executive branches of the government. (The ACLU believes that personal dossiers in the files of police forces inevitably present a large potential danger to freedom; but is happy to note that, so far, there has been relatively little misuse of the FBI's power.)

**FBI Request**

The FBI cautioned the public to respect individual rights while remaining aware of the problem of national security. It urges citizens to be alert and "to report information pertaining to espionage, sabotage and subversive activities," but notes that the agency is "interested in receiving facts . . . and not in what a person thinks." Warning is given against reporting or circulating "malicious gossip or idle rumors," and against "private investigations." The FBI has also emphasized that the citizen's function ends with the report-
ing of facts, because "by drawing conclusions based on insufficient evidence grave injustices might result to innocent persons."

Each of the armed services maintains its own information and intelligence service. The Immigration Service officers deal with persons entering the country, and maintain watch over the activities of questionable resident aliens. Agents of the Treasury Department and Post Office inspectors are also probably, at times, concerned with national security. The Central Intelligence Agency, about which very little is known, has no direct contact with the public.

These several federal agencies, in cooperation with state and local police officers, seem to have a record of extraordinary efficiency in protecting the nation against subversive acts. Confidence in their ability to help maintain the necessary order and security, however, should be coupled with public insistence that they, as well as everybody else, should scrupulously maintain all civil liberties.

The best approach yet offered to the whole problem was embodied in the Truman-appointed commission on internal security and individual rights under the chairmanship of Fleet Admiral Chester Nimitz, which was charged in 1951 with seeking "the widest balance that can be struck between security and freedom" by a full and non-partisan examination of the status of these basic elements of democracy, both now under assault. The commission, however, met its death at the hands of hostile forces in Congress which refused to modify certain laws which would have been necessary for the functioning of the commission. Senator McCarran, chairman of the powerful Judiciary Committee, had felt that a commission would infringe upon the work being done in this area by his subcommittee on internal security and led his Committee to defeat the commission establishment on technical grounds. The ACLU strongly protested this action and urged reconsideration.

**Loyalty-Security Program**

The loyalty and security programs of the federal government underwent drastic changes in the latter years of the Truman Administration, and have been given a further complete revamping by the Eisenhower Administration.

The original loyalty order concerning federal employees issued by President Truman in 1947 provided that no person could be employed or continue in employment in any position, when there was reasonable ground to believe that he was disloyal, even though the employment might present no danger to national security. Side by side with the loyalty program there existed a security program, aimed at locating and removing those whose presence, through disloyalty or otherwise, might involve an actual risk to the country's security. In May, 1951, President Truman announced that he had set a new and stiffer standard for the loyalty program, that no person could be employed if on all the evidence there was a reasonable doubt as to his loyalty. Federal employees then had to prove their loyalty beyond a reasonable doubt, a difficult task to do even if there was but one serious accusation against them.
The major effective difference under the new standard is exemplified in the well-known case of John Stewart Service. Previously cleared under the old standard, Service was denied clearance under the new standard by the Loyalty Review Board. President Truman set up a new commission for the special purpose of considering this case, which cleared Service on loyalty grounds, but held that he might be a security risk; the new Secretary of State, John Foster Dulles, concurred in this finding.

President Eisenhower, on May 27, 1953, issued a new security order, which completely junked the old loyalty program and revised the security program. ACLU representatives, after the announcement of the proposed order on April 27, conferred with the Deputy Attorney General and the chairman of the Civil Service Commission, giving detailed recommendations on changes in the order and the suggested implementing regulations. The ACLU commended the Administration for finally recognizing a principle it had long advocated, that the necessary test is not one of loyalty—which results in inevitable incursion upon freedom of speech and association without any compensating gain to national security—but one of security. It also commended the Administration for its recognition of the principle of transfer of possible security risks to non-security positions. It pointed out that the real test of a program of this nature would come in its administration. It contended, however, that there was no assurance that all the evidence in relation to each individual and the sensitivity of his particular job would be considered, as they had been under the old loyalty order. It criticized the lack of any outside review board composed of non-governmental employees (such as the old Loyalty Review Board) because government employees may not be completely impartial judges, since they themselves may be called security risks for ruling affirmatively on doubtful cases. The ACLU also said that administrators of the departments and agencies, who now must make the final judgment without any recommendations from such an outside agency, will hesitate to give a favorable determination in an unpopular case, fearing adverse congressional action on appropriations for their unit.

The problem presented by the Attorney General’s list has been reduced but not finally resolved. The Attorney General has listed approximately 200 organizations mainly as Communist, Fascist, totalitarian or subversive. The list has been compiled without giving an opportunity to each organization for a hearing, and membership in such organizations was generally the chief evidence against employees in loyalty cases. Though a 5-3 decision in May 1951 of the U.S. Supreme Court resulted in a ruling that hearings should be granted, no steps were taken by the Truman Administration to grant any such hearings. The new Administration won the congratulations of the ACLU for granting hearings to organizations already listed and to those it proposed to designate on the list. But it did take the Attorney General on task for defective hearing procedures, and for announcing which organizations would be given hearings before they were listed. The ACLU also raised a new objection against the listing of bona fide defense committees relating
to a particular case, since the resultant danger of an individual's fearing to contribute to such necessary organizations outweighs the importance of the government's considering such organizational affiliation in determining employment.

**Kutcher Case**

The lengthy and well-known case of James Kutcher appears headed for the courts again. Kutcher, a legless war veteran and admitted member of the violently anti-Stalinist Socialist Workers Party, listed as both subversive and Communist by the Attorney General, had been dismissed from his job as a clerk in the Veterans Administration under the loyalty program solely because of his membership in the SWP. The ACLU, in no way supporting the opinions of the SWP, actively entered the case on the ground that he should not have been dismissed from his non-sensitive position solely because of his membership in an organization. The U.S. Court of Appeals in Washington, D.C., unanimously agreed that the action of the Veterans Administration in discharging Kutcher violated the President's loyalty order, because it failed to consider all the evidence about Kutcher, and sent the case back to the administrative agency for determination. The Veterans Administration ruled against Kutcher again, and the Loyalty Review Board affirmed the ruling in June 1953.

Kutcher also became the plaintiff in one of several ACLU test cases of the so-called Gwinn Amendment to the Independent Offices Appropriation Act in 1952, which states that no person who is a member of any organization on the Attorney General's list can live in certain federally assisted housing projects. Kutcher, in suing the local housing authority of Newark, N.J., was joined by his father, who disagrees violently with his son's political views, but who cannot live in the housing project with his son under the terms of the law. A third plaintiff is Harry L. Lawrence, a school teacher, who has signed several loyalty oaths in the past, and feels that he should not be required to sign any more. A preliminary injunction against enforcement of the law was issued and the cases are still awaiting determination.

Other test cases of the Gwinn Amendment were begun and are still pending at this writing in Brooklyn, New York; Chicago, Illinois; and Buffalo, New York; two test cases begun in Los Angeles and Denver have been adjourned with stipulations that their result will be governed by the outcome elsewhere.

There are two other federal security programs which affect employees of private firms. The most far reaching of these is the Industrial Security Program. The government has long had a requirement that persons given access to classified information while working on defense contracts must receive security clearances. Denial of security clearance by the Armed Forces Personnel Security Board was appealable to the Industrial Employment Review Board in Washington where the employee had a hearing, though he was not permitted to cross-examine and confront all the witnesses against him. The
ACLU, recognizing the necessity of the existence of an industrial security program, made no objections to it, and restricted its efforts solely to obtaining procedural improvements. The Eisenhower Administration on May 4, 1953 set up an entirely new program known as the Industrial Personnel and Facility Security Program, consisting of three industrial personnel security boards to be located in New York, Chicago, and San Francisco, each of which would have a screening division which would grant a clearance only if its three panel members agreed unanimously on such a clearance. Denial of clearance by a screening division would give an employee right to appeal to the appeal division where he would have a hearing. ACLU, which conferred with the Defense Department on the program while it was being drawn up, commended the program for at last setting up regional boards, for which it had long contended, so that an employee can have a hearing without travelling to Washington. However, it criticized the new program for its failure to have a centralized review board to assure uniformity of application and criteria, for the continued failure to have all-civilian boards determine the fate of civilians, and for certain inadequate criteria. An example of a poor standard is that which permits denial of clearance for sympathetic association with a member of a Communist organization even in the absence of knowledge on the part of the employee that his friend is a member of such an organization and that the friend knows the organization to be Communist.

One problem was created by both the Presidential order for federal employees and that for industry. The old loyalty order had restricted consideration of organizational membership to organizations listed as Communist, etc., by the Attorney General. Both new orders do not contain such restrictions, and thus each security board may in effect draw up its own list of organizations considered to be Communist. The danger of such a procedure is illustrated by the action of the Detroit Army Ordnance District which, under the old security program (where there was no such requirement of listing), drew up a list composed of all organizations which had ever been listed as Communist by any state or local government agency, or by any private agency, or had even been mentioned as Communist in correspondence between government officials. The Defense Department immediately cancelled the Detroit list after an ACLU protest.

Smith Act Cases

Prosecution of fifty or more second-string Communist leaders followed upon the 1951 decision of the U.S. Supreme Court, by a vote of 7-2, upholding in the Dennis case the constitutionality of the Smith Act, which makes it a criminal offense to conspire to advocate the violent overthrow of the government. Prosecutions of Communist leaders in California, Hawaii, New York and Baltimore were all successful; other cases are unfinished in Detroit, Philadelphia, Pittsburgh, St. Louis and Seattle. The New York and California convictions are being appealed; the Baltimore conviction was taken
to the federal Court of Appeals at Baltimore, which affirmed the conviction, and the Supreme Court refused to review.

The New York prosecution was notable for two reasons: (1) the trial court directed the acquittal of two of the defendants, the first and only acquittals in such cases, apparently on the ground that the only evidence against them was mere membership in the Communist Party and that there was no evidence of criminal activity, and (2) those convicted received less than the maximum sentence, previously uniformly imposed.

The ACLU fought the Smith Act at the time of its enactment in 1940, in 1942 when, with the approval of the Communists, it was used to prosecute Trotskyites, in 1943 when it was used against alleged pro-Fascists; and in prosecutions of the various Communist leaders. While the Union recognizes the fact that the Smith Act has been upheld as constitutional, it nevertheless believes that the decision of the court was in error, and that the law itself is both unconstitutional and unwise. The ACLU issued a full study of the problem in April 1952 explaining its opposition to the Smith Act and the decision upholding it on the ground that it permitted punishment of advocacy in the absence of a clear and present danger, that the jury should have been allowed to pass on the question of the existence of a clear and present danger, and that the new formulation of the clear and present danger test by the Supreme Court which turned it into a test of clear and probable danger was improper. The ACLU continues to press for the repeal or appropriate modification of the Act and will intervene on the question of the constitutionality of the law whenever the issue can be validly raised.

A "little Smith Act" in Puerto Rico led to the conviction of Ruth Reynolds for advocating the violent overthrow of government by force. Albizu Campos, leader of the island Nationalist Party, made a speech accusing his followers of inadequate support and calling upon them for money and service. In the course of the speech, he said to his audience: "Raise your right hand, all who are ready to sacrifice their lives and give up their fortunes defending the cause; all those who are ready to die for the movement that must continue over the bones of Albizu Campos." The political tension at this time was great, and in later months the Nationalist Party attempted a revolution in which Miss Reynolds did not participate. But in the opinion of the ACLU, Miss Reynolds could not constitutionally be convicted simply for having been among those whom the jury found took a vague general oath during the political fund-raising speech. A brief has been filed by the ACLU on the defendant's appeal in the Supreme Court of Puerto Rico.

The government moved in another direction against the Communist Party. The McCarran Internal Security Act of 1950 requires that organizations found to be Communist-action or Communist-front organizations, must register with the Attorney General. After more than a year of hearings by the Subversive Activities Control Board, providing the semantic spectacle of a hearing on the question of whether the Communist Party was a Communist organization, the Board found it was and ordered the Party to register. An
appeal from this decision is expected to be argued in the U.S. Court of Appeals in Washington, D.C., in the fall of 1953. Hearings have just been ordered involving twelve organizations which are allegedly Communist-front.

The ACLU, which has always opposed the Internal Security Act, will endeavor to file a brief as friend of the court opposing the order. While it will not quarrel with the finding of the Board as to the nature of the Communist Party, it believes that the registration requirements of the law, its restrictive provisions on the use of the mails, its denial of passports to members of registered groups, and its excessive penalties under which persons can go to jail for life for non-compliance, render the law unconstitutional, chiefly as violative of free speech and association. Other aspects of the Act, particularly those relating to immigration and aliens, are discussed elsewhere in this report.

**Passport Question**

For many years the United States Government has acted arbitrarily in the issuance of passports to Americans who wish to travel abroad and the granting of visas to foreigners seeking to enter the United States. The ACLU has long protested the action of the State Department in denying or revoking passports without stating the reasons therefor and giving the citizen affected a hearing on the issues. Intensive study by a special committee of the Union resulted, in December 1951, in a complete report on this subject. Simultaneously, a test case was begun by ACLU on behalf of Miss Anne Bauer, a naturalized American journalist residing in France, whose passport had been revoked without any statements of the reasons therefor, without hearing and without further specification of the standards used other than that her further travel would not be in the best interests of the United States. The test case was successful and on July 9, 1952, a special federal statutory court by a 2-1 decision ruled that a passport could not be denied or revoked without a statement of charges and the granting of a hearing which would include cross-examination of adverse witnesses and the utilization by the government of standards laid down in advance.

The government accepted the decision. In September 1952, the State Department issued new regulations in regard to the issuance of passports; they provide for denial of passports to Communists and their sympathizers, limited notification of the reasons in such cases for the denial of passports, informal discussions with the Passport Division, and permit appeals to a new Board of Passport Appeals whose function will be to advise the Secretary of State who apparently makes the final decision. ACLU immediately made known to the State Department its objections to the new regulations, the most important of which were that cases of persons denied passports for reasons other than Communist activities were not covered, that the standards for determining who are Communist sympathizers are vague, that freedom of speech is prohibited by the regulations since the passport may
be denied for advocacy uttered abroad which would be perfectly legal under American or foreign law.

The right to free travel, the ACLU believes, may be denied when its exercise would endanger the safety of the nation, and probably may be denied fugitives from justice, or persons in poor health likely to become government charges while abroad. But it emphasizes that the "right to travel" should be recognized and safeguarded by due process of law.

Delays are often serious in a passport matter. For example, Anne Bauer was not told of the charges against her until more than a year after the court decided in her favor. It is reported that there are similar delays in other cases, and that the Passport Appeals Board indeed has not been set up at all, though almost a year has gone by since provision was made for it. The ACLU is now studying what legal action to take to insure that the State Department at least follows its own regulations.

Prior to the announcement of the new regulations, two cases had arisen which created tremendous public interest. In the first case, Dr. J. Henry Carpenter, prominent Brooklyn churchman and civic leader, was denied a passport in May 1952 because of his "political activities." ACLU protested that Dr. Carpenter should have a statement of the charges and a hearing. Later that month, the Passport Division stated that the denial of the passport should not be considered as a reflection on Dr. Carpenter's loyalty or integrity, and that all the denial meant was that his presence in the Far East was considered undesirable at that time. The way was left open for Dr. Carpenter to get a passport to other areas and to receive a passport to the Far East in the future. In 1953 he did receive a passport.

In the other case, Dr. James H. Robinson, Presbyterian minister, had been asked to return his passport by the State Department because of connections with various alleged subversive organizations. But after intercession by a number of individuals and organizations, Dr. Robinson was cleared; action was based on material which he himself and other persons submitted. At the time of the incident, in December 1952, he had been working on the project for a booklet to counter Communist propaganda overseas.

Visa Difficulties

The visa problem shows no sign of a solution. It has been reported that half of the foreign scientists seeking to visit this country have visa difficulties of some kind. The restrictive McCarran Act is mainly responsible.

Two important cases involving visas reached the Supreme Court. The first case held that a visa could not be denied without a hearing where the alien had been a resident of the United States and had never technically left American territory on his trip abroad. But hopes of a generally more liberal attitude on the part of the Supreme Court were shattered when it ruled in the Mezei case that an alien returning to the U.S. could be denied admission without a statement of charges and without a hearing, solely on the ground that his admission to the country would be prejudicial to the national security,
that he could then be denied bail without a hearing, though no other country would accept him for entry. The result of this decision might be virtual life imprisonment on Ellis Island. The decision of the Supreme Court in effect came down to this simple proposition: that an alien once beyond our borders has no rights at all, that Congress can constitutionally do anything it wants to about it, no matter how arbitrary. Mezei, himself, may be helped by a private bill in his behalf which has been introduced in Congress. The ACLU supported this bill by Senator Langer. Attorney General Brownell has also frankly recognized the gravity of this type of situation and promised careful study.

Another famous case, involving the admission of a German war bride, Ellen Knauff, into this country, finally reached its conclusion. Though the Supreme Court had ruled that Mrs. Knauff, an entering alien, had no rights to a hearing when she was excluded because her admission would be allegedly detrimental to national security, and though efforts in Congress to secure her admission failed, public opinion finally forced the Department of Justice to grant her a hearing—a step ACLU long had urged. Its Board of Immigration Appeals, characterizing the charges against Mrs. Knauff as mere hearsay, ruled that she should be admitted. The decision was speedily affirmed by Attorney General McGrath. A new wrinkle in the case developed in 1953 when the same charges were levelled against Mrs. Knauff at a hearing on her application for citizenship. Mrs. Knauff stormed from the hearing room and sharply criticized the hearing for renewing charges which had been shown to be invalid.

One of the two visa cases attracting considerable attention was the exclusion from this country of Graham Greene, the noted Catholic writer who was temporarily stopped because 20 years before he had joined the Communist Party as a prank. Good sense finally triumphed and Greene was ordered admitted; but, fed up with the situation, he did not bother visiting this country. The other case was that of Stuart Denton Morris, the British pacifist, denied admission to the country to lecture on behalf of pacifist organizations on the ground that his entry would be prejudicial to the public interest mainly because he was expected to make pacifist speeches which would also oppose the foreign policy of the United States in some respects. The Union contended that the discriminatory exclusion because of fear of Morris's beliefs was a clear violation of the spirit, if not the letter, of the First Amendment protecting free speech. A speedy hearing was granted in this case, and the Board of Immigration Appeals, whose action was immediately affirmed by the Attorney General, reversed the decision of the hearing officer and permitted Morris's entry.

The restrictive and sometimes inexplicable decisions made in passport and visa cases are not only offensive to the spirit of due process of law, but also clearly detrimental to American prestige abroad. And these decisions are of great help to the Communist propaganda machine in every part of the
world which delights in pointing out that America apparently does not practice what she preaches.

**Deportation and Denaturalization**

The McCarran-Walter Immigration Bill became law in 1952. Although in several ways it represents an improvement on the old law, and in some respects represents a positive gain, it has serious defects from the civil liberties point of view; it appears to violate both the spirit of due process with respect to aliens, and the letter of the constitutional guarantee with respect to citizens. These considerations were strongly emphasized in President Truman's veto message.

The Act places in the hands of the Attorney General an enlarged, tremendous discretionary power which can be wielded as a club of oppression against aliens. For example, Section 241 (a) (8) permits deportation for anyone who has within five years of entry become a public charge "in the opinion of the Attorney General." Section 241 (c) (2) permits deportation when "it appears to the satisfaction of the Attorney General" that the marital agreement made for entry has not been fulfilled. The ACLU believes that deportation should depend upon a finding of objective fact, not on an arbitrary opinion which appears to be almost unreviewable by the courts. Similarly, in Section 244 (a) (1, 2) the old provision for suspension of deportation on grounds of undue hardship is changed so that suspension is possible only if, in the opinion of the Attorney General, it would result in "exceptional and extremely unusual hardship." In addition to placing arbitrary power in the hands of the Attorney General, it is cruel and unwarranted to restrict so stringently suspension of deportation for aliens who already have American spouses or children.

Four major cases arose which in ACLU's view involved dangerous abuse of discretionary powers by the Attorney General, but in each of these cases the Attorney General's action was upheld. In the earliest of these cases, Carlson v. Landon, the Supreme Court held by a 5-4 decision that bail could be denied to an alien during deportation proceedings on the sole ground that the alien was an active member of the Communist Party. The second major decision was the Mezei exclusion case, described in detail in the section on Passports and Visas. The other two cases involved the refusal of the Supreme Court to review decisions of lower courts, action which, while technically not an affirmance of the decision below, leaves the decision in full force and effect. In the first of these two cases, Nicholas Dolenz, an ex-member of the Communist Party of Yugoslavia, claimed that he would be faced with physical persecution if he were ordered deported to Yugoslavia. He introduced testimony to this effect at his hearing and no testimony was introduced which contradicted this in any way. Yet on the basis of such a record, the Attorney General refused to find that Dolenz would be subjected to such persecution, and ordered his deportation. The U.S. Court of Appeals at New York affirmed the government's action, and the Supreme Court refused to
review. Thus, the McCarran Act's salutary provision that no person can be returned to a country where he will face physical persecution may be reduced to a virtual nullity since the Attorney General can apparently always refuse to find that there would be such persecution whatever the record might show. However, in a similar case handled by ACLU's Northern California affiliate, a district court judge in San Francisco had ruled that Sang Ryup Park could not be returned to South Korea because of his reasonable fear of physical persecution; the government dismissed its own appeal before the Court of Appeals in San Francisco.

The fourth case, handled by ACLU attorneys, involved Cyril Lionel Robert James, an anti-Communist today, who always was an anti-Stalinist but had once had loose affiliations with the Trotskyite movement. Though James was clearly deportable because he had overstayed the period granted by his immigration visa, he was also clearly eligible for suspension of deportation. The sole reason for the denial of such suspension was his past Trotskyite affiliations. The U.S. Court of Appeals at New York unanimously approved his deportation and the U.S. Supreme Court refused to review. The Spector test case involved the constitutionality of that part of the Act making it a crime for an alien ordered deported to fail to apply for papers which might facilitate his deportation. The Supreme Court ruled 8-1 against the ACLU contention that the law was vague and indefinite.

**Law's Provision**

The McCarran Internal Security Act of 1950 contained a provision that all persons who are or ever were members of the Communist Party must be deported. No provision was made whatever for the case of a person who had once been a Communist and was now anti-Communist; indeed, a special bill had to be passed by the Congress to permit the well-known anti-Communist writer, Arthur Koestler, to stay in this country. But the question remained as to whether Congress could constitutionally provide for deportation of an alien now for what he had done in the past. The Supreme Court gave the answer in two cases. It was affirmative. In the first case, that of Peter Harasisades, who had once been a member of the Communist Party, the Court in a 6-2 decision held that the Alien Registration Act of 1940 could be properly invoked to deport one who was formerly a member of the Communist Party. And a few months later, the Court followed this opinion in holding constitutional the similar language of the 1950 McCarran Internal Security Act.

The 1952 immigration act did improve the lot of former totalitarians to some degree by providing for their admission if they had demonstrated five years of active opposition to totalitarianism. But it remains to be seen what active opposition there must be to satisfy the requirements of the law; apparently no relief is given to those ex-totalitarians who may have been genuinely opposed to totalitarianism for many years but who have not had the opportunity to be active in such opposition.

The immigration law imposes potential threats to the status of a natu-
eralized citizen, which are so far-reaching as to make citizenship acquired by naturalization distinctly inferior to that of the native-born. The old law permitted revocation for fraud; the new law permits it for "concealment of a material fact or by wilful misrepresentation," a standard not in force when naturalization was obtained and therefore clearly retroactive. 

Section 246(b) permits denaturalization of any person who became a citizen upon the basis of a record of a lawful admission for permanent residence, created as a result of an adjustment of status for which he was not in fact eligible and which is subsequently resumed within five years. This section should be changed because it represents punishment for acts not committed by the person punished.

All citizens, naturalized and native-born, who while abroad have their states questioned, may be treated as aliens and are subject to exclusion or admission on terms laid down by the Attorney General. This provision violates civil liberties as it would mean exclusion of possible citizens without even a hearing being held, without even the former right to come to the U.S. and sue in court for a certificate of nationality.

STATE AND LOCAL GOVERNMENTS

The pattern of legislative investigation and loyalty laws established by the national government has been copied to some extent at the state and local levels, often with unfortunate results. State legislative committees, particularly the notorious California Tenney Committee, have tended to be indiscriminate in allegations about the loyalty of groups and persons, and to follow up their own charges either superficially or not at all. In recent years numerous laws against "subversives" have been passed; in Massachusetts, Pennsylvania and New Hampshire the Communist Party has been declared a criminal organization (similar legislation has passed both houses in Florida); in many states it has been barred from the ballot; subversive organizations have been required to register and have been denied the use of public buildings for meetings; loyalty investigations have been promised and loyalty oaths have been passed. In all of these actions, the chief defects have been vagueness, suppression of speech, lack of due process, and loose allegations against honest and respectable critics of society.

Thirty-four states have anti-anarchy or criminal syndicalism laws passed from 1917 to 1923 but rarely used.

Thirty-one states have laws against sedition, usually in terms of overthrow of the government by force, mostly from 1917 to 1923, rarely used.

Twenty-four states have stricter sedition laws passed since 1945.

Thirty-three states have laws against sabotage of public or private property, rarely used.

Thirty-two states have loyalty oath laws applying to teachers; these laws passed from 1930 to the present time have been ineffectual in discovering disloyal persons.
Twenty-seven states bar from the ballot any subversive political party. Twenty-eight states have laws barring public employment to subversives—variously enforced.

Eleven states bar the use of public buildings to subversive organizations, generally effective.

Six states require subversive organizations to register, apparently unenforceable.

Utah seems to be the only state which has had complete success in resisting the passage of such laws.

In Michigan, the Trucks law requiring the registration of Communists, the Communist Party and Communist-front organizations, and prohibiting their appearing on the state ballot, was referred back to the lower courts. In a 7-2 decision the U.S. Supreme Court directed a lower federal court to hold up proceedings in a test case pending state court interpretation of the legislation. The U.S. Supreme Court pointed out that there have been no interpretations of the law by the state courts, since this case was begun by William Albertson, the chairman of Michigan's Communist Party, only five days after the law became operative and that another test case was pending in a state court in Michigan. This other case was brought by the Socialist Workers Party, an anti-Stalinist Marxist group. Justice Black dissented without an opinion. Justice Douglas, dissenting, argued that whether or not the ambiguities in the law might be resolved by the state courts, it was clear that the Communist Party in this case did come within the terms of the statute, and that, therefore, no construction of the statute by the state courts could make any difference in this case. The ACLU had filed a brief as friend of the court contending that the law was unconstitutional both because of its vagueness and its infringement upon freedom of speech and association.

**Another State Law**

A Louisiana Communist registration law resulted in the arrest of two Negroes who had not registered under the law though they had stated while registering to vote that they were members of the Communist Party. The two protested that they had misread the statements they had to sign, thinking them to state that they were not members of the Communist Party. The cases have not yet been brought to trial.

Massachusetts became the first state to declare the Communist Party a subversive and unlawful organization. Any person who remains a member, knowing it to be subversive, may be fined and imprisoned for a term up to three years. Other subversive groups are to be charged in the courts by the state Attorney General; an adverse finding will lead to seizure of the group's assets by the state. The holding of public office or teaching is denied to members. It is a crime to allow one's premises to be used for meetings of subversive groups, or to contribute money to them.

The constitutionality of this law will be tested. It appears to be incon-
sistent with implications of the U.S. Supreme Court ruling in the Dennis case, which found the defendants guilty of criminal conspiracy but left unsettled whether mere membership in the Communist Party can be made criminal. Furthermore, this state law appears in part to override the federal Internal Security Act which requires registration of Communists but expressly makes mere membership non-criminal.

The Massachusetts legislature, in July 1953, passed a law establishing a commission to investigate subversive activities with particular reference to education, politics, government and industry. The Massachusetts Civil Liberties Union spoke against this type of legislation at public hearings, pointing out that investigations of such a broad nature make citizens fearful of having any contact with unpopular or controversial ideas or legislation.

Ohio set up a legislative committee to investigate subversives; the bill passed both houses by a unanimous vote, was vetoed by Governor Lausche, and repassed by a one-vote margin in the state Senate. The Cleveland and Cincinnati chapters of the ACLU protested vigorously; Speaker Renner of the Ohio lower house observed that the ACLU was objecting at the same time as Gus Hall of the Communist Party and several Communist-dominated unions, and, in his opinion, there is something to the old adage "birds of a feather flock together." Cincinnati Chapter President James C. Paradise came right back: "Mr. Renner's statement is a graphic demonstration of why ACLU opposes the establishment of a little Dies Committee in Ohio. The reckless and irresponsible smear . . . is typical of the McCarthy technique."

In 1953 the Cleveland Civil Liberties Union undertook a state-wide campaign against proposed laws dealing with control of alleged subversive activities. Appearing before the Judiciary Committee of the state House of Representatives, representatives of the Cleveland Civil Liberties Union argued that adequate statutes, both federal and state, already exist to control espionage, conspiracy and the protection of military secrets, as well as subversion. A bill, with some corrective amendments, passed the House of Representatives and the Senate, but was vetoed by Governor Lausche. However, the veto was overridden and the bill is now law.

Illinois saw the revival in 1951 of the Broyles Bills which were defeated in 1949; these bills proposed a state Seditious Activities Commission, severely regulated teachers, outlawed Communism, set up a wide system of oaths, and called for immediate dismissal of "suspect" persons. Extraordinarily vigorous campaigning by the Chicago division of the ACLU, over a period of six months, led to the defeat of eight of the Broyles bills and Governor Stevenson vetoed the ninth.

The Broyles bills were again re-introduced in the 1952-53 session of the Illinois legislature; one passed but was vetoed by Governor Stratton. Two bills received the particular attention of the Chicago division; one which would extend the present sedition statute by the creation of a post of a special Attorney General who would gather data and oversee prosecution of suspect persons in organizations together with the establishment of a loyalty
program for government employees with enforcement left to local boards or agencies of the state, or a political sub-division thereof, and to supervisory heads—this bill was vetoed; another bill seeking the creation of an investigation commission was defeated. Considerable opposition was engendered to the proposed legislation. Nevertheless a bill taking away from local school boards the control of the teaching materials and placing it in the hands of the state superintendent or a proposed censorship board, passed the Senate but died in the House.

An Illinois housing tenant-oath bill, similar to the federal Gwinn Amendment which the ACLU is challenging in New Jersey and elsewhere, was approved by the state Senate.

In Indiana, bills to establish committees to investigate subversion and providing for text-book clearances appeared to be defeated. New Hampshire, on the other hand, created a state Un-American Activities Committee.

In Texas, a bill to create a state Un-American Activities Committee was defeated by a filibuster. The state, however, passed a rather ridiculous law requiring publishers and authors of public-school text books to file loyalty affidavits. The law applies as well to writers who are deceased.

**Pechan Act**

In Pennsylvania, the 1951 Pechan Act provides for certification of the loyalty of public employees and all teachers; loyalty oaths are set up. Former Supreme Court Justice Owen J. Roberts and Clarence E. Pickett of the American Friends Service Committee, led a large number of groups organized by the ACLU, and attacked the bills as extremist legislation and a needless invasion of the function of the national government to protect our security. The bills, as enacted, are considerably improved over their first form and have the rather unusual provision of providing for an appeal to the courts. In the meantime several Quakers have refused to take the oath and have been discharged. Richardson Dilworth, Philadelphia district attorney, who as an elected official need not take the oath, has flatly refused to do so voluntarily on the grounds that he will not be a party to “mass hysteria.”

The ACLU Philadelphia branch has been kept active opposing other bills introduced by Senator Pechan to enact a Pennsylvania Smith Act, providing a new type of loyalty oath for officers and fund raisers of “charitable, religious, benevolent, humane and patriotic organizations” registered under the State Solicitations Act; to establish a Pennsylvania Un-American Activities Committee; and to make mandatory dismissal of any state employee who claims his constitutional privilege against self-incrimination.

In Wisconsin, spokesmen for the ACLU have opposed a bill before the Wisconsin legislature that would ban admitted Communists, and persons who in the past refused to state whether they were Communists, from holding state, county, or city jobs. The bill, which had the backing in principle of the Milwaukee Common Council and Milwaukee Civil Service Commission, would also make a contractor doing work for the state, county, or city govern-
ments liable to forfeit money paid for the project if one of his workers falls in those categories. Passed in the Assembly, it was defeated in the Senate.

During the 1952-53 legislative session, California was flooded with bills directed against subversion and subversives. The legislation which passed and is now law, after approval by Governor Warren, is as follows: a written declaration of loyalty is required from all persons claiming state property tax exemption, including veterans, religious, hospital, and other non-profit institutions; two laws provide for the dismissal of all public employees, including teachers, who refuse on any ground whatsoever, to answer questions with regard to political beliefs or associations before legislative committees; any person or group desiring to use school property must submit affidavits disclaiming subversive intent or affiliation; employees of state colleges are characterized as guilty of "unprofessional conduct" for membership in or active support of "Communist front" or "Communist-action" organizations, as defined in the Federal Internal Security Act of 1950, or for "persistent active participation in public meetings" conducted or sponsored by such organizations, and must be subjected to dismissal proceedings; any political party carrying on or advocating subversion may not appear on a primary election ballot.

Other California legislation, which failed to pass, covered the following ground: a bill to establish a state Anti-subversives Commission; a bill to permit (under the state Labor Code) any employer to discharge an employee because of membership in the Communist Party, or subversive activity or advocacy; a bill to prohibit subversive organizations from transacting insurance business; a bill to compel the giving of evidence before a grand jury under the safeguard of immunity from prosecution (although such immunity would not protect the person from prosecution under federal law).

Connecticut Opposition

Connecticut opposition—led by the Connecticut Education Association, the American Legion, and other groups—led to defeat or committee burial for a miscellany of "anti-subversive" laws.

In Hawaii, Governor Oren E. Long signed a bill setting up a loyalty program for both public employees and elected officials. The ACLU protested that persons working in non-security areas need not be tested, and that "it is obviously a violation of the spirit of the Constitution to require certification of candidates for public office on loyalty grounds before the public can be given the right to vote." The Governor, in reply, admitted "the strong feeling of many of our best citizens that the bills are wrong in principle," but felt that public interest required their signing.

The unpredictable fate of loyalty and security legislation is shown by the history of a Vermont bill to outlaw subversive organizations; recommended by the Governor and passed by the House, it was adversely reported in the Senate and killed by unanimous vote. Louis Lisman, ACLU State Correspondent, presented ACLU opposition to the Senate committee.
Professor Walter Gellhorn, of Columbia University Law School, ACLU Board member, is the editor of the most comprehensive study in this area, *The States and Subversion* (Cornell U.P. 1952). A 1953 ACLU pamphlet, also entitled *The States and Subversion*, is available at a cost of 20¢ for single copies.

Counties and cities have also had a try at control of subversives, but such regulation has not always been upheld by the courts. An appellate court in California declared unconstitutional a Los Angeles county ordinance calling for registration of Communists. In New York City, the Department of Welfare, in its drive against allegedly Communist-dominated unions, attempted to inquire into long-past political affiliations of its employees—despite the fact that its power to do so was gained by forcing its workers into the voluntary Civilian Defense program. A sharp controversy developed between Welfare Commissioner McCarthy and the officers of the New York Civil Liberties Union; McCarthy said that the NYCLU appeared to have fallen for the Communist line; the Rev. John Paul Jones, NYCLU chairman, observed that the state's security law related to sensitive positions and that the Welfare Department could "hardly claim to be a sensitive security agency."

A number of important cases relating to state and local control of alleged disloyalty have been resolved or are taking form. The most important of these is the Matson case in Pittsburgh. Charles J. Margiotti, while still Attorney General of Pennsylvania, accused Mrs. Marjory Matson of being too friendly to Communist causes; he cited the fact that although she was an assistant district attorney in Allegheny County she had opposed the trying of the Communist leaders and had, as ACLU representative in Pittsburgh, defended the right of Communists to distribute handbills. Margiotti demanded she be discharged, and appointed two of his own deputies to conduct hearings on his own charges. The case came before the Supreme Court. The high court called Margiotti's proposal an "absurdity" and noted that validation of his conduct "would be equivalent to holding that the attorney general is vested with the power to conduct hearings as to the political, economic, and social views of every public officer in the Commonwealth entrusted with the execution of the laws, from the governor himself down." In a parallel action, a court-appointed committee of five lawyers looked into the general fitness of Mrs. Matson to hold her office. The Committee heard Patrick Murphy Malin, Executive Director of ACLU, Arthur Garfield Hays, ACLU General Counsel, and other witnesses who spoke for Mrs. Matson, and brought the case to an end by rejecting all of Margiotti's charges. Newspapers hailed the vindication of the defendant but noted the heavy cost to her in terms of a year's lost work and salary and painfully irremediable notoriety.

In another Pennsylvania case, Judge Michael A. Musmanno, in a routine damage suit, held a lawyer in contempt for refusing to state whether he was a Communist. The Pennsylvania Supreme Court overruled him, observing that "What the judge has done in his zeal against Communism is to adopt the detestable method employed by Communists themselves in arbitrary and
unjudicial proceedings.” Musmanno has since been elected to that same Supreme Court.

There were two prosecutions under state sedition laws. In Pennsylvania Steve Nelson, a Communist leader, was convicted of seeking to bring the government of Pennsylvania and the United States into hatred and contempt. The ACLU filed a brief as friend of the court in the Pennsylvania Supreme Court; disassociating itself from any defense of Nelson's views, the Union argued that the statute, on its face, by its vagueness and evident attempt to control discussion, is a violation of freedom of speech. To date no decision has been reached.

In Massachusetts, under a 1919 “anti-anarchy” law, Professor Dirk J. Struik of the Massachusetts Institute of Technology has been indicted for conspiring to advocate the overthrow of the U.S. and Massachusetts governments. The Massachusetts CLU is attacking the law on the ground that it punishes mere speech unaccompanied by any act of espionage, subversion, sabotage, or revolution.

Also in Massachusetts, Arthur Jones was tried for violating a regulation governing advertising on beaches; the judge asked him whether he was a member of the Communist Party; Jones refused to answer on grounds of self-incrimination and irrelevance and was held in contempt. The Massachusetts Supreme Court threw out the contempt citation.

Late in 1952 the Pennsylvania Supreme Court affirmed the discharge of a teacher by the Board of Public Education in Pittsburgh for “advocating or participating in Un-American subversive doctrines.” (Sic.) The evidence showed the teacher had attended Communist Party top leader meetings for five years and also gatherings of the Civil Rights Congress. The ACLU, which challenged the discharge, argued it was a violation of the right to free association.

Court Victory

In New York, the New York Civil Liberties Union won a victory when Supreme Court Justice Aaron Steuer ruled that the Civil Service Commission acted highly unreasonably in refusing to certify an applicant for a washroom attendant's job. The applicant had been a Communist Party member from 1936 to 1939, at which time he left because of the Stalin-Hitler pact. The Court ironically pointed out "it is a bit difficult to visualize how a washroom attendant in his official capacity can give aid to his country's enemies. To believe that the conspiracy involved in 'going underground' would be employed in such a position borders on the fantastic." Similarly, N.Y. Supreme Court Justice Hofstadter ruled that the mere signing of a Communist nominating petition is no ground for dismissal of a person from a Civil Service eligible list who sought to be a policeman.

The NYCLU took to the Court of Appeals a refusal of the Municipal Civil Service to hire as a subway guard a man who in a rash of conscience
refused to fill out a questionnaire dealing with membership in various organizations. The case is still pending.

In a 3-2 decision the N.Y. Appellate Division of the state Supreme Court in Brooklyn upheld the dismissal of teachers who had been discharged from New York public schools under a local law requiring dismissals for refusing to testify before duly constituted judicial and legislative bodies.

State loyalty oaths appear to have mainly a nuisance value. Concealed Communists may not hesitate to swear—unless they belong to the presumably small minority who fear the disclosure of evidence which would warrant prosecution for perjury. Consequently, resistance to oaths has come mainly from persons who resent the imputation that their employment class is particularly open to suspicion or object on religious grounds. It should be understood that loyalty oaths require a person to swear as to his non-subversive political beliefs, and in some instances, as to his political affiliations; such oaths should be distinguished from a positive oath of allegiance to the federal or state constitution to which the ACLU does not object.

By a 5-4 vote, the U.S. Supreme Court upheld a Los Angeles loyalty oath for city employees which required forswearing of advocacy of violent overthrow of the government or membership in an organization so advocating. The majority held that the ordinance was not ex post facto since another ordinance had proscribed such activities for a longer period than the oath looked back into, nor was it a bill of attainder since it did not punish, nor was it unconstitutional since the California courts will read the requirement of the purposes of the organizations into the law. Justices Black, Douglas, Frankfurter and Burton, in various aspects and degrees, took opposing stands and said the ordinance was unconstitutional. The division of opinion in the Supreme Court on this case is indicative of the new and complex decisions which are being made in the field of civil liberties, and of the conflict of attitude and judgment which exists in the Supreme Court.

California had the greatest rash of loyalty oath cases. There were six test cases of that state's Levering Act, which makes all state employees, including teachers, civil defense workers and requires them to take a loyalty oath. The California Supreme Court upheld the constitutionality of this act in all the cases, two of which went to the U.S. Supreme Court but the Court refused to review them. Another phase of the Los Angeles County loyalty oath case resulted in the California Supreme Court holding that part of the oath valid and again the U.S. Supreme Court refused to review. The one California "victory" in loyalty oath litigation was "won" in the California Supreme Court which invalidated the special oath laid down by the Board of Regents for the University of California employees on the ground that the California legislature had already covered the field by the Levering Act.

The constitutionality of the Pennsylvania Loyalty Act (the Pechan Act) was challenged in court for the first time in March 1953, in a suit brought by Mrs. Marie Fitzgerald, a former nurse at the Philadelphia General Hospital, who was fired for refusal to take the oath prescribed by the Act.
Mrs. Fitzgerald, a Quaker, was represented by the ACLU. In May, Judge Curtis Bok at the Court of Common Pleas, rejected the suit for reinstatement, holding "every argument advanced by the plaintiff has been decided adversely to her by the Supreme Court of the United States . . . it is for this reason alone that we feel obliged to declare the Act constitutional . . . were it not for the federal cases we would unhesitatingly strike down the Act." It is expected that an appeal will be filed.

An earlier non-court test of the Pechan Act resulted in the rehiring of Wendell Scott MacRae, publications production manager in the Pennsylvania State College, who was dropped from his job when he refused to take an oath and failed to be certified by the loyalty review board of the College (see page 61).

PRIVATE GROUPS

The most important "private group" area in which loyalty oath restriction upon freedom is tending to operate is in the legal profession. Under the policy leadership of the American Bar Association, the Boston Bar Association voted 673 to 140 to seek disbarment of Communist lawyers and to prevent the admission of new subversive members; only one-third of the membership voted. The Michigan state bar took similar action against lawyers who commit an "act of disloyalty." Contrariwise, the New York City and New York State bar associations rejected loyalty oaths. The ACLU position has been made clear by Ernest Angell, chairman of the Board, who stated that he thought the oaths useless because no concealed Communist lawyer would step forward and declare himself, and because the oath carries "the implication that some of the 200,000 lawyers in America are disloyal."

The effect of such testing of lawyers operates to the disadvantage of both the client and his counsel, and eventually to that of the administration of justice. There can be no doubt that accused "subversives" have had considerable difficulty in obtaining legal assistance, because many lawyers fear that the public will think that a lawyer shares the opinions of his client. And lawyers who have defended persons who are out of public favor have perhaps suffered loss of business. Nevertheless, a principle should be maintained: it has been powerfully stated in a letter which President Truman addressed to the American Bar Association in September, 1951. He said:

The Bar has a notable tradition of willingness to protect the rights of the accused. It seems to me that if this tradition is to be meaningful today it must extend to all defendants, including persons accused of such abhorrent crimes as conspiracy to overthrow the Government by force, espionage, and sabotage. Undoubtedly, some uninformed persons will always identify the lawyer with the client. But I believe that most Americans recognize how important it is to our tradition of fair trial that there be adequate representation by competent counsel.
Lawyers in the past have risked the obloquy of the uninformed to protect the rights of the most degraded. Unless they continue to do so in the future, an important part of our rights will be gone.

**Academic Freedom**

Academic freedom is civil liberties in the world of education. Unfortunately during the past two and a half years, the tension and fear evoked by the world crisis has led to numerous restrictions of academic freedom and many violations of the personal civil liberties of teachers, although, of course, teachers who suffer no restriction do not usually achieve notice. A rising public demand for orthodoxy and conformity has also affected adversely American students. Kalman Seigel, basing his articles on a *New York Times* study of 72 colleges and universities throughout the country, wrote that, "a subtle, creeping paralysis of freedom of thought and speech is attacking college campuses . . . a general pattern of caution and inhibition in student and faculty expression was found." A disturbing report on academic freedom in 1951, by the National Education Association, charged a growing censorship in public schools, with the result that teachers are afraid to tackle controversial subjects and school boards and superintendents bow to outside pressure groups. The situation is worse in 1953.

**LIMITATION ON POLITICAL GROUNDS**

The U.S. Supreme Court, in a 6-3 decision, upheld in April 1952, the constitutionality of New York State's Feinberg law, which establishes criteria for determining who is a "subversive" teacher, in order that he may be barred from teaching in the public schools. The court majority, stressing that the Communist Party is a conspiracy, considered the law a fair means of giving protection to the immature minds of school children from subversive ideas and actions. The dissenters, Justice Douglas, Black, and Frankfurter, declared the law an invasion of the civil rights and of free speech and expression, and noted that the proposed administrative system would probably lead to student informing. The ACLU friend of the court brief asserted that the law infringed upon the freedom of speech guaranteed by the First Amendment, and that the harm which it could do would be greater than the evils it is intended to control. More than a year later, State educational officials are still conducting hearings to determine whether the Communist Party, as a matter of fact, is subversive.

In the Dorothy Albert case, in which the ACLU filed a brief *amicus*, the Supreme Court of Pennsylvania upheld the discharge of a public school teacher, merely because of active membership in the Communist Party, without any evidence of the "advocacy" condemned by the Smith Act decision. This was the first court case actually involving dismissal of a teacher on this sole ground.

The constitutionality of loyalty oaths for teachers has become a major
issue, with most of the states requiring such oaths. The California Third District Court of Appeals declared unconstitutional the special loyalty oath demanded by the Board of Regents, in terms of the California Constitution. Although the Board of Regents accepted the decision, eight members of the minority filed an appeal as individuals; the California Supreme Court subsequently upheld the District Court of Appeals, on the ground that loyalty oaths for teachers were covered by another law (the Levering Act). (It is significant that Dr. John O'Gorman, who was fired as a professor for his refusal on principle to sign the oath, later took a job as a government chemist charged with secret military research. For this assignment he had federal security clearance and willingly signed a stringent oath.) The non-signers took the position that, as loyalty to the federal and state constitutions as well as to the basic beliefs and purposes of the University forbids conformity, they could not sign the special oath added by the Regents, which established authoritarian control over thought, speech and political affiliation. The intermediate California Court of Appeals vindicated the rights of the non-signing teachers on the grounds that they were public officers and have freedom from restrictive oaths; the court declared a pledge to support the state and federal constitutions to be the "highest loyalty that can be demonstrated by any citizen," and stated that, "The imposition of any more inclusive test would be the forerunner of tyranny and oppression." The potent warning given by the Court of Appeals is well worth quoting: "... equal to the danger of subversion from without by means of force and violence is the danger of subversion from within by the gradual whittling away and the resulting disintegration of the very pillars of our freedom." An excellent review of this case, Crisis in California, has been prepared by Professor Alexander Meiklejohn and is available through the ACLU.

**Supreme Court Action**

The U.S. Supreme Court granted an appeal from the decision of the Supreme Court of New Jersey upholding the action of school authorities in dismissing a non-Communist, pacifist teacher who refused to take the required loyalty oath. However, the ACLU-sponsored Thorpe case was dismissed as no longer a controversy because the terminal date of Thorpe's appointment had been passed and because his salary had been paid through the contractual period.

The U.S. Supreme Court overruled the Oklahoma Supreme Court, which had upheld the validity of a loyalty oath for all state and local public employees. The seven former faculty members of Oklahoma A. & M. College had been fired from their jobs when they refused to sign the loyalty oath. The Oklahoma court decision said that "the legislature had the power and duty to prescribe qualifications for teachers" since they have no constitutional right to serve in a public institution and are employed by the state only "upon such terms as the state prescribes." The U.S. Supreme Court, with which the ACLU filed a friend-of-the-court brief, ruled 8-0 that the Oklahoma
law was defective because it did not take into account whether the membership
in a subversive organization has been entered on with knowledge of its purpose
or innocently. (The Oklahoma legislature immediately passed new legislation
curing this defect, but containing new and vague language which will prob-
ably be held unconstitutional.) Justice Black went much further than the
main opinion, characterizing test oaths as "notorious tools of tyranny," and
Justices Douglas and Frankfurter attacked this "unwarranted inhibition upon
the free spirit of teachers."

The Pechan Act, which became law in Pennsylvania in 1952, affects all
public employees, and all teachers in both public and private institutions.
Heads of schools and colleges are required to certify that no "subversive"
teachers are employed; procedurally, this apparently means that teachers must
take an oath, answer a questionnaire, or be cleared by a loyalty review board.
An exhaustive legal analysis of this law has been prepared by Professor Clark
Byse of the University of Pennsylvania, and a member of the Greater Phila-
delphia ACLU Board; it appears in the University of Pennsylvania Law
Review, and a limited number of copies are available through the ACLU.

W. S. McRae, an employee of Penn State College, was discharged because
he refused to take oath or answer a questionnaire. His college loyalty board
said these refusals made it impossible to clear him, although McRae volun-
tarily listed all the organizations he had ever belonged to and stated that he
considered still binding the oath of allegiance he had taken as a World War I
Marine Corps officer. Active intervention by the ACLU and vigorous protest
by the faculty led to a curious final decision: McRae was properly discharged
under the law, nevertheless loyal and suitable for reemployment (which im-
mediately took place). The libertarian view prevailed in an essentially quixotic
solution, but the constitutionality of the Pechan Act still awaits real testing.

In contrast, the Connecticut State Board of Education refused by unani-
mous vote to institute a loyalty oath as requested by the Catholic War Vet-
erans. After careful study, the Board held that "the whole spirit of free
American education will be subverted unless teachers are free to think for
themselves."

The North Bergen, New Jersey, Board of Education attracted attention in
1951, when it proposed that teachers running for public office would have to
take leave of absence, without pay, from their teaching positions. The ACLU
protested that such a ruling would violate academic freedom by imposing a
special disability upon teachers as a class; it also seemed clear that the rule
would violate a teacher's tenure rights; "Under the Education Act of New
Jersey, teachers receive tenure after three years employment, after which they
cannot be penalized by requiring leaves of absence, without pay or otherwise,
except for the causes listed in the statute, including inefficiency or incom-
petency. It can hardly be presumed that ability to run for public office is an
indication of inefficiency or incompetency."

The Scarsdale, New York, "Battle of the Books" appears to have moved
to its final chapter. In 1952 the Town Club named a committee of fifteen to
review all the evidence as to whether there had been a deliberate Communist attempt to infiltrate the school system. The committee found the charges unsubstantial; the report was endorsed by the membership 251-9.

The complicated and unhappy "Mundel" case in Fairmont, West Virginia, has since May 1951, developed into the "Fairmont College" case. Professor Luella Mundel, without tenure, was given short notice of non-renewal under circumstances indicating that her political and religious opinions had offended local sensibilities, an arbitrary State Board of Education, and a hostile individual Board member. The ACLU, believing that, on the undisputed record, academic freedom and civil liberties were grossly violated, did not intervene, because Miss Mundel was suing in a private libel action. In the spring of 1952, in high-handed fashion, the Board gave notice to President George Hand of Fairmont. Several faculty members resigned in protest. The accrediting agencies and the American Association of University Professors are currently conducting an investigation.

**American Legion Attack**

In Westchester County, New York, the American Legion attacked both the faculty and students of Sarah Lawrence College as strongly Communist-tinted. President Harold Taylor of the college, and the Board of Trustees offered a vigorous defense, and powerful voices in the community supported them. The ACLU wrote a particular letter of commendation to Father H. F. Hohly, rector of Christ Church in Bronxville. The Union said:

"It is heartening to discover that you, speaking as a spiritual leader, take virtually the same position as those of us who defend civil liberties and American democratic principles from a secular point of view... We endorse particularly your statement, that 'we have moved far beyond the narrow confines of Sarah Lawrence College or the Village of Bronxville. We are dealing with the rights of man.' If self-appointed inquisitors continue to level loose charges against institutions and generally to villify teachers, we shall be in grave danger of undermining the basis of American education."

Vague charges, by unnamed persons, led to probing of the political beliefs of a Los Angeles teacher, Mrs. Barbara Morell. Unrepresented by counsel, she was told to clear herself in a few days. Vigorous action by the Los Angeles Federation of Teachers led to a conference with school officials. Mrs. Morell has her job.

J. Bush Mims, chairman of a Georgia legislative committee to investigate the State Welfare Department, asserted that Loretta Chappell, an important divisional head of seventeen years' standing, was "a Red from the bottom of (her) feet to the top of her head." He cited as proof, her signing a petition for a permanent FEPC in 1946. Miss Chappell noted that she had supported legislation which was requested by the President of the United States; she also said that "Mr. Mims' wild and irresponsible charge of Communism is the very type of un-American conduct which in the end tends to set American against American, sow the seeds of distrust and disunity, divide
our country and weaken it before its dreadful enemies—the real Communists." The ACLU recognizes that mere righteous indignation will not always save the day in academic freedom cases, but forthright and courageous words, such as those of Miss Chappell, can have great force in the education of a community.

At Queens College, in New York City, Professor Harold Lenz, who had been Dean of Students for some years, was informed in the Spring of 1952 that he would not be expected to continue as Dean and would return to his full-time teaching duties. This apparently routine change of assignment at once raised an academic freedom issue of importance. The uncontroverted record discloses that for some years Dean Lenz had been the object of attacks in his community because of entirely legitimate political activity on his part as a private citizen. Both the president of the college and the Board of Higher Education knew of these pressures, and the dean was informed that they would have a bearing on his professional position. The reassignment came at this time. The Academic Freedom Committee of the ACLU, of which Professor Lenz is a member, advised the ACLU on this case, and the Union issued a statement, which said in part: "The Board should have . . . rebuked the originators of this criticism. To ignore the duty of rebuking pressures of this kind and at the same time allow the force of that pressure to be channeled into an institution, falls short of the responsible type of judgment which the citizens of New York have a right to expect from the governing boards of our municipal colleges."

"... President Theobald, in communicating to Dean Lenz the outside political pressures against him, failed in his duty as a defender of his staff by not assuring Dean Lenz of his continued support against such pressures."

"The ACLU believes," the statement concluded, "that this deplorable situation will remain unresolved until the Board of Higher Education and the President of Queens College issue a condemnation of a general nature directed against pressures of the type seen in this case, a specific rebuke to the particular groups which exerted pressure in this case, and an assurance to each and every administrative officer in the municipal colleges that his political rights are not less than those of other members of the college faculties."

**Statement of Principle**

In its statement of principles, the ACLU said, "Deans and other subordinate administrative officers are entitled to all the privileges of lawful political expression and activity which every faculty member enjoys; any limitation should be self-imposed, and should not be created by superior administrative rule."

The questioning of teachers by federal and state legislative committees, and the refusals of many teachers to answer, has raised new academic freedom problems of great importance. ACLU Board policy on these and related matters went to the ACLU Corporation in July, on referendum.
It is clear that no one who invokes the privilege against self-incrimination under the Fifth Amendment should thereby suffer from an inference being drawn as to his criminality. The point on which there is an important difference of opinion involves the weight which should be attached by governing boards and administrative superiors to the fact of teachers' refusal to answer. Innocent persons and criminals both invoke the Fifth Amendment. One view holds that the responsible teacher will distinguish himself, by explanation to his institution, from persons unfit to teach; the other view holds that the requiring of such an explanation invades the area of free political belief and association.

The few teachers claiming that the First Amendment—which guarantees freedom of association—warrants refusal to answer, know that present court decisions do not support them. The Supreme Court has not ruled finally on this question, although it has refused to review the decision in the chief case to date.

In acting on the Heimlich-Finley case at Rutgers University, the Regents ruled that any teacher refusing to answer a governmental inquiry would automatically be discharged. The ACLU protested this regulation on due process grounds because it would eliminate the type of hearing demanded by academic due process.

The Wiggins case at the University of Minnesota was more complicated and less dramatic, but the Union pointed out that when a non-tenure instructor is let go under circumstances alleged to involve criticism of the teacher's political views, it is imperative that the adverse judgment must be totally and unmistakably separate from political considerations.

The Colorado branch of the ACLU condemned the University of Colorado administration in the Judd case on three grounds: 1—conducting an investigation, by private detectives, into the present and past political associations of faculty members, 2—failing adequately to protect the faculty from attack, and 3—failure to resist improper pressure. The faculty itself was also found to be "derelict" in resisting infringement of academic freedom.

The Cincinnati ACLU chapter vigorously protested the handling of the Darling case at the University of Ohio. Quite apart from the question of Professor Darling's reasons for refusing to answer a Congressional Committee, it was pointed out that he had not received a reasonably full and judicially conducted hearing under the rules of academic due process.

The extraordinary Tandy case, at Emporia State Teachers College, in Kansas, involved the suspension from duty of a teacher (without dismissal or loss of pay) because he joined with a large number of persons in signing a respectful and reasonable petition. The petition, addressed to the President of the United States, requested executive clemency (in the form of a commutation of sentence) for the Communist Eleven, convicted under the Smith Act. ACLU intervention, which was widely noticed, took the form of a letter signed by Dr. Karl Menninger, National Committeeman, and Union officials, in which the Union expressed no opinion on the merits of the plea for
clemency, but pointed out that the right to petition the government was guaranteed by the Constitution, could not be held to be improper "political" activity as charged here, and in this instance was irrelevant to Professor Tandy's work at the College.

DENIAL ON RELIGIOUS GROUNDS

William Lewis, principal of the Hall School, Gregg Township, Indiana, was fired from his job because, as a member of Jehovah's Witnesses, he followed the tenets of his religion. Lewis refused to salute the flag and to give the pledge of allegiance, because of his religious beliefs, but there was no evidence that he prevented either in his classroom. The acting trustee forced Lewis out of his job, after a series of mob demonstrations which local authorities took no steps to prevent. Superior Court Judge Norman E. Brennan called the mob action "a disgrace to the community," pointing out that the "religious precepts of any individual are of no concern when considering his equal right to protection under the law."

In Iowa a public school board forced a Catholic public school teacher out of his job because he had elected to send his child to a parochial school; protests from all over the country, and a sensibly indignant element in the community concerned, failed to move the Board from its indefensible position. The Iowa ACLU supported the Catholic teacher on the basic academic freedom standard that a teacher should be judged on his performance, not his religious views.

At Hunter College, a teacher was charged with offending the religious sensibilities of his students; a thorough investigation absolved him. Unfortunately, his department saw fit at the same time to let him go for exclusively budgetary reasons. At the request of the ACLU, the administration at Hunter and the department involved gave to the teacher unmistakable testimonials which indicate clearly the lack of connection between the two events. This is a particularly important case, because the teacher involved belonged to the "non-tenure" class which lies almost completely at the mercy of current tension.

Clergymen of several faiths in Pittsburgh, Pennsylvania, effectively checked a potentially explosive situation involving academic freedom and charges of religious prejudice. Robert J. Loughead, a junior high school civics teacher, was accused of slighting the Catholic faith by making "disparaging and embarrassing remarks" about it to his pupils. A group of 200 irate persons, led by a Catholic priest, angrily demanded his dismissal at a school board meeting which, according to newspaper reports, "on one occasion nearly ended in a free-for-all fist fight." The Turtle Creek School Board was required by law to hold a formal hearing within ten days of the preliminary hearing on the charges made by the Rev. Charles Thomas. Before the formal meeting could be held, however, the visit of two Protestant ministers to Father Thomas, who subsequently withdrew the charges, ended the episode. Father Thomas said publicly that he hoped "the subject will be dropped completely and we will go on in this community of ours in peace and harmony.
with each other.” The ACLU sent a letter to Father Thomas commending him for his statement.

REPRESSION OF STUDENT ACTIVITIES

Brooklyn College in New York was the scene of two important fights over academic freedom in 1951. A report of the ACLU’s Academic Freedom Committee, climaxing a six-month investigation, severely criticized the revocation of the charter of the Brooklyn College student newspaper, Vanguard, by the College’s Committee on Publications. The newspaper was suspended from May 12, 1950 until September 29, 1950 at which time publication was resumed under an agreement that “there be simultaneous presentation through editorials of multiple student opinion on controversial issues.” On October 9, 1951 the paper’s charter was revoked on the ground that opposing editorials received shorter space than staff editorials on the issue of the banning of the Labor Youth League from the campus. The ACLU investigation showed “that the thoughts expressed by the writers were preserved,” and asserted that “since the drastic action taken was not based on proof of malice or a serious violation of the rules, we regard it as inevitable that the Vanguard staff should feel itself the victim of serious injustice.” In another situation, freedom to meet together in groups of one’s own choice is restricted by legislation passed by the faculty and approved by the administration of Brooklyn College. Rules patterned after the McCarran Act define the methods to be used in judging “Communist and Communist-related groups,” “groups subversive of the national welfare,” and “groups subversive of the College.” Even the terminology of the McCarran Act confines itself to national security without undertaking the protection of the other aspects of the country’s welfare; and what subversion of the College may be is not defined. The Union opposed these regulations as “a fatal blow to freedom of the mind,” and pointed out that the application of “a law designed for the protection of the nation in times of crisis against criticism which a group of students may, wisely or unwisely, direct against the administration of a college, is close to the realization of the police state on an American campus.”

Speech Gag

Ohio State University’s “gag rule,” which empowered the president of the university to screen speakers, was eased somewhat in November and virtually abrogated in December. The Cleveland Civil Liberties Union, the Cincinnati branch of the ACLU, many other groups, and the majority of the state’s press strongly protested against the controversial screening system as a violation of academic freedom. In a letter to Governor Frank J. Lausche of Ohio, ACLU Executive Director Patrick Murphy Malin said that, “Students and faculty members should be free to invite any speaker they desire. . . . There are risks in this course, but they are the risks implicit in the basic nature of a free society; and they must be run if that society is to remain free.” A “further interpretation” by the Ohio State Board of Trustees modified the
gag rule by deciding that the professors themselves should be responsible for the speakers they brought to the campus.

In Massachusetts, a scheduled speech at Harvard by the vice-president of the National Lawyers' Guild, Osmond K. Fraenkel (a member of the ACLU Board of Directors), was protested by Samuel P. Sears, president of the Massachusetts Bar Association. Sears asked Harvard to "stop playing host to the Communist Party" by banning the Guild, which has been listed by the House Un-American Activities Committee as a Communist-front group. Harvard flatly refused to suppress the Harvard Lawyers Guild, campus unit of the Guild, on the ground that "it would be an improper interference with the freedom of our students."

OTHER CASES

The shifting nature of the scene in academic freedom can be seen by bringing together a number of miscellaneous cases. In settling a suit against Columbia University, it was stipulated that all members of the teaching staff holding regular positions acquired tenure after a year of service. At Rutgers, an institution with an otherwise fine record of academic freedom, a teacher was denied promotion and ultimately released from employment because he took an interest in the faculty pay scale; the administration admits that it has been at least partially at fault but offers no redress.

Suppression or restriction of materials for teaching or discussion groups has come to notice. Typically, in Pawtucket, Rhode Island, a high school principal suspended the chapter of a student group which had as its function the study of UNESCO. Principal McGeogh found no fault with the operation of the club, but held that UNESCO itself was under "atheistic control." His opinion, he said, was based on a finding in a R.I. Catholic newspaper. Protests by many civic groups and by the ACLU were unheeded, and the Board of Education unanimously approved the suspension. It should be noted that the Rt. Rev. Msgr. Hochwalt, General Secretary of the National Catholic Education Association, declared that he could not understand how "students' minds can be damaged by their studying UNESCO and its work."

In Englewood, New Jersey, allegedly under the influence of super-patriotic groups, the Board of Education set forth a series of regulations which would have amounted to virtually page-by-page censorship of teaching materials. Strong objections by sane community groups, by the American Federation of Teachers, and the ACLU led to the regulations being withdrawn.

Not all academic freedom issues are confined to the schools and colleges. The general public also has a stake in ideas, particularly in its typically American concern over the education of children through the reading of books. The ACLU interested itself in a situation in Sapulpa, Oklahoma, where a group of women earmarked books in the High School Library because of their objectionable treatment of socialism, or obscenity, or because they "used improper language in the treatment of ideas." The books were taken from the shelves and burned with the consent of school officials.
A conference on academic freedom was held in March 1952, under the joint auspices of the national ACLU Academic Freedom Committee and the New York Civil Liberties Union. At this meeting citations for distinguished effort in behalf of academic freedom were awarded to the Ohio State University Chapter of the American Association of University Professors (for its powerful protest against the Ohio State "gag" rule); to Look magazine, to the American Scholar and its editor Hiram Haydn, to the trustees of Sarah Lawrence College (for their defense of their institution against improper attacks by "super-patriot" groups), and to the "Group for Academic Freedom" at the University of California (for leadership in the attack on the California teachers loyalty oath).

ACLU POLICY STATEMENT

April 1952, witnessed the publication of a revised ACLU policy statement, "Academic Freedom and Academic Responsibility," prepared by the national Academic Freedom Committee; eight thousand copies of this statement have been distributed to trustees, administrators, teachers and student officers.

The policy statement notes that "it is precisely in time of crisis that it is valuable democratic strategy to encourage the presentation of contrasting viewpoints and to cause students to realize that they are free to draw such conclusions as they think wise. As a member of an academic community, and particularly as a teacher, the faculty member is free to present in the field of his professional competence his own opinions or convictions and with them the premises from which they are derived. It is his duty, on the other hand, not to advocate any opinions or convictions derived from a source other than his own free and unbiased pursuit of truth and understanding. Commitments of any kind which interfere with such pursuit are incompatible with the objectives of academic freedom."

In appraising teacher fitness, the pamphlet reaffirmed the ACLU policy that the central issue is the teacher's performance in his subject and his relationship with his students.

"The ACLU opposes as contrary to democratic liberties any ban or regulation which would prohibit the employment as a teacher of any person solely because of his views or associations, such as Communist or Fascist," the statement declared. "The ACLU does not oppose the ouster or rejection of any teacher found lacking in professional integrity."

In answer to persons who contend that teachers with anti-democratic beliefs or associations cannot be tolerated in public schools, the Union pointed out that there was no common agreement on definition of the terms "democratic" and "anti-democratic." "If we accept the views of dominant forces current at any one time or place, there will be no end to the tests imposed on the fitness of teachers," the pamphlet said. "What we do today to outlaw from teaching members of presently detested organizations creates the precedents by which all freedom of teaching can be destroyed. The ACLU stands
on the principles that it is far better for our democracy to run the calculated
risks of establishing freedom than to suffer the already proved dangers of
repression. . . . The harm done by a few teachers who might be undetected
in misusing their teaching positions for political or religious ends is far less
than the harm that is done by making teachers everywhere . . . less courageous,
and less independent in the pursuit of truth, more cautious and more sub-
servient."

The pamphlet also declared that "when not engaged in specifically pro-
fessional activities, the teacher should be able to function with the freedom
of any other citizen," joining lawful organizations of his choice and exercis-
ing freedom of expression.

Particular emphasis is given in the policy statement to the importance of
-guarding the academic freedom of students as well as that of teachers.

**Religion and Conscience**

**CHURCH AND STATE**

Civil liberties issues in religion involve either the constitutional prohi-
bition against the establishment of religion—church and state problems—
or the constitutional safeguard of the individual's right to religious belief or
non-belief. The first type of issue has been preponderant in the past thirty
months.

In the Zorach case, sponsored by several organizations among which was
the ACLU, the U.S. Supreme Court upheld the constitutionality of New
York's released-time program for religious instruction. The New York educa-
tion law allows children to be excused from regular classes, usually for one
hour a week, at the request of their parents in order to attend religious classes
outside of the public school. Justice Douglas, in the majority opinion, denied
that the program forced public school children into religious classrooms,
and declared that "when the state encourages religious instruction or co-
operates with religious authorities by adjusting the schedule of public events
to sectarian needs, it follows the best of our traditions."

The ACLU believes that the majority view does not take cognizance of
all the implications of this accommodation, and agrees with Justice Jackson,
who dissented along with Justices Black and Frankfurter, when he observed
that the school "serves as a temporary jail for a pupil who will not go to
church." Justice Black cited the McCollum case in which the Illinois system
was held unconstitutional, and said that the only question in the Zorach
case was "whether New York can use its compulsory education laws to help
religious sects get attendants presumably too unenthusiastic to go unless
moved to do so by the use of this state machinery."

The issue of religious exercises in schools remains confused. The U.S.
Supreme Court in the Doremus case did not pass upon the constitution-
ality of the New Jersey laws requiring the daily reading of the Old Testa-
ment in public schools and permitting the recitation of the Lord's prayer,
thereby leaving the laws in effect. The majority of the court held that the two taxpayers attacking the statutes had not shown enough injury for the court to deal with the constitutional issue involved. In a friend of the court brief, the ACLU had stated that the laws "aid one or more, if not all, religions and prefer one or some over others . . . to the extent that church services are being conducted in the public schools . . . the state is forcing or influencing children to go to them." It was stated during arguments on the case that Bible reading, either compulsory or optional, was a practice in 34 other states.

The ACLU believes that the practice objected to in the Doremus case represents more than a nominal imposition of religious practice within the school, and will seek to test the issue again.

The California State Curriculum Commission, conducting hearings on required Bible readings without comment, found "pronounced divisiveness" and concluded that such a practice "does not represent the recommendation of the general public."

Prayer Question

Prayers, as distinguished from readings, are probably more clearly impermissible in public schools. Acting upon a protest by Northern California ACLU, counsel for the San Francisco Board of Education held a prayer which referred to the "Lord Jesus Christ" to be sectarian. He said that ". . . the use of prayers by the Bible Clubs would be using the school building for 'religious' purposes rather than for the 'moral' questions expressly permitted."

The New York State Board of Regents, in November, 1951, formulated a "non-sectarian" prayer for permissive use in the schools. By April, 1953 only 300 out of 3,000 school districts in the state had adopted the prayer. The New York City Board of Education ran into strong pro and con feeling; as a compromise it was ruled that each class day would open with the salute to the flag, followed by the fourth stanza of "America"—which is addressed to God.

An important victory for civil liberties was established in the New Mexico Dixon case, a victory particularly significant because it properly separated church and state interests while at the same time it defeated religious prejudice. The ACLU filed a friend-of-the-court brief on an appeal to the New Mexico Supreme Court, opposing the position of the Free Schools Committee of Dixon, N.M., which sought to have all members of Roman Catholic religious orders categorically barred from public school teaching, and agreeing with the Committee's stand that the wearing of religious garb by public school teachers, an active demonstration of religious belief, should be forbidden.

The Union's objection to categorical exclusion rests on the ground that it is improper to assume a teacher to be doctrinaire because of his membership in a religious or any other lawful organization; the test must be made on his own record of commitment to external discipline—or his freedom from commitment. New Mexico's highest court agreed with the ACLU on
both questions. The court also ruled that the furnishing of textbooks and free transportation for parochial school attendants was in violation of the state constitution, that teaching of sectarian religion must be barred from public schools, and that certain teachers who had taught religion in doctrinaire fashion could not teach in the public schools.

A like case has come up in Lima, Wisconsin, as part of a situation which has caused uneasiness for more than fifteen years. In 1937, the Sacred Heart School of the Holy Rosary Catholic Church in Lima was reorganized as a public institution, with a public elementary school operating on the ground floor, and a parochial high school on the second floor. Subsequently, five public schools have been merged with the Lima school. Catholic nuns, wearing religious garb, teach in the public school classes, and number five among the total of seven teachers. Now, William C. Fox, who describes himself as a "no denomination" Protestant, has refused to send his sons to the Lima school and has been charged with violation of the state compulsory education law. Elsewhere in Wisconsin, the State Schools Superintendent has cut off state aid to 14 schools which he found to be selecting teachers on the basis of a "religious" test, or indoctrinating students in religion.

In Pierz, Minnesota, a school bond issue was voted down. Thirty-one students whose parents do not wish to send them to a parochial high school will probably be given their high school education in the Pierz elementary school.

Multiple Complaint

A multiple complaint against improper church-state relationship is found in the suit brought by Mrs. Dorothy D. Larson against certain Illinois education officials. It is charged that the Johnsburgh Elementary School is listed in the official Catholic Directory as a parochial school, although operated exclusively by state money, and that all the teachers wear religious garb. It is said that textbooks are sectarian, the rooms are decorated with religious symbols, and school time is devoted to the study and recitation of Catholic prayers. The Chicago division of the ACLU is supporting the action exclusively on the church-state issue.

The issue raised by the famous Everson case came up again in Washington. A joint resolution in the state legislature calling for a referendum on the free use of buses by parochial and private school children, was defeated by a narrow margin. Permissible use of buses by non-public school students, established as constitutional by the Everson case but unconstitutional under the Washington Constitution, was in this instance again denied by legislative decision.

The close relationship of churches and schools in our society is paralleled by that between churches and government-aided hospitals, and the same type of sectarian intervention exists as a threat to the separation guaranteed by the First Amendment. St. Francis Hospital, in Poughkeepsie, N.Y., although a Catholic institution, has received over half a million dollars in federal aid,
and is to some degree a public utility as one of the two hospitals available to the public of the community. The hospital demanded that seven members of its medical staff sever their connection with the Planned Parenthood Association, which distributes information about contraception; no charge was made that any of the doctors actually gave such information at the hospital. The ACLU, in a letter by Executive Director Patrick Murphy Malin and General Counsel Arthur Garfield Hays, protested this discriminatory action, which denies the right of persons to associate in proper and legal activity; it also pointed out that the acceptance of patients on a non-discriminatory basis appears to contradict discrimination against members of the staff. Some months later the hospital withdrew its demand against the doctors involved.

**Talk Cancelled**

In another instance, the coordinated forces of religion unmistakably saved the day for free speech. Professor Theodore Brameld of NYU was scheduled to speak in Red Bank, New Jersey, under the auspices of the Board of Education. Loose charges of association with "Un-American" groups led to cancellation of the sponsorship, but the Red Bank Ministerium, a group of clergymen and "Y" leaders, gave sponsorship which permitted the talk to be given. The ACLU commended the religious group, particularly the Ministerium's statement that it believes "in the American historical principle that a man is innocent until proven guilty by due process of law."

A number of important child custody cases have raised the question of the degree and manner in which the state should give weight to religious elements in domestic relationships. The NYCLU has intervened on behalf of Mrs. Ann Strasser DeCarava, who lost custody of her six-year-old daughter to Mrs. DeCarava's mother, Mrs. Molly Portnoy. Asserting that freedom of opinion and religion, as well as racial discrimination were involved, the NYCLU asked the New York State Court of Appeals to decide to what extent such issues should govern custody rulings. The NYCLU brief declared "Surely it can be no ground for depriving a mother of her child that, as is alleged in the (grandmother's) petition, 'her present husband is of a race and religion different from that of the infant.'" The highest state court supported the NYCLU position.

In the other chief area relating to the constitutional position of religion, the area of freedom of belief and practice, two significant cases have involved the Jehovah's Witnesses sect.

Jehovah's Witnesses were denied a meeting hall in Marysville, California. The Yuba County Board of Supervisors cancelled a contract by which the Witnesses had rented the town's Memorial Auditorium for a conference. The cancellation followed protests that the hall should not "be the convention scene for a group who refuses to salute the American flag," and direct intervention by the Veterans of Foreign Wars which later sought to rent the hall for the contracted dates. The Yuba Board called off its agreement with the
Witnesses on the ground that policy gave priority to veterans organizations. The American Civil Liberties Union of Northern California charged discrimination in a letter to the Yuba board saying "We do not question the board's right to make reasonable rules, but we do challenge [its] arbitrary action."

In the Niemotko case, the U.S. Supreme Court in a unanimous decision held unconstitutional the practice of requiring permits for religious meetings in a Maryland city park without any law to support the practice and without any standards for the granting or denial of a permit. Chief Justice Vinson pointed out that the refusal to grant the permit in this particular case was also a denial of equal protection, as it was based solely on the City Council's dislike for the views of the group of Jehovah's Witnesses who wanted to hold the meeting in the park at Havre de Grace, Maryland.

Carl Jacob Kunz, a New York City street preacher, continued to furnish constitutional problems. He was originally denied a license because his utterances were allegedly inflammatory, but in 1951 the U.S. Supreme Court ruled 8-1 that the criteria for such licensing were too vague to be constitutionally permissible. Now, in April, 1953 the Court has ruled against Kunz in another case.

Talking in the New York midtown area, Kunz drew a large crowd, which overflowed into the street, obstructing traffic movement. The police, instead of clearing the traffic lanes, arrested Kunz for disorderly conduct. (Similar overflow at theatre premieres, etc., has led to regulation of the audience, and not to arrest of the person causing the interest.) The New York Civil Liberties Union carried the case to the U.S. Supreme Court, which refused to review, Justices Black and Douglas dissenting. The Court apparently rejected the ACLU views that the police have simply found another way to suppress a speaker they do not like, and that Kunz is suffering from a hostile discrimination not applied to other collectors of crowds.

The ACLU of Northern California handled another case involving a federal court determination. Wladyslaw Plywacki was denied citizenship by District Judge McLaughlin in Hawaii because Plywacki, an admitted atheist, could not take the oath of allegiance which includes the phrase "so help me God." The Government admitted, on the appeal before the U.S. Court of Appeals in San Francisco, that the decision below had been in error.

The ACLU received inquiries from several members and affiliates about the organizational position on the appointment of an ambassador to the Vatican. The Board of Directors, after study of the question, reaffirmed the decision made in 1950 that the Union should take no position on the contemplated appointment because the matter does not involve a civil liberties issue.

CONSCIENTIOUS OBJECTORS

The continuing draft of men into the armed services and the general "war consciousness" has not, contrary to expectations, led to heightened public
disapproval of persons whose beliefs and principles stand in the way of their serving. Some courts, however, have imposed unusually heavy sentences.

The statistical picture on conscientious objectors (exclusive of Jehovah’s Witnesses cases and Muslims), for the period January 1, 1951 to July 1, 1953, was as follows: 152 men were tried, 16 acquitted, and 136 convicted. Four convictions in this period sent to prison men who had already served a term of punishment under the 1948 Selective Service law. One of these four men also served a term under the 1940 law. Seven “prior conviction” cases are pending in the courts.

CO Figures

The above figures have been released by the Central Committee for Conscientious Objectors, in Philadelphia, the chief coordinating agency for this problem. This organization works with sixty local and regional committees.

Conscientious objectors, meeting trouble, fall into four main classes:

1. Some individuals who take the extreme position that their religious beliefs preclude even the first step of registration, thereby making classification impossible, received jail sentences. Some of this group were fortunate enough to be registered automatically under the Selective Service Regulations. A 1949 Department of Justice circular accepting an ACLU recommendation, authorized and directed United States Attorneys to register persons refusing to submit to registration. Unfortunately, several U.S. Attorneys at first misinterpreted the ruling, either by holding that they possessed discretion or by holding that automatic registration was the function of the Selective Service officials.

The ACLU does not consider the draft law to be an invasion of civil liberties, nor do we attack prosecutions for failure to register.

2. A second group, also religious objectors, encountered difficulty in getting the proper classification after they had registered. They sought either I-A-O (non-combatant military service), or IV-E (non-military alternative service, now class I-O).

Jehovah’s Witnesses, all of whom consider themselves ministers, insisted upon classification in IV-D (minister of religion or divinity student) with consequent complete exemption. The Selective Service view is that a minister is a person ordained in a sect who devotes a large part of his time to religious work; this definition does not include Witnesses who are not formally ordained and whose religious work is incidental to other chief occupations. The result has been imprisonment for a considerable number of Jehovah’s Witnesses, of whom some 99 are serving sentences, as of May, 1953.

4. No provision has yet been made under the law for conscientious objectors who refuse service on philosophical or rational grounds not involving the required belief in a Supreme Being. The position of such objectors, lacking support by a sect or organized church, is particularly lonely. Occasionally such objectors have been recognized by their local boards as essentially “religious” but most have been prosecuted.
All types of conscientious objectors have become disturbed by the increasingly large number of maximum five-year sentences imposed on non-registrants, and on those who opposed induction after refusal of a IV-E (I-O) classification.

Robert Michener, a Quaker boy of 19, refused to register and was given a year's sentence. After serving his time, he was called again and was automatically registered by his draft board—but as I-A. Further refusal to report for induction and examination led to conviction and the imposition of two five-year terms, one to follow the other. This was the harshest sentence ever given to any Selective Service law violator, and led to protests from many sources; the ACLU intervened on behalf of the defendant and the judge ordered the terms to run concurrently.

In the Doty family, four brothers were sentenced for non-registration, carrying on the tradition of their father, who was a World War I conscientious objector. At prison they refused to work, because they did not wish to participate in the maintenance of their own imprisonment. This led to solitary confinement, but eventually they were transferred to another place under less severe punishment. They have now been charged with further Selective Service law violations.

**State Level**

At the state level, two bills aimed at penalizing conscientious objectors, particularly the pacifist Hutterites, failed to pass in 1951. Governor Bonner of Montana vetoed a measure making these objectors, even if they agreed to serve in CO camps, subject to fines up to $5,000 and imprisonment up to five years. An anti-Hutterite bill in South Dakota passed the House but failed in the Senate.

ACLU activity on behalf of conscientious objectors has been chiefly directed toward obtaining for them (while they are under government authority) work of non-military but socially useful nature, and toward obtaining more favorable means of parole for men already imprisoned. Conferences have been held with the Attorney General on the latter point.

The continuance of selective service and the emphasis on national security, especially in light of the Korean War, led to new consideration by Congress of a universal military training program. In a statement issued in February 1951, the Union reiterated its non-opposition to the draft and its objection to UMT. The Union said:

"The ACLU has consistently taken the position that government conscription of individual lives is a complete denial of what ought to be a basic civil liberty. Conscription for war or preparation for war raises special problems because it constrains some men to do that to which they are opposed by religious or philosophic conviction.

"However, the grim facts of our troubled times have compelled the Union to recognize the imperative claim imposed upon us all
by the necessity to maintain our national security. In time of war or under imminent threat of war, it has seemed generally evident to our citizens that the fairest and most efficient way to provide military forces is by means of conscription and the assignment of men through Selective Service.

"Hence, the ACLU did not oppose the draft law which was adopted in 1940. In 1945, it felt that the case for compulsory military training as essential to national security was by no means strong enough to override the grave objections to conscription in the name of liberty. This fact it set forth in its resolution of that year, which it reaffirmed in 1947.

"Although we now face a very different set of facts and problems than in 1945 or 1947, although peril to national security is great and imminent, and although clearly it lies beyond the competence of the ACLU in the name of freedom now to oppose measures for selective service which in earlier emergencies it has accepted, it does have a right to ask three things:

"1. In the current emergency which may require conscription, the present Selective Service Law should be revised to give more generous protection to the rights of conscience. The sincerity of conscientious objection should not be judged by the test of a religious formula so narrow as to exclude ethical or humanistic beliefs. A way should be found as in Great Britain during the Second World War to permit sincere objectors to render useful service to society rather than to confine them in jails.

"2. Everything possible should be done to make it clear that conscription is an emergency measure. We believe that an extended Selective Service law should not be accompanied by a universal military training law. The latter, in the light of history, would seem far more likely to create a spirit of militarism hostile to democratic liberties, to prepare the way psychologically for totalitarian practices, and to become accepted as a regular feature of education, even in times of peace. Selective Service is obviously intended for a particular emergency, even if it should be made very comprehensive. Man's ability to abandon conscription will be a measure of his capacity to maintain both peace and freedom.

"3. Everything possible should be done by Congress to eliminate the remaining racial discrimination in the armed forces."

After a spirited anti-UMT campaign by numerous organizations and individuals, Congress turned down the UMT bill. In August 1953, President Eisenhower named Major General Julius Ochs Adler, Dr. Karl T. Compton and Warren Atherton to the National Security Training Commission and asked the Commission to study the "feasibility and desirability" of a UMT program.

Another novel case reached the U.S. Supreme Court. Two persons, Nugent and Parker, who alleged that they were conscientious objectors, had been
denied the draft classification they sought during appellate administrative proceedings under the Selective Service Act, granted to alleged C.O.'s but not to other draft registrants. The final decision in their case was based upon a Justice Department recommendation which in turn was based upon the contents of FBI reports which had not been disclosed to them. The U.S. Supreme Court rejected the contention that the Selective Service Law gave the right to such registrants to be confronted with such FBI reports and rejected the further contention that the denial of such a right was a violation of due process of law.
JUSTICE AND DUE PROCESS

Legislative Committee Problems

MANDATE AND METHOD

During the past three years tremendous public controversy has raged over the methods of investigations conducted by congressional committees. The ACLU has made many general and specific protests and recommendations.

On the general question of the mandates given the committees by Congress, the ACLU recognizes the necessity of congressional inquiry directed toward the getting of information for the framing of legislation. For this reason, it has not opposed the appointment of such groups as the Senate Subcommittee on Internal Security (dealing with subversive acts), the Senate's Permanent Investigating Subcommittee of the Government Operations Committee (dealing with the spending of federal money), and the Kefauver Committee on Interstate Crime. On the other hand, the ACLU has continued to protest the mandate given the House Un-American Activities Committee because of its emphasis on propaganda, as distinct from acts, and the vagueness of the term "Un-American." In May 1953 the Union again publicly warned the Committee that: "Investigation of alleged illegal acts, or other matters over which Congress has constitutional power, is one thing; an inquiry directed solely at political opinions and associations, which are lawful and over which in themselves Congress has no power—however abhorrent they are to you and to us—is quite another thing." Also, as indicated in the Freedom of Expression section, in discussing Senator McCarthy's invasion of newspaper and overseas library freedom, the Union has protested both the unauthorized scope of some of the inquiries conducted by the Senate's Permanent Sub-Committee on Investigations and the unwarranted conclusions drawn from information obtained.

With regard to the specific question of committee methods, the Union has often had to object, on due process grounds, to questions carrying implications which cannot adequately be countered by the witness. It objected several times, on due process grounds, to the intolerable behavior of the Senate Sub-Committee on Internal Security under the former chairmanship of Senator McCarran. An instance of such behavior was found in the investigation of the Institute of Pacific Relations, accused of being under Communist control and improperly influencing U.S. Far Eastern policy. ACLU Executive Director Patrick Murphy Malin, taking no stand on the evidence itself, urged Senator McCarren to allow counsel for the IPR to cross-examine witnesses and to have access to the Institute files, which were held in exclusive custody by the Committee.

Improved hearing procedures have been noted in that sub-committee, under the present chairmanship of Senator Jenner; in Senator McCarthy's sub-committee; and in the House Un-American Activities Committee, now
chaired by Congressman Velde. The latter, however, must be severely criti-
cized for first making, and then delaying his retraction, of an untruthful
charge against Mrs. Agnes Meyer (prominent writer and wife of the publisher
of the Washington Post), after she had attacked him. He charged that she
was a former contributor to a Soviet publication, and only grudgingly
acknowledged the truth of her immediate denial and demonstration that it
was another woman.

The matter arousing the greatest public interest in the House Un-Ameri-
can Activities Committee was that of G. Bromley Oxnam, Bishop of the
Washington Area of the Methodist Church, former head of the Federal Coun-
cil of Churches, and a member of the ACLU’s National Committee. This
followed the announcement by Congressman Velde, shortly after assuming
the chairmanship, of what was generally interpreted as an intention to in-
vestigate the churches, although the committee insisted it was probing indi-
vividually, not the clergy per se. Oxnam participated in the widespread protest,
and then was charged on the floor of the House (by Congressman Jackson,
a member of the Committee) with serving God on Sunday and Communist
fronts the rest of the week.

Inaccurate Files

In demanding a hearing, Oxnam pointed out that he had often been
accused of Communist affiliations by various individuals and groups who
based their attack upon information disseminated by the House Committee.
Oxnam charged that this information from Committee files was inaccurate,
incomplete and thoroughly misleading; it had cited the Daily Worker as
gospel, and had failed to show all the anti-Communist work that the Bishop
had done. He proposed that no references should be made in such files to
organizations not listed by the Attorney General; that membership in organi-
zations before they were so listed should not be mentioned; that an individual
should have the right to review his own file and submit any evidence he
desired to, which would be released with the other information; and that
Committee files should not be released other than to members of Congress
and the individual concerned and only after thorough investigation and sub-
stantiation and upon majority vote of the Committee.

The hearing was granted, and was held during the afternoon and evening
of July 21, 1953, being attended by the largest audience for an investigating
committee since the Hiss-Chambers confrontation. The almost universal
judgment was that Bishop Oxnam not only was magnificently successful in
presenting his own case against the Committee’s methods, but also delivered
many telling strokes for civil liberties in general. At the end of the hearing,
the Committee unanimously cleared him of any connection with the Com-
munist Party, but divided along strict party lines in deciding on whether
he had ever been unwittingly connected with Communist fronts, the Demo-
crats voting to clear him of this and the Republicans refusing to do so.
(Oxnam and Congressman Jackson are going to review the hearing record
when it is prepared, in relation to the possibility of the apology suggested by
the former of the latter.) Before the hearing, the Committee had announced
an amendment of its procedures restricting the furnishing of its file infor-
mation to members of Congress and investigative agencies.

As Congress began to demonstrate to itself that investigations could be
carried on efficiently under fair procedural rules, eleven U.S. senators, led by
Senator Kefauver, had proposed such a code in 1951. In 1953, bills providing
for such fair procedures were introduced by Senators Kefauver, Morse and
Lehman as well as by Representative Keating, whose own committee in-
vestigating the Department of Justice adopted a code. Hearings have already
been held by the House Rules Committee on the problem of adopting such
a code, and will continue in late 1953. The ACLU has urged that the Senate
Rules Committee take similar action. ACLU recommendations can be sum-
marized briefly as follows: (1) A person should have the right to defend
himself, including the right to testify in his own behalf; to present other
evidence in his own behalf; to subpoena witnesses, both for and against him;
to cross-examine his accuser within reasonable limits; to file a statement in
his own behalf; to have the opportunity to be accompanied and advised by
counsel; and to receive advance notice of the charges against him, insofar
as possible, (2) Only relevant questions should be addressed to a witness,
(3) A witness is entitled to a transcript of his testimony or other individuals’
testimony affecting him, (4) Statements should be released by a committee
only with full committee approval.

Unusual Case

One unusual case arose when a Treasury official, Dennis W. Delaney, was
indicted for a criminal offense, and a congressional investigation subsequently
stirred up nation-wide publicity against him. The U.S. Circuit Court of Appeals
in Boston held that Delaney, under these circumstances, was entitled to an
adjournment of trial to lessen the danger of prejudice. But after the adjourn-
ment had been granted, Delaney pleaded guilty, thus closing the case.

A more complex case arose in California. For some years, the Un-Ameri-
can Activities Committee of the state legislature issued reports which listed
persons and organizations which it believed to be “subversive.” The reports
were often inaccurate and offensive, because of the indiscriminate manner in
which conclusions were based upon a mere listing of memberships or indica-
tion of associations. William Brandhove circulated literature attacking the
Committee and was called before it; he sued the Committee, charging viola-
tion of his civil rights in that, he maintained, he was forced to appear because
of his attacks and not because legitimate information was sought. The U.S.
Supreme Court, by an 8-1 decision, upheld the Committee on the ground
that the Civil Rights Act was never intended to make legislators liable. This
case clearly indicates the need for the adoption of proper procedural rules
by legislative committees themselves, as indispensable democratic policy.
THE FIFTH AMENDMENT ISSUE

A major controversy growing out of legislative hearings involves the claiming by witnesses of the constitutional privilege against self-incrimination under the Fifth Amendment. At first, congressional committees rode roughshod over these claims, but when the courts began to acquit almost every person cited for contempt in claiming the privilege, contempt citations became few and far between. The emphasis shifted, and persons raising the privilege often were discharged from their positions—as teachers, U.N. employees or motion picture writers—solely because they had claimed the privilege.

As congressional committees began to find their inquiries hampered by the frequent invoking of the privilege, Senator McCarran introduced a bill which would give committees the power to grant immunity from prosecution to witnesses called upon to testify as to self-incriminating matters. Such immunity would deprive a witness of his right to invoke the Fifth Amendment. Objections were immediately raised to the bill, both by government law enforcement officers, who claimed that this would mean that congressional committees could give witnesses an "immunity oath" freeing them from prosecution for criminal offenses; and from the ACLU, which claimed that the granting of immunity could not go far enough, since it has not been established yet that Congress could grant immunity to witnesses which would save them from prosecution under state criminal laws. The bill was passed by the Senate, though amended to give either Congress or the Attorney General a veto power over the grant; it has still to be considered by the House. Lost in all the furor was the fact that one reason that witnesses frequently "clam up" completely and refuse to testify to even obviously innocent details of a possible crime, was a decision by the U.S. Supreme Court in the Rogers case, which held that a witness must raise the privilege against self-incrimination the moment any question is asked, even about innocent details of a possibly criminal matter, or he will be held to have waived his right to refuse to answer any subsequent connected question.

As an aftermath of the Kefauver investigation, Congress enacted a law to require gamblers to register with the government and pay a gambler's tax. Since such legislation might well mean incrimination under state laws, a test (Kahriger) case was brought. The Supreme Court, by a 6-3 decision, upheld the constitutionality of the law. Apparently the privilege against self-incrimination under the Constitution does not protect persons from criminal prosecution under state law.

Executive Department Procedures

A time of threatened national security places great strain on due process, especially because extraordinarily burdened executive officials are often tempted to exceed their powers which, in many cases, emanate from new and vague laws, enacted with insufficient respect for established constitutional safeguards. What principles seem to control those executive officials? What violations of due process have occurred, and how numerous are they?
THE FBI — DEPARTMENT OF JUSTICE

A heartening expression of principle is to be found in an article, "Civil Liberties and Law Enforcement: the Role of the FBI," by J. Edgar Hoover, Director of the Federal Bureau of Investigation, appearing in the Winter 1952 issue of the Iowa Law Review. Mr. Hoover says:

"The Constitution provides a framework for a government of law—and under it both civil liberties and law enforcement derive their meaning. . . . Law enforcement is a protecting arm of civil liberties. Civil liberties cannot exist without law enforcement; law enforcement without civil liberties is a hollow mockery. They are parts of the same whole—one without the other becomes a dead letter. . . . Law enforcement may be likened, in correct analogy, to a vast umbrella, sheltering the citizen and the state from the attacks of the criminal. . . . Law enforcement, however, in defeating the criminal, must maintain inviolate the historic liberties of the individual.

"Here is the very heart of the problem: the vital necessity of having men and women in law enforcement who hold inner allegiance to the principles of democracy and perform their duties in a completely legal manner. There have been abuses—that cannot be denied. But these are the symptoms of a dying school in law enforcement, of the poorly trained officer who lacks the technical know-how to compete with the criminal. Year after year these abuses are decreasing; the modern-day officer feels no need to stoop to dishonorable methods."

Violation of these principles by FBI practice seems to be happily infrequent, but a clear error was made in the Coplon case. The defendant was arrested without warrant, and in the New York trial the U.S. Court of Appeals held that the case fell within the category of those where arrest without warrant has been held to be justifiable. While the case was at trial, the telephone conversations of the defendant were allegedly wire-tapped, even to the grossly improper point of listening in on conversations between the defendant and her counsel. Furthermore, files which should have been made available to the defense were kept secret.

In another (non-FBI) case, Immigration officers, working with local police, are alleged to have broken into the homes of several persons in Dover, New Jersey, in their quest for ship-jumping aliens. In response to a protest by the ACLU, an investigation of this allegation was made by Justice Department officials; the Department denied that illegal acts took place, but admitted that better order and less roughness would have been desirable, and informed the ACLU that officers now receive a carefully worked out set of instructions which will cover such operations.

At this time, the general picture appears to be one of sincere and careful observance of the rights of due process. By contrast, in the "Palmer raid" days of the 1920's, bundles of telegraph warrants were sent out from Wash-
ington hours after hundreds of persons had been arrested, and defendants were paraded through the streets in handcuffs. The improvement in procedures does not, however, offset the violations of civil liberties in the deportation of aliens, under the McCarran Act, on grounds of political opinion.

THE LOYALTY AND SECURITY PROGRAM

The chief defect in the old loyalty program, carried over into the new security program, was the failure to require that an informer against an employee testify before the person he accused and be subject to cross-examination. While the Union recognized that an exception may be made if the informant is a counter-espionage agent or the like, it urged that provision in such cases should be made for the security board to do the cross-examining itself in the absence of the employee. The present practice of often keeping the informant's identity secret even from the security board itself frequently makes an employee completely unable to refute the attack against him. But, unfortunately, the U.S. Supreme Court has upheld this practice of concealment, even in cases where the employee's continuance in government employment does not reasonably present a danger to the national security.

Dorothy Bailey, a Department of Commerce employee, was dismissed on the charge that she had been a member of the Communist Party. She denied the charge vociferously and presented the Loyalty Review Board with a continuous record of having fought Communism. The Board did not even know who her accusers were. All it knew was that the FBI had certified them as reliable. She was discharged from employment. The U.S. Court of Appeals in Washington, D.C., held that she did not have the right to confront and cross-examine her accusers. The Supreme Court split 4-4 on the question, thus leaving in effect the decision of the Court of Appeals.

In the spring of 1952, the ACLU protested to the Loyalty Review Board the "leaking" to Senator McCarthy of secret information about a government employee, pointing out that the employee had been denied that information. The person said to have been responsible for the leak has been transferred to a different job.

PRESIDENTIAL SEIZURE OF INDUSTRY

The controversy about the seizure of the steel industry by President Truman in 1952 brought forth a strong statement by the ACLU. The Union recognized that it could not properly consider the merits of the wage dispute, the policy that should have been followed by the President or Congress within existing powers, or the express or implied powers of the President which might be controlling. The ACLU insisted strongly that the laws of the land could not be set aside because of this emergency or invaded by a claim to "inherent" or "residual" presidential powers. "The Constitution is the basic organic element in that rule of law," the Union said, and "the central concept of the Constitution is that our government has only 'limited, enumerated, and delegated powers.'" The Supreme Court ruled the seizure illegal.
STATE AND LOCAL ACTIONS

On the state level, a major administrative violation of due process occurred when the New York Board of Regents suspended the licenses of two physicians and censured a third because they had been convicted of contempt of Congress, a crime not involving moral turpitude. ACLU contended that suspension and censuring on a charge completely unrelated to their ability to practice medicine, and not involving moral turpitude, was unreasonable and amounted to a violation of due process of law. The New York Court of Appeals, in a 6-1 decision, disagreed with the ACLU, which had filed a brief as friend of the court. The case has been appealed to the U.S. Supreme Court.

In November 1950, the then acting Mayor Impellitteri ordered a pre-election roundup of so-called "hoodlums" under New York State's Vagrancy Law. Six hundred and fifty-two persons were arrested; five hundred were tried for vagrancy and only three convicted. A typical victim who was employed in a dress factory and earning $250 a month, filed suit charging "malicious arrest" and asked $50,000 in damages. Many prominent citizens and organizations, including the ACLU, protested vigorously against the vague and uncertain wording of the law, claiming that it violates constitutional provisions against involuntary servitude and deprivation of liberty without due process of law. The New York Civil Liberties Union brought a test case, which first went up to the New York Court of Appeals on procedural questions, which were resolved against it. The case is now pending again in a New York Supreme Court.

Judicial Processes

THE ROSENBERG CASE

A case which aroused great national and international interest was that of Ethel and Julius Rosenberg, tried and convicted for conspiracy to commit espionage in transmitting the secret of the atomic bomb in wartime to our then-ally, Soviet Russia. Judge Irving Kaufman imposed the death sentence, rather than the alternative maximum 30-year sentence, because he believed their crime to have been worse than murder.

The ACLU examined the briefs filed by counsel for the Rosenbergs on their appeal to the U.S. Court of Appeals in New York, but found no valid civil liberties points raised therein. When the Supreme Court refused to review the conviction, the only question left for the ACLU was whether or not there was any violation of civil liberties involved in the death sentence. The Board held that there was none, and issued the following statement:

"The explanation is presented in the form of the contentions made by proponents of commutation of the death sentence, and the American Civil Liberties Union's reasons for rejecting them as grounds for civil liberties action."
1. It is argued that the sentence of death for espionage is unprecedented. Assuming this, the sentence is not so disproportionate to the severity of the crime as to amount to a denial of due process.

2. It is argued that the sentence was motivated by political and/or religious considerations. There is no evidence to substantiate these contentions.

3. It is argued that the defendants received unequal treatment because other persons involved in the same conspiracy were given lighter sentences. But one of those other persons, Klaus Fuchs, did receive the maximum sentence possible under the laws of his country; and all of them turned State’s evidence, thus providing a reasonable basis for different sentences.

4. It is argued that since the Rosenbergs might have been given a lighter sentence had they been tried at the time of their commission of the crime, when the United States and Russia were allies, civil liberties would be violated were the sentence carried out now. But the conspiracy was found to have continued during at least the beginning of the cold war, and the trial judge also had a reasonable basis for consideration of present world circumstances, in evaluating the seriousness of the results of the crime committed several years earlier.

5. It is argued that the defendants are entitled to special consideration because their children would be left orphans. The President should consider this factor in line with the established practice in other commutation cases, but it does not present a civil liberties issue.

6. It is argued that world opinion will consider this sentence ‘barbaric.’ This is a question of international policy, not of civil liberties.”

The Rosenbergs’ attorneys then moved for a new trial, on the ground that perjured testimony had been knowingly used by the prosecution; the allegations were found to be without substance by Judge Kaufman, the Court of Appeals affirmed, and the Supreme Court twice refused to review. Another move for a new trial was made, this time on the basis of newly discovered evidence; but this too failed. On the virtual eve of the execution, two attorneys who represented an outsider secured a last minute stay of execution from Justice Douglas on the claim that the wrong law had been used in sentencing the Rosenbergs. The full Supreme Court, which had just adjourned for the summer, was called into special session; and, after hearing argument, by a 6-2 vote, ruled the contention invalid. The Rosenbergs were executed that same night. The ACLU found no civil liberties violations at any of these later stages.

One aftermath of the case was the attempt of Congressman Wheeler to have Justice Douglas impeached because of the stay of execution he had granted, though the Supreme Court had unanimously agreed that Douglas
was within his rights in issuing the stay. A hearing was promptly held by a sub-committee of the House Judiciary Committee, which in its report rebuked Congressman Wheeler for his failure to understand the judicial function.

**THE LATTIMORE CASE**

The Owen Lattimore case, an outgrowth of the Senate Sub-Committee on Internal Security probe of the Institute of Pacific Relations, is still unsettled after more than three years. Charged by Senator McCarthy in 1950 with being the top Soviet espionage agent in the United States, Lattimore was originally cleared by the Tydings sub-committee of the Senate Foreign Relations Committee. The Senate Internal Security Sub-Committee, however, investigated the charges once more in 1952, questioning Lattimore for a 13-day period. The result was a perjury indictment, of which the first and major count was that Lattimore had lied in saying that he had never been a sympathizer or promoter of Communism or Communist interests. It has been dismissed by Federal District Judge Luther Youngdahl, who held that it violated the Sixth Amendment because it did not sufficiently inform Lattimore of the nature and cause of the accusation against him, and also violated the First Amendment since it involved merely "a speculation of the uncertainties of the human mind." Two other counts, involving Lattimore's knowledge of whether certain persons were Communists, were thrown out on the ground that the word "knowledge" was subject to the same uncertainties as the first count of the indictment. Another count was dismissed because it was inconsistent and indefinite. Three other counts were allowed to stand, at least temporarily, and a bill of particulars granted as to three of them. The trial on the merits may not be held for a long time since the government plans first to appeal from those parts of the decision on the indictment which were adverse to it.

Ever since the indictment was returned, the Union—in accordance with its standard procedure—has followed the case continuously and carefully with regard to the possible involvement of civil liberties, which are the Union's sole concern. The case was considered on several occasions, and will be further studied at each new stage. Action by the Union, as in every case, will unavoidably be affected, as has been true so far, by the technical legal position at which the case stands at any given moment.

**THE REMINGTON CASE**

William W. Remington, former Department of Commerce employee, was convicted of perjury in denying past membership in the Communist Party before a federal grand jury. After the U.S. Court of Appeals in New York reversed the conviction and ordered a new trial on the ground that the definition of membership in the Communist Party given by the trial court to the jury was too vague, and the Supreme Court refused to review the case, the U.S. Attorney did not proceed to a new trial under the original indict-
ment, but instead secured a new indictment of Remington for perjury in denying certain specific details of his alleged Communist Party membership at the first trial. ACLU characterized this as harassment, pointing out that it meant possible unlimited prosecutions in that persons could be continuously prosecuted for perjury in denying they had committed perjury, and that this in every moral sense constituted double jeopardy. But the second-indictment trial proceeded to a conviction of Remington on several counts. An appeal is being taken in which the double jeopardy argument can possibly be raised once more.

The Remington case also involved another question. Remington, in his appeal to the U.S. Court of Appeals, contended that due process had been violated because the foreman of the grand jury which indicted him had a financial interest in a book written by one of the government witnesses against Remington. But the Appeals Court held that Remington's objection could not stand unless he could show that the relationship complained of had affected the finding of the grand jury. The ACLU is disturbed by this ruling, which requires that a defendant must go beyond discovering the existence of a situation where harm may be done, a principle established in law, and must actually show that he has been harmed.

THE BRIDGES CASE

A second celebrated case involving possible double jeopardy was the prosecution of Harry Bridges for perjury in having denied past membership in the Communist Party in naturalization proceedings. Bridges was convicted, and the conviction was affirmed by the Court of Appeals at San Francisco. ACLU charged that this prosecution, one of several proceedings against Bridges over a 10-year period, amounted to an undue harassment of Bridges in violation of due process of law, since Bridges had already twice been the subject of two administrative proceedings brought against him by the government in both of which the government had failed in its attempt to establish that Bridges was a member of the Communist Party. The case went to the U.S. Supreme Court, which, in a 4-3 decision, reversed the conviction on the ground that Bridges' prosecution had been barred by the statute of limitations, but specifically refused to rule on the double jeopardy point. The three dissenters, however, did reject the double jeopardy argument, pointing out that there had never been a court holding that Bridges had not been a Communist, and that Bridges had not been criminally prosecuted before.

LAWYERS' CONTEMPT CASE

The Dennis case, discussed at page 43 of this report, also resulted in the conviction for contempt of court of lawyers who had represented the defendants (the Sacher case). The conviction was summary and without notice or hearing to the lawyers, and by the same trial judge against whom they had committed contempt. The case was appealed to the U.S. Court of Appeals
in New York, which held that while the conviction for having formed a plan to undermine the judge's health could not be sustained, the conviction for contemptuous conduct in the courtroom must be sustained. The case went to the U.S. Supreme Court, which at first refused to review, then reversed itself, granted review, but finally decided by a 5-3 vote to affirm the conviction below. ACLU had contended that under the circumstances of this case, the attorneys were entitled to notice of charges against them and were also entitled to be tried by a judge other than the one against whom they had committed the contempt.

OTHER COURT CASES

The Chicago Division of ACLU has entered a friend of the court brief in the case of several Illinois petitioners charged with contempt of court for having sought the appointment of a special prosecutor in a criminal case. Nelson O. Howarth, LeRoy Clapper, Alan Wyneken, and 578 other persons petitioned circuit Judge Frank S. Bevan to appoint a new prosecutor in the case of the State v. Jones. The state's attorney, who himself had asked to be relieved from duty, had allegedly "shown a reluctance and unwillingness to prosecute." Thereupon, Judge Bevan cited the citizens on the grounds that they were obstructing justice and coercing the court. In its brief before the Supreme Court of Illinois, the ACLU branch contends that these contempt citations "represent a grave threat to some of the fundamental rights of the respondents as citizens of the United States, involving the right of free speech, and the right of petition."

The fact that rights guaranteed against federal authority may not always be guaranteed in the face of state action, was seen in the U.S. Supreme Court decision in the Stefanelli case. By a 7-1 vote, the court held that the federal courts cannot prevent the introduction in a state court of evidence obtained by unlawful search and seizure. Justice Douglas, in dissent, held an opposite view.

An order by the Appellate Division of the New York courts ruled that bail should not be used as a device to reward people for cooperating with the district attorney's office or to coerce them into doing so. Jack Rubenstein, charged with having fixed college basketball games, had his bail raised from $15,000 to $50,000 and Rubenstein was committed in default of bail. The court strenuously objected to the district attorney's office illegal use of excessive bail to force cooperation.

In 1953, a U.S. Federal District Court in New York City held in the United Electrical Workers Union case that a grand jury could not condemn individuals whom it does not indict, or make inquiries into their religious beliefs.

In the Touhy case, the U.S. Supreme Court held that the Attorney General could not decide for himself the conditions on which he would produce government papers in criminal prosecutions. In New York, the NYCLU commended Judge Samuel S. Liebowitz for refusing to allow the reading in a
trial court session of the names of persons mentioned before an investigating grand jury. Such a reading would have resulted in public denunciation without opportunity for those named to confront or cross-examine their accusers.

Hope for winning the double jeopardy point in the Remington case was lessened by two decisions in the Supreme Court. In the case of U.S. v. Williams, the Court ruled 7-2 that a person could be prosecuted for perjury during a criminal trial, though acquitted of the criminal charge, where the perjury prosecution was based on untruths about details; however, in that case the original charge had not been one of perjury. The second case brought a 6-2 decision upholding the constitutionality of a North Carolina law, which permits a second criminal trial when the prosecution does not have its evidence ready at the first.

The novel Franklin case was decided by an intermediate court of appeals in Pennsylvania. Franklin, acquitted of a criminal charge, was then required under an antique Pennsylvania practice to post a bond for his future good behavior, though there were no other charges against him; in default of posting bond he would be required to go to jail. ACLU’s Philadelphia affiliate filed a brief as friend of the court contending that to thus penalize an innocent man is a gross violation of due process of law; the court upheld the ACLU’s position.

Military Issues

Three important cases involving the extent to which persons in the armed forces have civil liberties were decided in 1953. In the major case, Burns v. Lovett, two servicemen had been found guilty of murder and rape and sentenced to death by army court martial. They had claimed throughout that they had been deprived of due process of law through illegal detention, coercion of confessions, denial of right of counsel, and use of perjured testimony against them. After exhausting all appeals to the military tribunals, they sought to have these questions adjudicated by the civil courts. But the Supreme Court in a 6-2 decision held that since the military decision had dealt fully and fairly with these claims, the civil courts could not re-evaluate the evidence to determine if the complaints were justified. One of the majority, Justice Minton, went so far as to claim that men in the military were entitled to no rights except those which Congress granted. The dissenters claimed that the rules of due process should be formulated by the civil courts, not the military, and Justice Frankfurter insisted that the cases should be reargued because the cases had been hurriedly decided and he at least had not had an opportunity to examine the record of the case.

The second interesting case arose when the armed forces spirited to Korea, Robert Toth, an ex-G.I., now a civilian, to try him for murder. The question was raised whether he could legally be arrested for trial by an army court-martial for a crime allegedly committed when he was in the army. The federal District Court in Washington ruled that he could not be so tried, but did not order the man returned to the U.S. when the government an-
nounced that it would promptly appeal this decision. The government then relented, and released Toth in August 1953.

In the third case, a unique one, the U.S. Court of Military Appeals ruled that a court-martial could not impose confinement on bread and water for a period exceeding three days, and that such confinement could not be imposed at all on persons on ships or attached to ships. The decision was based upon a provision of the Uniform Code of Military Justice which prohibits cruel and unusual punishment, and in light of the congressional history of the Code during which extended confinement on bread and water had been branded as barbarous; but the question of whether the constitutional prohibition of cruel and unusual punishment would by itself have barred this punishment was answered negatively.

**Wiretapping**

The most important cases involving wiretapping were the prosecutions of Judith Coplon for espionage activities. The U.S. Court of Appeals for the District of Columbia by a 2-1 vote ruled that the trial judge was in error in denying the defendant's motion for a new trial after her conviction without considering her allegation that FBI agents had listened in on conversations between her and her counsel during the trial. The Court said that even though no prejudice to her may have existed from such interception, the act would have been a violation of her rights under the Fifth and Sixth Amendments by depriving her of privacy in consultation with her counsel; the right to privacy in the client-counsel relationship is so fundamental under the Constitution that the verdict of guilty would have to be set aside. The court ordered a hearing to determine whether such interception occurred, and further ordered a new trial if this fact was established. Some time has passed but the government has not yet proceeded to a new trial.

Since Coplon's New York conviction had been reversed because, among other things, the government had failed to show conclusively that its evidence stemmed from sources other than illegal wiretaps, the Eisenhower administration, apparently feeling it might be unable to convict Coplon without evidence so obtained, introduced into the Congress a bill which would permit the use of evidence obtained through wiretapping in federal criminal prosecutions. (The Supreme Court had held constitutional and legal the admission of evidence in a state prosecution obtained in possible violation of the federal wiretapping law, Schwartz v. Texas.) The bill was not reported out of committee.

Several other bills were introduced in the 83rd Congress which would legalize federal wiretapping, but none were reported out by July, 1953. ACLU testified at hearings on this subject, recommending that: (1) all wiretapping should be prohibited, but if there must be wiretapping it should be limited to action by federal officials in cases involving treason, sabotage, espionage, and kidnapping or threats of kidnapping (in kidnapping cases,
parents' wires should be tapped only with their prior consent); (2) the
totality to grant permission for wiretapping should be vested in one federal
judge in each district; he should be assigned by the justices of the Supreme
Court for a 10-year term (this is a key point, as most of the proposed bills
provide for approval to be granted by the Attorney General); (3) only the
Attorney General should be allowed to apply directly to the court for per-
mission to tap a wire; (4) a court should not authorize a wiretap except
upon sworn statements of fact demonstrating reasonable basis for belief
in actual, as opposed to potential, treason, sabotage, espionage, or kidnap-
ning; (5) only recordings sealed and preserved in a central place could be
used in evidence, the defense to have full access to the taps; and (6) the
press and public should be informed by monthly and annual reports of the
number of taps requested in each type of case, the number granted, the
number resulting in prosecution or conviction and other pertinent data. Strict
penalties should be provided for any person who taps a wire illegally, and
each year a federal grand jury should be convened to determine whether the
law has been violated.

While loose methods of wiretapping incurred the condemnation of a
special grand jury in New York, and although an Assistant District Attorney
stated that evidence obtained from wiretapping is often used "as a club to
blackmail and shake down," wiretapping in New York continued unabated.
Another instance of illegal use of wiretap evidence, on the federal scene,
ocurred during the famous Kefauver hearings. Wiretap records were used
in the questioning of Frank Costello by the Senate Crime Investigating Com-
mittee. The ACLU, commenting only on the civil liberties issues, pointed
out that while the records may have been obtained in accordance with New
York law, the law conflicts with the Federal Communications Act which
prohibits wiretapping, and bars the divulgence of conversations obtained in
this way by any federal official. Emphasis was given to the view that a crime
investigating committee should not itself be a party to illegal acts.

Local Actions

Two test cases of wiretapping were brought by ACLU. Its Southern
California affiliate brought a taxpayer's suit against the Los Angeles Chief
of Police which still awaits decision. Another test case begun by the New
York Civil Liberties Union was lost in the New York courts on procedural
grounds, and the U.S. Supreme Court refused to review.

An unusual case, analogous to wiretapping, arose during a criminal
prosecution on a narcotics charge when an FBI agent overheard conversa-
tions between a government informer and the defendant On Lee, by means
of a concealed walkie-talkie. The U.S. Court of Appeals at New York held by a
2-1 decision that the testimony of the FBI agent to this effect could be used
against On Lee, and the U.S. Supreme Court affirmed this decision by a 5-4
vote. The dissenting justices pointed out that admission of this evidence
permitted this country to progress to the frightening state of the "telescreen,"
invented by George Orwell in his novel 1984, which enables "Thought Police" to witness every move.

**Improper Police Practices**

Violations of due process by police officers are relatively infrequent in the United States. But the very fact that the police are the instrument of authority with which the public is in most frequent contact makes it all the more important that every abuse of their power be noticed and corrected.

**THE TRENTON CASE**

The five-year long proceeding which began as the "Trenton Six" case and ended as the "English-Cooper" case reached its conclusion in February, 1953. In 1948 six Negroes had been arrested, convicted and sentenced to death for murder. Civil liberties issues previously discussed in our last Annual Report were raised on appeal and in June of 1948 the Supreme Court of New Jersey reversed the verdict and ordered a new trial, which was held in 1951 and was the longest trial in the history of New Jersey. Four of the defendants were acquitted, but defendants Cooper and English were sentenced to life imprisonment. An appeal on their behalf, contending that the confession used against them had been improperly obtained, was subsequently entered by the Princeton Committee for the Trenton Two, the NAACP and the ACLU. This verdict too was reversed and a third trial ordered. Five weeks later, Collis English, in poor health during the entire time, died in jail of a heart attack. Ralph Cooper then unexpectedly changed his plea of "not guilty" to "no defense," and by his answers to certain questions of the trial judge placed himself and his five co-defendants at or near the scene of the crime. He received a sentence of 6-10 years, but was later paroled. The ACLU has been unable to learn definitely what considerations were put to Cooper, or by whom (the record of the court proceedings at which Cooper changed his plea includes no particulars). But nothing that is known alters the ACLU belief that fundamental rights of due process were at stake in this case, quite apart from the question of guilt or innocence.

**OTHER CONFESSION CASES**

In the Williams v. United States case, the U.S. Supreme Court took the position that a special police officer who uses third degree methods to obtain coerced confessions deprives the individual of his civil rights and violates the Federal Civil Rights Statute. The majority opinion, written by Justice Douglas, is particularly significant, as it clarifies the law to show that the forcing of confessions is a federal offense.

But the most important landmark in the law of confessions during this three-year period was laid down by the Supreme Court in the Stein case. Stein and his co-defendant Cooper had confessed to a New York murder after many hours of questioning, and their confession was used also against
the third co-defendant Wissner. The confessors claimed that their confessions had been coerced; the trial judge allowed the jury to make the decision on this point telling them that even if the confessions were coerced, they could nonetheless find all three defendants guilty if there were other sufficient evidence against them. The defendant Wissner, who had not confessed, was denied any opportunity to cross-examine the other defendants, whose confessions formed the major evidence against him. The U.S. Court of Appeals in New York affirmed the decision, without opinion, and was upheld by a 6-3 decision of the U.S. Supreme Court, which held that the state’s decision that the confession had not been coerced would be respected since apparently constitutional standards were used, that the trial judge’s instruction was not unconstitutional, that it was proper to consider the past criminal records of the two confessors when determining whether they had been coerced, and that the defendant in a state criminal trial had no right to cross-examine the accusers against him—the last part of the decision being completely in conflict with the unanimous decision of the Supreme Court expressed four years previously in the case of Williams v. New York that the ACLU had taken to the Court. And little more than a year previously, apparently all the members of the Court had agreed in the ACLU-supported Stroble case that a conviction could not stand if a confession were involuntary though evidence apart from it might have been sufficient to sustain the verdict. Thus the laws of coerced confessions and of required cross-examination were both dealt severe blows in the Stein case. But a stay of execution was granted by Mr. Justice Jackson, and it is hoped that the case may be reargued next fall.

“Stomach Pump” Confessions

The ACLU filed a friend of the court brief in the Rochin “Stomach Pump Confession” case. California police used a stomach pump to force a man to disgorge morphine capsules; these were later introduced as evidence to convict him on a narcotics charge. The California courts held that “the courts are not to consider the procedure by which evidence was obtained in determining whether a conviction can be based on it.” ACLU maintained that the use of a stomach pump to thus force a confession is a violation of due process of law. The ACLU position was sustained by a unanimous opinion of the U.S. Supreme Court.

In the Leyra case, the New York state Court of Appeals, while saying that the verdict would have been clearly warranted if the confession could have been properly received in evidence, held that the deliberate attempt of a skillful psychiatrist to extract a confession by ceaseless pressure and a “peculiar” technique, constituted coercion, and also by a promise not to prosecute for first degree murder—a promise later violated. Leyra was convicted on his second trial at which a confession obtained immediately after the psychiatrist's questioning was used. A jury was improperly allowed to speculate whether the effect of the improper coercion had worn off. When the New York state Court of Appeals affirmed this conviction, NYCLU counsel moved for a writ of
habeas corpus in a federal District Court claiming that the use of this confession violated Leyra's rights. The writ was dismissed and the case will be appealed.

**BRUTALITY AND FORCED ENTRY**

The problem of police brutality in New York received great notice in 1953. Many groups and citizens had become aroused during the past few years as the result of frequent reports of police brutality. There had been about 80 such complaints in 1951, twice as many as in 1950. Substantial awards have been made to victims of brutality, and pending suits involve a total of more than $3,000,000. But the issue reached fever pitch when the New York World Telegram and Sun alleged that New York City Police Commissioner Monaghan had an agreement with the Chief of the Criminal Division of the U.S. Justice Department that all charges of violation of the federal civil rights law through police brutality by New York City policemen would be investigated by the New York City Police Department itself, and not by the FBI. It was further pointed out that possibly such an agreement itself would be a violation of the federal civil rights laws. A congressional investigating subcommittee set up to investigate the Department of Justice held hearings in New York City and Washington on the question of whether such an agreement existed. The Police Commissioner denied that it had existed, though the denial was equivocal; but both Assistant U.S. Attorney Daniel S. Greenberg and local FBI chief Lee Boardman testified that Monaghan had refused to permit FBI agents to interview the policemen in a case under federal investigation. Though the grand jury failed to indict the police officer in the Cusson case which precipitated the issue, the investigation had its salutary effects. Several of the police brutality cases have been reopened by the United States government. After the NYCLU submitted a detailed plan for the holding of hearings by the police department on charges of police brutality—such hearings had generally not been held in the past—the Police Commissioner finally did set up a hearing panel within the department to hear such charges. Meanwhile, the report of the subcommittee is awaited. The chairman of the committee, Representative Keating, said the report was not issued because it had been caught in the “log jam” at the end of the session.

**No Warrants**

In another case, J. Frank Oliver, a Special Sessions court judge, strongly criticized New York police for abusing the constitutional guarantee against unreasonable search and seizure, by abandoning the use of warrants and relying on force. Police entered a woman’s room to arrest her, without a warrant, on the charge of loitering for the purpose of prostitution. Judge Oliver cited this as a “mild example of how the liberties of New Yorkers are destroyed by the police and the courts.”

In the Spring of 1953, Commissioner Monaghan set up a special training
course which is to cover the whole area of the relationship between police action and citizens' rights. The first student group will include all officers down through the rank of captain.

A case with complicated political overtones, but one in which the ACLU considered only the civil liberties aspects, is that of a Chicago policeman, Michael Moretti. Moretti was assigned to special investigation work on the staff of State's Attorney John S. Boyle. In August, 1951, Moretti shot and killed two unarmed youths and wounded a third in what he said was self-defense. Leonard Monaco, 21, who was wounded three times, claimed that Moretti fired on the three in a fit of rage as they sat in their parked car. Without waiting for the coroner's inquest, State's Attorney John Boyle took the case before the grand jury, which had only two and a half days to run. After twenty minutes of deliberation, the jury returned a no bill verdict, and Boyle declared the case closed.

The Chicago division of the ACLU, as well as other civic organizations, protested the inadequate investigation of Moretti. Special ACLU investigators discovered that Attorney Paul Pomeroy had charged to Boyle about a year previously that Moretti had pulled a gun on him and had threatened his life. Other evidence was unearthed indicating that Moretti had falsified information on his application for a position on the police force. Following intensive criticism of the State's Attorney's office by ACLU, other civic groups and the press, Boyle requested Chief Justice Kluczynski of the Criminal Court to appoint a special prosecutor to take the case before a new grand jury. The chief justice named Harold A. Smith, former president of the Chicago Bar Association, and Richard B. Austin, an experienced prosecutor. Moretti was indicted, prosecuted and convicted for murder, the jury fixing his punishment at 14 years in the penitentiary. He did not appeal and is serving his sentence.

While Michael Moretti was under indictment, his brothers Lawrence (a municipal court bailiff), Salvatore (a park district policeman) and Thomas were accused of threatening the life of Monaco, chief witness for the State. These three have been found guilty of conspiracy; the conviction has been affirmed on appeal.
EQUALITY BEFORE THE LAW

Labor Organizations

THE RIGHT TO ORGANIZE

Work has begun in the ACLU's Labor Committee on an up-to-date analysis and program dealing with what remains of the formerly vast problem of discrimination against labor unions. So far as civil liberties are concerned, what labor unions are entitled to is—for example—the same freedom of speech that other groups have; no more, no less. Thus, the ACLU in the spring of 1953 asked an Department of Justice inquiry into alleged violations of civil liberties in both of two cases involving the United Mine Workers: In one, the United Mine Workers Union charged that its organizers were subjected to physical beatings and other terror by mine owners in Kentucky. In the other, the Chamber of Commerce charged that UMW organizers in Central City, Kentucky, were intimidating store owners, whose employees they were seeking to organize, by violence and threats to cut off the pensions of UMW members whose relatives worked in the store. The same sole and single-standard interest of civil liberties is evidenced in the two-fold comment made by the Union on one of the late Senator Taft's proposed amendments to the Taft-Hartley Act, enlarging free speech guarantees to employers in union-representation elections. The Union supported the amendment, provided it did not sanction any "captive-audience" technique or any ban on equal opportunity for union reply.

With the right of government employees to organize and strike hotly debated during the past two years, the ACLU formulated the following policy:

"1. Government employees should have the right to form and join labor unions and to negotiate through representatives of their own choosing with government administrators regarding all terms and conditions of employment over which administrators have authority to act.

"2. Government employees, recognizing their obligation to the public service, should voluntarily relinquish any right to strike, provided adequate and effective machinery for handling employer-employee relations problems be established by the government.

"3. No compulsory union membership requirements should be permitted in connection with government employment."

Under these standards, the Union disagrees with the recent opinion by the New Jersey Attorney General that state employees cannot bargain with their employer because rates of pay are fixed by law.

A specific case involving the right of government employees to join unions relates to the New York City policemen, who up to this point have not been successful in establishing this right. The New York State Supreme Court refused to grant a temporary injunction against Police Commissioner George P. Munaghan's directive forbidding New York City policemen to join any labor union. Counsel to the ACLU's Labor Committee submitted a friend-of-the-
court brief in the suit against Commissioner Monaghan brought by Patrolman Vincent L. Butler on behalf of the CIO Transport Workers Union. The ACLU brief, pointing out that the Union did not advocate that government employees should join or should not join a union, argued that when they do join a labor organization "as a means of making their voices heard more effectively . . . they are doing no more than exercising their constitutional right of free speech and assembly." The ACLU, stating that the right to organize should not be confused with the right to strike, considered the Commissioner's ban "an unconstitutional interference with the right of government employees to join labor organizations of their own choosing." The court found no need for the injunction on the grounds that the policemen would not suffer "irreparable harm" if the Commissioner's order were not temporarily set aside, and that it was not likely that a final court ruling would nullify the order.

Another major area of interest was the "captive audience," in which labor unions feel that their members are forced to hear management views, without the union having an equal opportunity to present its case. The most important case, which was finally ruled on by the National Labor Relations Board, involved Bonwit Teller's Fifth Avenue and White Plains stores in New York. The stores actively enforced a broad rule, upheld by the NLRB, forbidding any solicitation for union membership on selling floors during either working or non-working hours. Before an NLRB representation election, the company assembled its employees a half-hour before closing time; then the company president addressed the employees, urging them to vote against union representation. The company denied the Retail Clerks International Association's (AFL) request for a similar meeting at which the union could express its views. ACLU supported the majority position of the National Labor Relations Board in holding that when an employer assembles his employees on his premises to speak against a union, the union's request for the same opportunity to present its case may not be denied where the circumstances are such that only by granting such request will the employees have a reasonable opportunity to hear both sides. In the spring of 1953, the NLRB ruled in another case that an employer could address remarks to union members just before the election, as the union had had ample opportunity to present its case.

RIGHT TO MAKE POLITICAL CONTRIBUTIONS

The New York Civil Liberties Union strongly objected to the Travia-Erwin bills in the state legislature to curb political contributions by labor unions; they were defeated. The Union said: "While the language of the bills applies to all unincorporated organizations, employer groups as well as labor unions, the different methods of political activity employed by these groups will result in curbs only on labor's activities. Labor's political action is conducted chiefly in political campaigns and by support of candidates. Employer associations focus their major attention on lobbying activities in Albany. Unions must be free to work for or against legislation directly affecting their welfare, rights, and privileges as demonstrated in political campaigns. The
field of legislation affecting unions is vast and complex. To restrict political activity by the groups most vitally concerned with such legislation is a denial of the spirit, if not the letter, of the First Amendment which protects free speech and the right of the people to petition for redress of grievance."

INTERNAL UNION DEMOCRACY

In May 1952, the Union published "Democracy in Labor Unions: A Report and Statement of Policy," which brings up to date and amplifies a similar ACLU report of 1943. A summary of the chief findings of the report, prepared by Professor Clyde Summers of the University of Buffalo Law School, follows:

The ACLU, actively supporting labor in fully securing its rights to organize, strike, and picket for purposes of collective bargaining, seeks to protect the democratic rights of workers within trade unions. Democratic society needs democratic unions, because the union, by controlling to a large extent the worker's wages, seniority, holidays, and retirement, is in effect the worker's industrial government. Although the majority of unions are devoted to democratic principles, and procedures, a substantial minority persist in a number of autocratic practices. The basic rights of individual workers within the union are impaired in many ways.

"The right of an individual to full and free participation in determining the policies of the union," according to the report, "is by far the most important of all rights." Exclusion from membership because of race or political beliefs is one method of denying participation in union affairs. Negroes are barred from about one-sixth of organized labor, including almost all railroad unions and most of the building and printing trades. During the post-war years, there has been an increase in refusal to admit members of undesired political groups such as Communists, Fascists, or Klansmen; at the present time one-quarter of the international unions practices this type of exclusion. Unions use various devices in denying the right to vote. Second class membership is established by means of "junior" memberships, and "permit men," and auxiliary locals for Negroes; these forms of taxation without representation permit the individual to work under the jurisdiction of the union but largely to deprive him of any voice or vote in union affairs.

Union Debate

The right to free political action is often lost, the report's findings indicate, when unions curtail debate on union policies, criticism of the conduct of officers, formation of an organized opposition, and campaigning during union elections. Although the chief means for curbing political freedom is the discipline power, the union may suppress opposition by refusing to assign a member to a job, always giving him a particularly undesirable job, or (in rare instances) relying on physical violence.

The right to free elections is not always upheld. Although most unions schedule regular meetings and hold frequent elections, a few union leaders have remained in power by suspending local union meetings, repeatedly
postponing conventions, and filling all vacancies by appointment. Lastly, participation includes the right of members to a full accounting of all union funds and affairs. In a few cases, employers know more about union affairs than the members themselves.

The right to fair and equal treatment is lost when runaway majorities in a union are allowed to discriminate arbitrarily against minority groups and obtain benefits for themselves at the expense of those who lack the political strength to resist. One example of such unfair treatment mentioned in the report took place when a railroad brotherhood negotiated a contract which virtually destroyed the seniority rights of Negro firemen and insured their ultimate elimination from the job.

Fair Trials

Even though union discipline acts as the criminal law of union government, it does not, according to the report, always meet the minimum standards of fair criminal procedure. The right of members to a fair trial may be denied by summary expulsion, vague charges, limited cross-examination, and the lack of an unbiased tribunal. Judicial and political machinery is often interlocked and procedural safeguards are frequently absent.

The report asserts that the present legal protection of union democracy is insufficient. The courts have recognized the rights of free political action, free and honest elections, equal treatment, and fair trial, but they have not fully recognized the relationship between a worker and his union as that between a citizen and his government. As a result, they have not given explicit recognition of the right to full participation in the union. Moreover, judicial protection is of limited value since it involves cost, time, unpredictable results, and the overcoming of many union members' deep-seated hostility to the courts.

Legislative protection, typified by the provisions of the Taft-Hartley Act, impose restrictions on unions in order to protect a man in his job while ignoring his basic democratic right to participate in his industrial government. The Taft-Hartley Act protects the job rights of a person excluded or expelled from a union, but it neither compels the union to admit him nor limits its power to expel him. The only protection a worker receives is that his job is made more secure; not guaranteed, however, is his right of franchise as well as his rights to political action within the union, to free and fair elections, and to non-discriminatory use of the bargaining power. To a minor degree, state regulatory laws have aided union members in self-government by requiring unions to file various reports, including financial accountings.

The need for further protection of union democracy is apparent. Since increased legal protection would involve the dangers of government control, the ACLU report urges unions to establish immediately adequate machinery of self-control. Organized labor can and should provide protection of union democracy, not by pious resolutions and declarations of good intentions, but, as the report suggests, by the establishment of a specific procedure and or
ganizational framework designed to insure the rights of individual union members.

To achieve this, the report sets forth a new proposal, the establishment of independent tribunals or arbitration panels to hear appeals of union members who claim denial of their democratic rights. The tribunal members should come from outside of labor, be appointed for long terms and should be removable only for misconduct, thereby freeing the boards of the political pressures within the union which make present union procedures inadequate.

If this plan fails, the report concludes, then no alternative is left but to seek increased legal protection through the force of new court decisions or new legislation. The legislation would parallel the ACLU's 1947 trade union democracy bill, suggested as an amendment to the NLRB. Such a step must come only as a last resort; the best hope is that the unions will establish machinery for self-control.

The report was widely distributed to CIO, AFL, and independent unions, with an offer to meet with them to implement its principles. In June 1953, the AFL Upholsterers Union announced that it was adopting ACLU's suggestion for an independent tribunal to hear members' appeals. The National CIO, at its annual convention in 1952, approved a resolution calling for improved democratic procedures in unions. While the ACLU proposal for an independent tribunal was not referred to, the CIO endorsed the idea of a fair hearing and the right to appeal.

In keeping with the general policy outlined above, the ACLU has opposed one of the late Senator Taft's proposed amendments to the Taft-Hartley Act, eliminating the requirement of union financial reports. The ACLU contends that the right to demand an accounting is essential to union democracy, because treasury control is one of the great powers possessed by union officials.

The Maritime Unions

Vestiges of an internal democracy problem within the CIO National Maritime Union remained. In 1949-50, charges were leveled at the union that its leaders sought to stifle all political opposition—Communist and non-Communist—by forcing opposition members to forfeit membership books and by stripping aliens of union membership; some violence occurred. ACLU's interest lay in guaranteeing democratic procedures at union meetings and in having membership books returned so the right to work would not depend on political opinion. The ACLU was partially successful in having books returned.

A report was prepared by Professor Philip Taft of Brown University in 1950, when plans were being made for a non-partisan citizens committee to probe internal democracy in the NMU and the AFL Seafarers International Union. As the citizens committee was not in fact organized and the report covered only the NMU, the report was not released until January 1952, when Senator Hubert Humphrey requested all of the ACLU's NMU material in line with a general study his office was conducting.
Professor Taft's report pointed out that the anti-administration forces in the NMU were responsible for the bitter violence that developed because they "took over the headquarters of the union by forceful means . . . the only elected officers faced a group ready to commit violence not only against the officers but against any union member offering their program." This action by the insurgents was responsible for the counter measures which the NMU President, Joseph Curran, was forced to resort to.

Professor Taft concluded: "The insurgents brought civil war to the waterfront . . . and forceful occupancy carries with it the correlative of forceful ejection. In fighting to preserve the union, there is no doubt that violence was used sometimes against innocent men, sometimes without cause. Moreover, the promiscuous lifting of union cards . . . was not always in accordance with the principles of fair play and justice. They can only be justified that they were extreme instances during a union civil war. The ACLU had the cards of some people restored. Some of the leaders of the factions—there are more than one—are going to sea, and have not been prevented from carrying out their occupation."

"It seems to me that as one looks upon the extreme incidents in the context in which they took place," Professor Taft said, "it is difficult to conclude that the officers of the NMU have been guilty of violating the civil rights of their members. It is to be hoped that where an injustice has been done, that they will be willing to allow a fair review and rectify the injuries."

A second case was highlighted in a congressional report pointing up how the free speech of anti-Communist dissidents in the Marine Cooks and Stewards Union had been suppressed by physical violence and terror tactics. The report was prepared by the staff of the Senate sub-committee on Labor and Labor-Management Relations in the last session of Congress. In a letter to Senator Hubert Humphrey, Chairman of the Committee, the ACLU expressed pleasure in the report's recognizing "suppression of the right of opinion of dissidents within the union—in this case, anti-Communists—and the deplorable and unwarranted use of violence and terror to eliminate internal opposition." It also criticized the fact that ship owners supported the union's practice of denying employment, through the hiring hall, to the anti-Communist group. Noting that a federal district court had granted an NLRB-requested injunction to end discriminatory treatment of the dissidents, the ACLU informed Senator Humphrey of its intention to support the NLRB position when the case was appealed.

The issue of internal union democracy was widely publicized in the hearings of the New York State Crime Commission into crime and corruption on the waterfront. The testimony revealed grave inadequacies in the operations of the AFL Longshoremen's Union. To the credit of the national AFL, it insisted on wholesale reforms. As this report is written, the final outcome of this dispute has not been decided, although the expulsion of the union from the AFL is expected. The AFL Executive Council in August 1953 suspended the ILA, the first step toward expulsion at the National Council
in September. The situation is further complicated by legislation passed by the New York and New Jersey legislatures setting up a waterfront commission, which will be challenged in the courts by the Longshoremen’s Union. The New York Civil Liberties Union registered objections to the waterfront regulation law, particularly its provisions for licensing and registering ex-convicts and limiting the employment opportunities of persons allegedly advocating violent overthrow of the government. The NYCLU also urged fair administrative procedures in the operation of the Commission, including the right to counsel and full review of the Commission’s decisions.

Regelson Case

Defense of individual union members’ democratic rights arose in a case involving a vocal anti-Communist who exercised his right of free speech to protest alleged Communist leadership in his union. The case had its setting in New York City where Joseph Regelson, who, in effect, had been expelled from Local 1199 of the Retail Drug Store Employees Union because of his anti-Communist views, brought suit in the New York State Supreme Court. An active druggist for many years, Regelson retired from the industry but remained an inactive union member by obtaining an annual “withdrawal” card which enabled him to work in the winter months. After obtaining his card for two years, he was turned down by the union’s executive board when he applied the third time.

In its complaint, ACLU, which instituted the suit in Regelson’s behalf, said: “The defendant union has maliciously attempted to interfere with the rights of the plaintiff as a member of defendant union to obtain such withdrawal card because of plaintiff’s criticism of and opposition to, the union leadership. The denial of a renewal of a withdrawal card was wrongful and discriminatory and void in that (1) the plaintiff was not notified of any charges against him, (2) no hearing was conducted, and (3) no evidence or proof was submitted which warranted the denial of a renewal of plaintiff’s withdrawal card.”

FREEDOM OF RELIGION—PRIVATE ASSOCIATION CONFLICT

An interesting conflict between the freedoms of religion and private association arose in the case of Theodore F. Otten, railway employee. Otten, a member of the Plymouth Brethren, a religious sect whose beliefs barred him from joining the union, sought an injunction against the AFL International Brotherhood of Electrical Workers, claiming he was threatened with the loss of his job because the union had a union shop agreement with the company. When the case first developed, the ACLU urged the union to make an exception in Otten’s case on grounds of individual conscience, but this was turned down. The union expressed willingness to compromise the issue by having Otten “show support for the collective bargaining agreement” by making a token payment to a union agency, but Otten refused. The ACLU offered its services to both sides as a mediator, but this was rejected.
Otten's request for an injunction was denied, and his attorneys sought an amendment to the Taft-Hartley Law urging exemption of the Brethren on grounds of conscientious objection.

While the ACLU's Labor Committee recognized the conscientious objection point, it also felt that the union shop was a form of private association which would be jeopardized by individuals who claimed religious objection. It voted to take no position in the case and was supported by the ACLU's national Board of Directors.

**COMMUNISM IN LABOR UNIONS**

The ACLU continued to express opposition to the Taft-Hartley non-Communist oath for union leaders on the grounds that it is both an "abridgment of free expression" and an impractical way of dealing with the problem of Communist domination of unions. The ACLU also attacked extension of the oath's coverage to employers, on the ground that this has no constitutional basis and would "compound an existing evil." Also under fire were proposals of Senator Barry Goldwater aimed at determining Communist domination in unions and eliminating Communist Party members from positions of influence and control. Asserting that it was not commenting on the intent of the Goldwater bill, the ACLU pointed out loose criteria and broad definitions which represented serious threats to free speech and association and due process of law.

In a new policy statement, the ACLU decided not to "oppose a determination by a union that disqualifies members of the Communist Party, the KKK, or any Nazi, Fascist or other totalitarian group, as candidates for office, since such persons owe a disciplined obedience to an organization other than the union itself." The ACLU felt that a "union might reasonably determine that it was not worth risking the existence and effectiveness of the union, which might be impaired by the election of such persons as officers."

In its statement, the ACLU made a clear distinction between barring totalitarians as labor union officers and as members. The principle of non-prohibition of Communists and other totalitarians as labor union members should apply, even where exclusion did not result in loss of employment. Even where the right to work was preserved, individuals who would be barred should have the right to belong to unions in order to have a part in the determination of wages, hours, and working conditions of employment.

The statement pointed out that among the reasons for "distinguishing between the rights of such persons to be members and to be officers of a trade union, the right to work is not dependent upon being an officer of a trade union, while the security of the union and its internal health may be gravely jeopardized by having officers under the control of the Communist Party, the KKK, or a Nazi, Fascist or other totalitarian group."

In 1951, a New York court ordered the dissolution of the International Workers Order, with 160,000 members and assets of more than six million dollars. It was held that this allegedly fraternal benefit society, organized to
serve the interests of workers, was in reality "a political front for a revolutionary group which was to follow a clearly prescribed political program . . . the alter ego of the Communist Party." The court ruled that the subjection of the purported insurance function to a political objective created a hazard for the interest of its members and funds. The New York Court of Appeals affirmed the decision. The ACLU did not support the IWO appeal because it found no civil liberties issue. The U.S. Supreme Court is now being asked to review the case.

**Race, Creed and National Origin**

Discrimination has always shown itself in a variety of forms—official and unofficial, organized or individual, violent or subtle. All of these forms are found in the record of recent months; but, taking the whole picture into consideration, the ACLU believes that this area shows a growth of understanding and an effectiveness in action indicative of greater progress than that made in any other civil liberties area. But progress in ending inequality is perhaps not being made at the same rapid pace that marked the immediate post-war years. The most comprehensive annual report on race relations, *A Balance Sheet of Group Relations*, published jointly by the American Jewish Congress and the National Association for the Advancement of Colored People, cites four factors for a reduced rate of progress: (1) national preoccupation with repelling Communist aggression, (2) excesses in loyalty investigations, which created an attitude of identifying controversial issues with subversion, (3) 1950 congressional elections which saw many civil rights friends defeated, and (4) change of personnel in the U.S. Supreme Court.

The Union, in cooperation with the National Association of Inter-Group Relations officials and the Marshall Field Foundation, gave wide distribution to the book, *States' Laws on Race and Color* by Pauli Murray. The book, a comprehensive study of the texts of laws governing segregation and discrimination in the states, was published by the Women’s Division of Christian Service, the Methodist Church.

**VIOLENCE**

The resort to violence heavily marked the civil rights picture in 1951, and there were outbreaks in 1952. Happily, 1953, to date, presents a better picture. The worst atrocity of 1951 was the murder of Harry T. Moore, Florida State Coordinator of the NAACP, and his wife, by a bomb which destroyed their home while they slept. Local authorities made no arrests; protests by religious, labor, and civil liberties groups, including the ACLU, led Attorney General McGrath to order an FBI investigation. No arrests have been made for the killings, but, in December 1952, four persons were indicted by a federal grand jury for perjury about Klan activity. One individual had been active in attempting to exclude Negroes from a housing project, which had been bombed three times. It should be noted that this
attack upon a Negro leader was part of a generally diseased state of mind which, at the same time, led to attempted bombings of a Catholic church and several Jewish synagogues in Florida.

In Cicero, Illinois, a Chicago suburb, mob violence came after the police failed in their duty to handle an initially small manifestation of intolerance, apparently because they shared that intolerance. Harvey Evans Clark, a Negro war veteran, had rented an apartment in a white residential section. Despite the fact that trouble had been foreseen, and that a judge had ordered the police to protect the Clark family, the police told the Clarks they could not take up residence and ordered them to stop moving in. While Chief of Police Konovsky watched, the police threatened the moving man and forcibly ushered Mrs. Clark to a truck. Konovsky allegedly kicked Clark. At this time the mob was not actively hostile, although there was some community sentiment against the Clarks. At a later date, mob violence destroyed the Clarks' household goods and damaged the building, without intervention by the police. Order was restored by the National Guard which was called out by Governor Stevenson after the ACLU had urged such action.

**ACLU Group Acts**

The ACLU Chicago division and other organizations moved vigorously, attempting to procure the arrest of the rioters. The Cook County grand jury charged Konovsky with misconduct in public office. But these actions in the Illinois court were unsuccessful. On the contrary, to the amazement of everyone, the grand jury brought in indictments against the persons who had been defending the Clarks' rights, charging them with responsibility for the riot and destruction of property. This batch of indictments was very properly dismissed by Judge Crowley of the Chicago Criminal Division.

The final phase of the Cicero riots developed in the federal courts where Konovsky and two other policemen were found guilty of violating the civil rights of the Clarks, and fined $2,500. However, the U.S. Court of Appeals reversed the convictions. The NAACP has asked for new trials.

Deplorable as the Cicero demonstrations were, painful as the experience was to the victims, it should be noted that this clear-cut violation of civil liberties roused a storm of indignation which swept the country and had a powerful educational value.

Georgia, North Carolina, South Carolina and Virginia have all witnessed beatings and kidnappings by the Ku Klux Klan and other practitioners of violence. Although laws prohibiting the wearing of masks and burning of crosses, now in effect in Alabama, Florida, Georgia, South Carolina and Virginia, do not appear to have stopped violence, a series of arrests and convictions under state and federal law (especially in North Carolina where interstate transportation of victims was involved), with resulting sentences of several years, may act as a deterrent. In North Carolina, 69 members of the KKK were convicted, and a number of them actually began to serve jail
sentences. The situation is not exclusively one of racial prejudice; white men and women have also been beaten by self-appointed judges of public morality.

The pattern of violence is changing. Lynching, once the chief form of terror, is fading out of existence; not a single case was reported in 1952. (But continued Congressional failure to pass a federal anti-lynching statute was apparently due not mainly to that good record, but to the general barriers to federal civil rights legislation.)

However, bombing has taken its place. Ten such explosions were reported during 1952, doing extensive damage to property and places of worship, not only in the South but in New York City, Philadelphia and California. The targets were Negroes, Jews, and Catholics. Law enforcement officials had little success in dealing with these acts.

**DISCRIMINATION IN EMPLOYMENT**

Central to all problems of discrimination is discrimination in employment. A National Urban League Conference reported that the cost to the nation of discrimination was a loss of 10% of our production potential. The number of charges of discrimination, as well as the number of instances in which formal charges have not been made, remains large. Eleven states have established commissions to guarantee fair employment practices; seven, New York, New Jersey, Connecticut, Rhode Island, Washington, Oregon and New Mexico, have enforcement power; four, Indiana, Wisconsin and Colorado (1951), and Kansas (1953) have laws with no enforcement power and depend chiefly on education. The drive to legislate fair employment practices also picked up steam in the cities. By the end of 1952 twenty-five cities not in states having FEPC laws passed ordinances with varying effect; 13 in Ohio, 5 in Pennsylvania, 2 in Michigan and 1 each in Arizona, California, Iowa and Minnesota. Nearly one-third of the country's population lives in regions covered by some form of FEPC.

While new laws were being placed on the statute books, they were not being used to their maximum effectiveness. Only about 5,000 complaints have been filed in seven states and two cities since 1945, and 1952's roster showed no increase over 1951.

In addition to the pressure exerted in the states and cities, the effort to adopt a federal FEPC went on unabated. The threat of a filibuster in the Senate, in effect, barred consideration of a FEPC law by even the House, although it passed a committee of the latter for the seventh time. During hearings on amendments to the Taft-Hartley Act in the Spring of 1953, the NAACP urged the inclusion of an FEPC amendment. It received CIO and AFL support, but was not seriously considered. The ACLU Labor Committee, after discussion, tabled action. It said the proposal should be taken up as a clear-cut issue of discrimination, and should not be tucked into a labor law. It added that the proposal would raise a host of complex labor relations problems concerning the National Labor Relations Board, and while the
amendment would serve the educational purpose of focusing attention on the problem, this gain could not offset the ACLU’s objections.

Underlying the political conflict over FEPC was the question of whether a voluntary educational FEPC, with emphasis on state rather than federal action, could be passed in place of the stronger federal FEPC with enforcement power. This approach was highlighted in the presidential campaign by General Eisenhower; even the Democratic candidate, Governor Stevenson, while strongly committed to a federal FEPC, acknowledged the usefulness of state action.

In April 1951, the Union joined with 16 other organizations in asking that the President establish by executive order an FEPC with power to support its findings and recommendations. In May 1952, the Union reasserted its position and answered critics of FEPC legislation in detail; it also asserted the major general principle which validates proposed federal law: “It is not enough to urge equality before the law in political rights regardless of race and religion; the principle is as valid for our democracy as applied to a man’s right to equality in employment.”

Under pressure, President Truman, in late 1951, issued an order creating the President’s Committee on Government Contract Compliance. The job of the Committee was to supervise compliance with non-discrimination clauses of government contracts. The importance of this group was highlighted by the charges of gross discrimination against Negroes at atomic energy plants in the South. In January 1952, the Union wrote to President Truman expressing appreciation for his action looking to a check on the fair employment practices of employers working on government contracts, but pointing out that this did not go far enough. The Committee, it said, as planned, lacked enforcement powers; also it would be much better to have employment practices submitted to scrutiny prior to the granting of government contracts.

Committee’s Report

The Committee’s report in 1952 revealed that little progress had been made. It reported that effective enforcement of the order was “conspicuously absent” and suggested radical revision of the government’s compliance procedure. One of its findings was that, except in larger government agencies, limited staffs made contacts with employers on a scale to permit close inspection of employment practices practically impossible. Although the General Services Administration’s Compliance Division issued a directive to tighten up enforcement, it amounted to little.

One of the major goals of the Leadership Conference on Civil Rights is a new presidential order dealing with this subject. This was stressed when the group met with Attorney General Brownell in May 1953; emphasis was placed on the need for a single government agency or department to receive and process complaints, sufficiently financed and staffed to maintain regional offices, and with authority to initiate investigations, hold hearings and make findings of fact; it was also pointed out that regional offices were needed in
order to insure prompt investigation and prosecution of all civil rights violations.

The New York State Commission against Discrimination issued, in January 1951, its first cease and desist order in the 5 years of its existence. John W. Woorm filed charges against the Kirk Lucas Agency on the basis that an interviewer upon his application for an overseas job, had illegally asked Woorm questions as to his national origin and whether he spoke Yiddish at home. After a public hearing, the Commission found the agency guilty of an illegal employment practice as defined under the New York State law and ordered the agency to desist from asking discriminatory questions. The New York State Commission against Discrimination also made its largest financial settlement in 1951. It awarded John B. Clark, a Negro merchant marine officer, $4,000 back pay on his complaint that he had unlawfully been discharged from a State Marine Corporation vessel.

Labor union action against discrimination was encouraging. Two years ago, the ACLU made a strong protest against policies of the AFL Seafarers International Union calling for separate hiring halls for Negroes and whites, and offering Negroes jobs only in the stewards' department. In July 1951, the New York State Commission against Discrimination announced an agreement to end all discrimination in merchant seaman hiring under union control. Several other labor unions dropped their racial bars. The railroad unions, which were especially vulnerable, voluntarily reduced discrimination to some extent. A more direct blow was struck by the U.S. Supreme Court which ruled that any agreement between a railroad and a union that resulted in discrimination against employees because of race was illegal.

Discrimination was on the wane in several large corporations; one company was able to report full integration in its plants, including one in the South. The road ahead was thorny, though, as many companies resisted.

**DISCRIMINATION IN THE ARMED FORCES**

Progress toward the total elimination of segregation in the Armed Forces continues. Bills proposed in 1951 authorizing segregation in the Armed Forces and Veterans Hospitals were defeated in Congress. By the end of 1952, segregation had been almost completely ended in those sections of the Armed Forces overseas. The excellent record of the Navy and the Air Force was generally maintained, although some criticism was aimed at the former for discouraging recruitment of white stewards, which, in effect, segregated Negroes in the stewards branch of service. Segregation in the fighting forces in Korea was almost totally eliminated.

At home, the picture was somewhat different. The Army's record was spotty, in that both segregation and integration policies were in effect. No other state joined those ten which, prior to 1952, had ended segregation in National Guard units.
President Eisenhower, early in his tenure of office, announced that segregation in schools operated by the Army with federal funds for children of Army personnel would be ended. However, “complicating factors” developed where the schools were operated with state funds on federal property in federally operated buildings. Army commanders began a survey designed to bring about agreement with local authorities for integrating the schools. According to a list of the Army, Navy and Air Force, twenty segregated schools on defense installations, all federally owned, are part of the state-school systems.

DISCRIMINATION IN HOUSING AND LAND-OWNERSHIP

Eight states have laws barring discrimination and segregation in public housing: Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Wisconsin, Michigan and Rhode Island—the last two went into effect in 1952. Five states, Indiana, New Jersey, Minnesota, New York and Pennsylvania, have statutes prohibiting discrimination in quasi-public housing; this covers chiefly urban redevelopment projects.

The drive to end segregation in federal housing, only a small part of all public housing, was spurred in 1951 by an announcement by the Federal Housing and Home Finance Agency that there would be no discrimination or segregation in any housing which it operated. The law was implemented in Norfolk, Va., where Negroes were admitted to a hitherto all-white apartment house. However, no widespread integration was reported.

The Federal housing aid given to private builders was another area where efforts to end segregation were undertaken. In the main, they have been unsuccessful, although some states have passed laws curbing restrictive practices in housing receiving a substantial amount of aid. The segregation question also arose in defense areas where housing was necessary. The government required communities planning such housing to estimate their need within racial classifications.

Housing Segregated

The major portion of public housing run by state and local government is still segregated. However, the AJC-NAACP report states that 150 cities are now required by state and local law to refrain from segregation, and in a number of other cities the same policy is followed without legislation. Of 1,138 projects built or planned under the 1949 Federal Housing Act, 305 or 26.8% have open occupancy policies. Progress has been made by the state commissions, who are applying the anti-discrimination legislation. Threatened or pending court tests, attacking the “separate but equal” doctrine resulted in abandonment of segregation in projects in several cities throughout the country.

While the main drive against segregation was directed toward public or public-aided housing projects, private housing was also involved. A few projects adopted an open occupancy policy, but there was resistance to accepting non-white families. The movement was advanced by the action
of the National Association of Real Estate Boards removing from its code of ethics a clause sanctioning and encouraging discriminatory practices. Leading real estate appraisers took issue with the theory that property values are depressed when Negroes move into white neighborhoods. Just the opposite occurs, they say, once the immediate fears pass. Then, prices stabilize and increase under the pressure of Negro bidding.

The New York legislature considered, but failed to adopt, a resolution urging a commission to investigate the extent of racial and religious discrimination in housing generally. The ACLU Board of Directors also devoted attention to this question, adopting a policy which stated that "the powers of suitable agencies of the various states should be extended to include prohibition of discrimination in multiple dwellings, excluding units for occupancy for six families or less, in single ownership, and making some suitable provision for religious uses."

A new group, the National Committee for Democratic Housing, was organized in 1952 to direct public attention to this vital issue. The ACLU is a member of this organization.

One of the most bitterly contended housing disputes in the past 30 months was in New York where the Metropolitan Life Insurance Co. attempted to evict 19 tenants who had been active in asking an end to the exclusion of Negroes from the Stuyvesant Town housing project. Previously the U.S. Supreme Court upheld the New York Court of Appeals which affirmed the right of the company not to rent to Negroes. Then, in the eviction proceedings, at virtually the last moment, the protests of sixteen important groups, including the ACLU, and the intercession of Rudolph Halley, City Council President, led to Metropolitan's dropping its action against the tenants.

After a lengthy fight conducted by the New York State Committee against Discrimination in Housing, of which ACLU is a member, the Brown-Isaacs bill, banning discrimination in all city-aided housing projects, became law in New York City. The measure was aimed at the alleged discrimination in projects which had a partial exemption from city taxes. The new law, which covers any private housing development that obtains tax exemptions or financial help from the city or its agencies, forbids discrimination or segregation because of "race, color, creed, religion, national origin, or ancestry."

Another encouraging event in 1951 was the refusal of the U.S. Supreme Court to review a decision of the U.S. Court of Appeals in New Orleans which held unconstitutional, as a violation of the Fourteenth Amendment, a municipal zoning ordinance of Birmingham, Alabama, forbidding Negroes to occupy property in white residential sections and forbidding white persons to live in Negro sections. And in 1953 the Supreme Court reinforced its earlier decision on restrictive covenants by holding that, though restrictive covenants themselves still were not illegal, a person who violated a restricted covenant could not be sued for damages by the other party to the agreement.

Decisions such as that in the Birmingham case offer strength to the St.
Louis Committee of the ACLU, which is struggling to break down segregation in the projects of the St. Louis Public Housing Authority. In St. Louis, it should be noted, the officials of the Catholic church have been powerful leaders in the battle against discrimination.

A California law barring aliens who are ineligible for citizenship from owning land has been held unconstitutional by the state Supreme Court. This law was directed against Japanese aliens. The decision rested on a guarantee of equal protection of the law. It is interesting to note that a three-judge state intermediate appellate court, which ruled on this case at an earlier date, held the law unconstitutional for the added reason that it conflicted with United States obligations under the United Nations Charter.

Also in California, the Sacramento Housing Authority voluntarily bound itself to end racial segregation, reserving the right to determine quotas of occupancy by non-whites.

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DISCRIMINATION IN EDUCATION

Public education, basic to the continuance of the democratic idea of racial equality, continued to offer a chief battleground. The majority of the decisions by the courts with respect to higher education followed the line laid down by the U.S. Supreme Court in the Sweatt and McLaurin cases that really equal facilities must be afforded to Negroes and whites. However, the central problem, reversal of the "separate but equal" doctrine, is still unresolved. It has been brought to the Supreme Court by the NAACP in five cases involving segregation of Negro school children in secondary schools. The ACLU filed a brief with the high court asserting that "segregation in state-supported educational institutions violates the equal protections of the law guaranteed by the Fourteenth Amendment. . . . Scientific research in the fields of anthropology, sociology, biology and education has demonstrated the fallaciousness of the racial and blood concepts which are basic to the majority opinion in Plessy. (In Plessy v. Ferguson, the Supreme Court in 1896 sustained a Louisiana statute requiring public carriers to provide separate but equal facilities for Negroes and whites)." The ACLU brief said experience had shown that "bloodshed and violence" did not occur where integration was achieved and law-enforcement officials indicate they will not tolerate breaches of the peace, and the "separate but equal" doctrine should fall on economic grounds, to end the wasteful expenditure of funds for segregated schools.

After three days of widely-publicized argument before the Court, the
Court retired to wrestle with the issue for several months. Finally, before it recessed in June 1953, it announced that it desired to hear further argument in the fall. The court's lengthy consideration indicated the importance of the case in setting basic national policy.

Anticipating a possible eventual striking down of segregation, the Georgia legislature has passed a law which will deny state funds to any school which admits a Negro under court order. If this law is in turn held unconstitutional, no public school is to get money and the educational budget of 93 million dollars may be frozen. In South Carolina, Governor Brynes has warned that imposition of non-segregation by the federal courts will end the public school system and result in the turning over of the public schools to private hands. South Carolina has also passed a constitutional amendment repealing the requirement that the state support a public school system; legislation dis-establishing the public schools will be taken in the event of unfavorable Supreme Court decisions. Similar legislation passed the Florida legislature, but was vetoed by the Governor.

**Equalize Facilities**

While cases were being processed in the courts, many of the Southern states are feverishly trying to equalize facilities by constructing new buildings for Negro children, although 75 years of disparity cannot be wiped out overnight. A better solution has been found in Baltimore, where Negroes are now allowed to take the famed Poly "A" course in engineering at the city's Polytechnic Institute. The board of education, urged by Governor McKeldin, refused to set up a similar course at an all-Negro school, reasoning that it could not match the prestige attached to the Poly "A" course.

Cases which merely went as far as the "separate but equal" formula were generally successful. Louisiana State University and the University of North Carolina were ordered to admit Negroes to courses of study not available in Negro institutions.

In those states where the color-line is breaking down, a great deal of success has been had in enrolling Negro students in institutions of higher learning. As of the past academic year, Negro students were enrolled in state-supported colleges and universities in twelve southern states (Arkansas, Delaware, Kentucky, Louisiana, Maryland, Missouri, North Carolina, Oklahoma, Tennessee, Texas, Virginia and West Virginia). Privately-owned colleges and universities in eight southern states (Georgia, Kentucky, Louisiana, Maryland, Missouri, Tennessee, Texas, Virginia) and the District of Columbia also registered Negro students. And predominantly-Negro-populated private universities in the District of Columbia and Tennessee had white and other non-Negro students in attendance.

Privately-owned schools and the state-supported institutions in Arkansas and West Virginia voluntarily opened their doors on a non-segregated basis. Non-segregated education in the other state-supported schools resulted from legal suits to compel them to admit Negroes.
Legal Suits

Suits to compel the admission of Negroes to state-supported schools in Florida, Georgia and the District of Columbia, are awaiting disposition in the courts. A similar suit is awaiting trial in Alabama; and others are to be filed in Mississippi and South Carolina. Should these cases be successfully concluded, Negroes will be enrolled in state-supported institutions of higher learning in all of the seventeen southern states and the District of Columbia. It is also anticipated that in the forthcoming school year more private colleges will lift their racial or color bans, both in the states already mentioned and in Oklahoma and North Carolina.

Outside the South, in 1952, segregation was abandoned in a number of schools in Arizona, Illinois, Kansas, New Jersey, New Mexico, Ohio and Pennsylvania. Violence broke out in Cairo, Illinois, when integration was first attempted, but this did not halt the program. Arizona amended its "Jim Crow" school law to make segregation permissive, not mandatory, and Tucson and other cities ended segregation in elementary schools. In Missouri, the legislature considered two bills ending segregation in public schools at all levels—grammar, high school, and college—but did not pass them. In New Mexico, a bill to abolish segregation in public schools was beaten; instead a resolution was adopted requesting school boards not to segregate Spanish-speaking students and to improve existing Negro schools.

Only three states, New York, Massachusetts and New Jersey, have "fair educational practice" acts, and these were not being effectively invoked by administrators or rejected applicants.

DISCRIMINATION IN PUBLIC ACCOMMODATIONS

Equality in places of public accommodation is one of the major goals in the civil rights battle. The present trend is certainly toward the establishment of genuine equality, and has been given impetus by two actions of the U.S. Supreme Court. In one case, the Court refused to review a lower court decision banning segregation of passengers in interstate traffic on the Atlantic Coast Line Railroad. The case involved William C. Chance who was removed from a train at Emporia, Virginia. The decision represents an important advance towards the realization of equality.

The question of the effectiveness of Washington, D.C.'s almost century-old laws prohibiting discrimination in places of public accommodation reached its final conclusion. Although the laws had been ignored for 75 years, criminal proceedings were begun in 1950 against John R. Thompson, Inc., restaurant for violation of the law. Varying results were reached in the lower courts prior to its consideration by the U.S. Supreme Court. The high court finally held that the District legislature had the power to adopt the law, that the law survived the abolition of that legislature, and that changes in the District form of government, and the long neglect of the laws did not make them unenforceable. ACLU joined with 21 other organizations in filing a brief as friend of the court reaffirming the validity of the old laws.
Generally, the courts adopted the view that segregation in public transportation engaged in interstate commerce was illegal. Although the idea was not always carried out in practice, there was a decrease in segregation in southern carriers.

In conducting the campaign against inequality in public accommodations, progress was achieved by state legislatures. During 1952, New York and Rhode Island became the fourth and fifth states to improve laws against discrimination by empowering fair employment practices commissions to receive and dispose of complaints. New Jersey, Massachusetts and Connecticut have already acted in this manner. These three states reported a substantial increase in the total number of complaints for the year, 115 as against the 85 noted in 1951. While gains were made, trouble spots still remained, particularly in the summer resorts. A survey showed that, in the Northeast, resort advertising used such phrases as “churches nearby” to indicate restrictions against Jews. The Massachusetts Commission studied this and recommended, as a substitute, the phrase “places of worship nearby.” The New York Commission ruled the “churches nearby” wording was not indicative of discrimination.

**Alberquerque Law**

Alberquerque adopted an ordinance barring discrimination and discriminatory advertising in public accommodations. New York City passed an ordinance banning dispensation of public funds to child care centers that discriminate. In Kentucky, the legislature provided that no hospital should deny emergency care to any person because of race, creed or color.

Passage of the New York state law received impetus from an incident involving New York’s famed Stork Club, which was charged with bias. The attack began when the restaurant allegedly discriminated against Negro entertainer Josephine Baker by delaying service to her dinner party. The New York Civil Liberties Union was the first organization to demand a full investigation of the incident by Mayor Impellitteri’s Committee on Unity; it pointed out that there was a possible violation of the state’s Civil Rights Law. Although the Mayor’s committee quickly asked the Stork Club for a statement on its racial policies, the owner, Sherman Billingsley, gave no direct answer. In the face of steadily mounting pressure on the Mayor to revoke the club’s cabaret license, the city took no action at all.

Largely because of the Stork Club incident, the New York State legislature passed a law giving the New York State Commission against Discrimination, whose jurisdiction has been limited to discrimination in employment, the right to act in bias cases involving restaurants, hotels, theatres, and other places of public accommodation. Before the passage of this bi-partisan bill, a victim of discrimination had no civil recourse but to attempt a costly suit for damages. Under the new law, the victim can file a complaint with the Commission which, if conciliation and conference fail, has the power to obtain an injunction barring future discrimination.
As might be expected, the South was the region in which the greatest problem lay. Many southern states and cities maintain parks, golf courses and swimming facilities for whites, but none at all for Negroes. In 1951, several court tests were brought, but none reached the U.S. Supreme Court; lower court decisions outlined solutions which retained segregation, such as designating certain days of the week for Negroes to use the facilities and excluding whites. But here, too, the pattern was not rigid. The NAACP held unsegregated meetings in Atlanta and Richmond. The new Miami public library opened without racial discrimination, and libraries in Austin, Texas, Newport News, Virginia, and Louisville, Kentucky, followed suit. Segregated practices in St. Louis, Cincinnati and other mid-western communities were ended. While Kansas City, Missouri, maintained segregation at its municipal swimming pool, it opened its air terminal, municipal auditorium and theatre. Baltimore abandoned “Jim Crow” on its four golf courses, tennis courts, and baseball fields and playgrounds. All but one of the Philadelphia roller-skating rinks have agreed to end race discrimination, after persuasive arguments were offered by the ACLU. In Oxford, Pennsylvania, a federal District Court ordered the ending of segregation in a theatre; his injunction applied to police officers as well as the theatre owners. New Orleans opened its park facilities to Negroes. One unique case, demonstrating the growing awareness of public officials to court decisions in the civil rights field, was reported in Watertown, Wisconsin. Residents complained of the use of the city’s swimming pool by Negroes, to which the officials replied that the courts held that such discrimination was illegal. Moreover, they pointed out, if the ACLU found out about the restrictions, “it would without question take the matter into the court.” In other places, discrimination still rules and tests in the courts are pending. A major suit was brought in Philadelphia, through the ACLU’s branch, against three private pools which bar Negroes.

Airline Complaint

As a result of a complaint brought by the American Jewish Congress, American Airlines agreed to stop marking reservations with a code number designating passengers as Negroes. A reservation clerk claimed that he was discharged from his job at La Guardia field three hours after having refused to place the code number (E-111) on the “phone reservation of a woman with a Southern accent.” AJC charged that American Airlines was violating section 40 of the New York State Civil Rights Law, which forbids discrimination in any place of public accommodation. Subsequent to a meeting with the local district attorney, American Airlines, which stated that its purpose had been to guide stewardesses in seating Negroes next to each other, agreed to remove the code designation from its training manual. The district attorney sent warnings about this practice to other airlines.

The National Theatre in Washington, D.C., under new ownership, ended its segregation policy and has opened its doors again to legitimate dramas. The former owner, Marcus Heiman, refusing to stop his segregation policy,
had operated the legitimate theatre as a movie house for three years after Actors Equity Association ruled that the place was off-limits to all members as long as it discriminated against Negroes. The ACLU sent a congratulatory message to the new owners stressing the importance of their action at a time when the controversy had engendered nationwide attention. Baltimore, St. Louis and Tucson also opened theatres to integrated audiences.

**Cemetery Discrimination**

Another discrimination problem arose over the issue of burial of veterans in private cemeteries. As the body of John R. Rice, a Winnebago Indian, killed in action in Korea, was being lowered into a grave of a Sioux City, Iowa, private cemetery, the burial was halted because the cemetery was only for "members of the Caucasian race." National protest was stirred, led by veterans groups and President Truman, which resulted in the retraction of the prohibition; the widow of the soldier transcended the issue by electing to have her husband buried in the National Cemetery at Arlington, Va. Iowa and Washington have laws banning discrimination in cemeteries on other than sectarian grounds.

A similar case occurred in Phoenix, Arizona, where the burial of Pfc. Thomas Reed, a Negro Korean veteran, was delayed for more than five weeks because the Greenwood Memorial Park Cemetery insisted on three notarized letters of request from local veterans organizations before burying Negro veterans—a rule not applicable to white veterans. ACLU took action by urging the six major national veterans groups to have their local units seek an end to this discriminatory practice. The veterans were urged to make a "conscientious collection of cemetery rules"; the information could "effect a change in ruling where adverse regulations now exist."

**DISCRIMINATION IN PRIVATE ORGANIZATIONS**

Important private organizations led in the fight against inequality. By setting their own house in order, they gave leadership to the civil rights campaign. Thousands of members of professional, religious, labor and fraternal bodies learned right at home that discrimination was incompatible with the American standard of equality.

The most important development, in 1951, was the increased opposition to discriminatory practices in the South. The Galveston, Texas, Bar Association and the St. Louis Dental Society dropped their color bars as did the North Carolina Academy of Science. The racial barriers in the Virginia and Tennessee Medical Associations were criticized openly within the organizations. In 1952, Negro doctors were admitted to full membership in the medical associations in Macon, Georgia and Charleston, South Carolina. The largest medical society in the nation, the New York County Medical Society, elected a Negro as president.

Among the churches, the National Council of the Churches of Christ in the U.S.A., coordinating body of Protestant denominations in this country, spoke up firmly against segregation in churches and other forms of discrimination.
Jewish groups have taken a similar liberal stand. The Council adopted the policy effected by numerous organizations, not to hold meetings in cities where delegates would face discrimination in obtaining accommodations, and extended this to selecting a site for its national headquarters. The Roman Catholic Church continued to integrate its parochial schools in Southern border states, which was a bold step; after initial resentment, integration was achieved and worked smoothly. In certain areas Catholic churches in the South were integrated, not always with ease.

Extensive publicity was given the activities of several college fraternities at Wesleyan, Dartmouth, Williams, University of Connecticut, Michigan and Bowdoin, which adopted non-discriminatory policies, often to the displeasure of their national bodies. The National Interfraternity Conference deferred action for another year on the question of discrimination, but went on record as approving the right of a college fraternity to choose its own members.

The Association of American Law Schools recommended an amendment to its constitution to include as one of its objectives “equality of opportunity in legal education without discrimination or segregation on the ground of race or color.” A special committee will study the progress of member schools towards compliance and report back in 1954.

Despite a court restraining order, the charter of the New York State Grand Lodge of the Knights of Pythias was rescinded by the national body. The state group charged the action was taken because of its determination to eliminate the color bar to membership.

DISCRIMINATION IN VOTING

Another measuring rod of civil rights, the right of individuals to vote regardless of the color of their skin, showed that progress was being made. In the 1952 election, 3,000,000 Negroes voted, a large increase over 1948, particularly in the South. In many places the vote of Negro citizens was the deciding factor in elections and some observers offered the opinion that the increase could shape the pattern of future Southern state governments. So important was the Negro vote that in many places candidates avoided race-baiting.

However, stumbling blocks were still being placed in the path of a full and free electorate. Alabama adopted a constitutional amendment hampering registration of Negroes, and election officials in other states discouraged registration and sometimes resorted to outright intimidation. In Jacksonville, Florida, one polling place in a Negro section was dynamited on the morning of the election. In Louisiana, a Negro who brought suit against a registrar for refusing to register him was later killed by a deputy sheriff. More happily, in Mississippi, the voters turned down a proposed literacy test, designed to curb Negro voting, and Georgia rejected the extension of its “county unit” voting system, which discriminates against urban voters, to the general election.

While the efforts to pass a federal anti-poll tax bill were blocked by the general civil rights impasse in Congress, two states, Tennessee and South
Carolina, in effect, outlawed the tax. It is still in effect in five southern states, Alabama, Arkansas, Mississippi, Texas and Virginia.

The U.S. Supreme Court condemned a device used in Texas to circumvent decisions outlawing the "white primary."

DISCRIMINATION IN IMMIGRATION

Finally, it is significant that several sections of the 1952 immigration Act relate either to race or to national origin, and establish discriminatory practices and rules. The elimination of the old Oriental Exclusion Act of 1924 was a real step forward but two new harmful sections appear:

1. Persons of Asiatic ancestry born in the American Republics are not put in non-quota classes and are assigned to special quotas of 100 annually, which are much too small, and

2. Persons born in Caribbean colonies—for practical purposes, Jamaican Negroes—are taken out of the larger mother country quotas and assigned to small quotas of 100. As ACLU stated in its analysis of the original bill, the elimination of race, in some respect, is coupled in this bill with this new racial discrimination which is morally indefensible, undemocratic in character, and harmful to U.S. interests which demand that the principle of equality should be given full expression.

At the time of the congressional debate on the bill, the ACLU did not offer comment on the controversial "national origins quota" system point; the issue was being studied by the Alien Civil Rights Committee. Subsequently the Committee recommended that the Union—without passing judgment on the quota system as a whole—favor its improvement in equity by provision for both the carrying forward and the pooling of unused quotas, favor preference quotas for victims of racial, religious or political persecution, and favor quotas based on the most recent census figures. The Board of Directors adopted this report in April, 1953.

DISCRIMINATION AGAINST JAPANESE-AMERICANS

In 1950 a federal District Court revalidated the citizenship of 4,315 Nisei who claimed that they had renounced their citizenship under duress while in Japan. In 1951 the U.S. Court of Appeals upheld this action with respect to minors and to those of the group who were of unsound mind, but held that the larger part would have to offer individual proof of duress, insanity, minority, or renunciation solely through desire to be with their parents. The U.S. Supreme Court refused to review this decision. The Department of Justice had indicated that only a small number of Japanese, those charged with disloyalty, are in danger of removal from the country. This issue is therefore settled as to principle and the only civil liberties element which remains is due process in individual cases.

The federal District Court in Hawaii invalidated a long-existing law in restoring citizenship to two Americans of Japanese ancestry, Kiyokura Okimura and Hisao Murata who served in the Japanese army during World
War II. The two plaintiffs were studying in Japan at the time of Pearl Harbor, when they were drafted into the Japanese army. In addition, Okimura voted in a postwar Japanese election. The District Court declared the law unconstitutional, providing that a native-born or naturalized national shall lose U.S. citizenship by serving in the army of a foreign state if he "has or acquires the nationality of such foreign state." It took the position that the Constitution gives Congress no power to interfere with American citizenship by birth, which can only be validated "by voluntarily undergoing in a foreign state a process comparable to our own naturalization procedure." The U.S. Supreme Court did not rule on the constitutional issue, but remanded the cases to the District Court for a new ruling on the basis of further information as to the circumstances under which the two men served in the Japanese army.

Evacuation Claims

The question of the claims resulting from the wartime evacuation of Japanese-Americans is on its way to solution.

More than 25,000 evacuation claims were filed with the Department of Justice under the original law of July 1948. The adjudication procedures were so complicated and cumbersome that it was estimated that it would take 50 to 100 years to complete the program; in August 1951 Congress approved a compromise settlement amendment to the basic law providing that the government could compromise and settle claims up to three-quarters of the value of compensable items, or $2,500, whichever was less. Under this compromise, during the past two years almost 20,000 claims have been settled, leaving about 4,000 of the larger claims still to be adjudicated.

It should be noted that these remaining 4,000 claims are for amounts which total more than all 20,000 claims thus far awarded by the government.

Congress has appropriated, and the claimants will have received by the end of this year, a little less than $25,000,000. Thus, a program which threatened to take many decades to complete has been greatly expedited, even though the claimants had to take a substantial loss in order to receive expeditious consideration of their claims.

The Japanese American Citizens League is considering additional amendments to the law to expedite the handling of the remaining larger claims and to recover for losses originally considered non-compensable.

An executive decision in Oregon was heartening. The action of the State Tax Commission in refusing, on racial grounds, to hire a Japanese-American war veteran, was attacked by Governor Douglas McKay as "stupid and a damned outrage." The Commission then discovered it had a job for Sagie Nishioka.

Self-Government

Discrimination against American Indians has by no means ceased to be a problem. Throughout 1951 the ACLU took an active part in opposing Indian
Commissioner Dillon S. Myers rules regarding contracts between Indian tribes and their attorneys. These regulations required Indian Bureau approval of all lawyers, their fees, and their contracts, in litigation brought by Indians. In effect, they gave the government control of law-suits against itself. At a hearing before Secretary of the Interior Oscar Chapman in January 1952, Roger N. Baldwin, representing the Union, joined with spokesmen for many Indian tribes and non-Indian organizations in urging the Secretary to rescind the announced regulations. Great indignation was expressed at this hearing against Myers's efforts to extend the Bureau's paternalistic controls in the face of growing Indian independence, which to a large extent takes the form of law-suits to win their rights. In response to the almost unanimous opposition, Secretary Chapman rejected the Indian Commissioner's regulations soon thereafter. But Myer apparently paid little heed: he continued to disapprove certain contracts, as if the regulations were still in effect.

Later in 1952 Commissioner Myer got certain Congressmen to propose legislation which would have increased the police powers of Indian Bureau officials, and would have authorized them to make armed searches, seizures, and arrests without warrant. In the face of strong opposition by the ACLU and other organizations, the bill did not get very far.

In March 1953, Commissioner Myer resigned. In July, President Eisenhower nominated Glenn L. Emmons, a New Mexico banker, as Commissioner.

ALASKA, HAWAII, DISTRICT OF COLUMBIA

Statehood for Alaska and Hawaii was first proposed in Congress many years ago; in some instances legislation has been favorably reported as many as nine times by the appropriate committee. Since 1950, the House appears willing to approve such action, and the issue is attracting more support in the hitherto adamant Senate. However, the upper chamber has never seen fit to face a conclusive vote.

The ACLU has always vigorously supported statehood for these great territories for two reasons: Alaska and Hawaii are populated by Americans, trained and eager for full participation in our democratic nation, and denial of political rights constitutes, in these instances, a grave denial of equality. Although the opposition to their admittance has a political basis—fear of disturbing the present political balance in Congress (Hawaii is generally considered Republican, Alaska Democratic), and uneasiness about the fact that their populations are partly non-Caucasian—the ACLU insists that justice to the people of the territories and equality among all our people are paramount considerations.

The most recent expression of the Union's support came in April, 1953, when its Washington office urged, in public statements, that statehood be granted the two territories. In a letter to Senator Hugh Butler, chairman of the Senate Committee on Interior and Insular Affairs, the Union said: "It is fundamental to our concept of freedom that the principles of self-government
be encouraged. This principle is concomitant with the idea of citizen responsi-

bility which is one major standard of democracy."

The same argument was repeated in a plea for Alaskan statehood which

included the reminder that granting of statehood was an important weapon

against Soviet tyranny. "Refusal to provide full Statehood . . . will be inter-

preted by the Asians, who are vigorously pursued by the Soviets, as hypocrisy

on our part in claiming support of the principles of democracy and self-

government. We have a burden in this grave hour of history . . . to insure

to the world that we are the propagators of freedom for peoples everywhere."

The problem of home rule for Washington, D.C., is different. Here,

nearly a million American citizens are deprived, not only of their right to

participate in national elections, but also of self-government. The ACLU has

joined with other groups in urging legislation which would give residents

of the nation's capital a minimum of control over their own affairs through

a mayor, a council, and a board of education. These political and social

authorities would remain ultimately subordinate to the authority of Congress,

but the people would at least have a degree of autonomy equal to that

possessed by residents of U.S. territories. Congress has not yet seen fit to

move in this direction, partly because of indifference, and partly because

self-government would almost certainly mean the elimination of discrimina-
tory practices in a border "Southern" city.

Women's Rights

On the international scene, a convention of the International Labor

Organization sought the adherence of member nations to the principle of

equal pay for equal work, which, of course, means equal pay for women

workers. The ACLU, applauding this convention, continued to work for

state and federal law to this same effect. Maine was the only state to enact

an equal pay law (for teachers) during 1951; early in 1952, New Jersey

enacted a similar law applicable to private intrastate industry. At the present

time, 13 states and Alaska have equal pay laws on the statute books.

The so-called "equal rights amendment" (for women), opposed by the

ACLU because of the danger that it would destroy the power to enact differ-

ential legislation granting equality in fact (as distinguished from mathem-
atical identity) was introduced into the 82nd Congress by Senator O'Connor

of Maryland on January 8, 1951. The Senate Judiciary Committee reported

it favorably on May 23, 1951 with an amendment to the effect that the

article be inoperative unless ratified within 7 years. The resolution was

passed over on the floor of the Senate and died with the adjournment of

Congress. There were numerous companion resolutions in the House, but

no action was taken on any of them.

It will be recalled that in the 81st Congress a similar measure was passed

by the Senate on January 25, 1950, with two amendments, one similar to

the one described above, and the so-called Hayden Amendment which states:
"The provisions of this article shall not be construed to impair any rights, benefits, or exemptions conferred by law upon persons of the female sex."
The amendment which did not come to a vote in either House of Congress in 1951 or 1952 was passed by the Senate in July 1953 with the Hayden Amendment.

**Equal Rights**

The equal rights issue is still the subject of a sharp division of opinion between the large women's organizations of the country. The League of Women Voters has long been opposed to the Amendment (in its unamended form) as has also the American Association of University Women. A move to get the AAUW to reconsider its position at its June 1953 Convention failed, although the question was exhaustively debated and the vote was fairly close. The National Federation of Business and Professional Women and the General Federation of Women's Clubs, on the other hand, have long been for the Amendment. Most of the trade unions, both women's and men's, are against it.

The right of women to earn their living as barmaid was upheld by the New York state Supreme Court, which refused to accept the view that tradition requires men bartenders. The court decision, pointing out that the employment of women bartenders during the war gave no proof of resultant immorality, ruled that to "condemn women as a class . . . seems . . . to be arbitrary and unreasonable."

Tennessee, New Mexico and Oklahoma enacted jury service legislation for women in 1951; six states still have statutes forbidding women to sit as jurors. ACLU endorsed the companion bills entered in the Senate by Senator Pat McCarran and in the House by Representative Celler to create uniformity in the qualifications of federal jurors throughout the United States, thereby eliminating discrimination against women in the selection of federal juries.
SOME INTERNATIONAL ASPECTS
Roger N. Baldwin
International Work Adviser

The General Picture

The Union's concern with international civil liberties is directed to the U.S. role in the preparation of agreements through the United Nations for civil and political rights, and their ratification by the Senate, and to administrative action affecting the United Nations. In these several fields during the last two years the role of the United States has been one of retreat from the obligations assumed under the UN Charter, from the early hopes for extending universal standards of rights, and from the concepts of non-interference with United Nations headquarters.

United Nations human rights treaties have been blocked in the Senate by fears of invasion of the rights of American citizens or of the States. American employees of the United Nations have been subjected to attack on the ground of there being alleged subversives—meaning Communists—among them. Access to the United Nations by representatives of non-governmental agencies has been denied on the ground of their opinions. Passports of U.S. employees of the UN to go abroad on UN business have been refused or unduly delayed.

The cautions and fears which prompted these actions stem from the more stringent measures taken to ward off Communist infiltration or to control what are conceived to be Communist influences, coupled, in the case of the Senate's hostility to treaties, with a tradition of isolationism.

The Union has fought these tendencies as best it could in each of their aspects, and jointly with many other civic agencies supported the principles of international action to promote human rights. The outcome in each instance is still inconclusive.

THE SENATE

When the convention to outlaw the crime of genocide, ratified up to 1952 by 41 nations, came before the Senate in 1951 for ratification, it was opposed mainly by the American Bar Association on the ground that it would invade the rights of the states and would give an international authority the right to intervene in American domestic affairs. Opposition to this convention, which has not yet been reported to the Senate from committee, led to a wider campaign for a constitutional amendment (the Bricker Amendment) to prevent in the future the ratification of any treaty affecting internal law without the vote of both houses of Congress, and to prevent any treaty from interfering either with the rights of U.S. citizens or of the states.

The Union, joining many other associations, has voiced vigorous opposition to the proposed amendment in any form. It would, they hold, make
impossible U.S. participation in creating international standards of rights, in promoting freedom of international communication or in entering into reciprocal conventions for the protection of Americans abroad and aliens here. Whatever precautions are needed, these organizations maintain, can be entrusted first, to the good sense of our President, second to Senate reservations to treaties, and finally to Supreme Court action in defense of our constitutional liberties.

The issue is before the Senate on a favorable report from its Judiciary committee. It faces the combined opposition of the Administration, a minority report of the Senate Committee, and the almost unanimous hostility of the major national civic and labor organizations.

The stir in the Senate over this constitutional issue prompted Secretary of State Dulles in the spring of 1953 to announce that the State Department would not at this time consider submission of any human rights treaty to the Senate—specifying the uncompleted human rights covenants of the UN, and the recently adopted Convention on Political Rights for Women. He added that the Department would not urge action on the pending genocide convention. The Union scored that position.

THE UNITED NATIONS

The protracted labors of the Human Rights Commission in drafting two covenants on human rights—one in civil and political, the other on economic and social—progressed so slowly that even after four years of effort they were submitted in 1953 to the Economic and Social Council uncompleted. The Union has been represented at all stages of the work—at State Department conferences, so-called briefings at the UN, and at the Commission sessions themselves. Roger Baldwin, as a representative both of the Union and the International League for the Rights of Man (with which the Union is affiliated) attended the Geneva sessions in 1951 and 1953, and the New York session in 1952.

The Union's conclusions, after all this experience, are that the covenants should be completed by a small group of experts, rather than by a politically instructed body of 18 government delegates. The Union has further supported the proposals made by the United States for a far more active program of advancing human rights by the UN through reports, studies, expert services to member States, and the stimulation of activity in all countries.

These views have been conveyed to U.S. officials in the UN along with comment on the right of access to the UN by persons whose rights are violated. That right is opposed by the U.S., which favors only governments as complainants against violations in other signatory states.

Outside the efforts of the Human Rights Commission, the Union has been concerned in the UN with the work of the Commission on the Status of Women and with the still abortive work to promote freedom of international communication by press and newsreels. The promising beginnings of the U.S.-sponsored communications conferences in Geneva in 1948 have
bogged down in conflict between governments championing liberties and those who insist on adding limitations so numerous that they compromise the liberties. The result has been that no agreements have been reached save one rather fantastic convention, opposed by the U.S., the ACLU, and the press agencies, which provides remedies through a "right of correction" of allegedly false news published abroad reflecting on any signatory government. The convention was opened for ratification in 1953.

Two Conventions

The Union on the other hand has favored two conventions proposed by UNESCO (the United Nations Educational, Scientific and Cultural Organization) to remove customs barriers on both printed and visual educational matter in international trade. The conventions have not yet been submitted to the Senate. The Union has also favored the universal copyright convention adopted in 1952 in Geneva, which will not be submitted to the Senate in any event until necessary preliminary changes are made in U.S. law. It has also favored a Convention on Political Rights for Women proposed by the Commission on the Status of Women (and already signed by 23 countries), as well as a proposed Convention on Equal Nationality Laws (not yet completed) and the Convention on Equal Pay for Equal Work of Men and Women drafted by the International Labor Office in 1951 at the behest of that same commission.

When both a U.S. Senate Committee and the New York Federal Grand Jury concerned themselves in 1952 with the presence of alleged "subversives" among American personnel of the U.N. staff, the rights of American citizens to employment in an international organization became an issue. Rapid developments took place as the Secretary General dealt with a novel problem under great public pressure from elements determined, as the chairman of the Senate Committee put it, "either to get the Communists out of the UN or the UN out of the U.S."

Some American employees called before the Senate Committee refused to testify as to their political views and associations, resorting to the protection of the Fifth Amendment against being witnesses against themselves. They were promptly discharged without hearings. Others were discharged on the showing of prior membership in subversive organizations so listed by the Attorney-General. Most of them have appealed to the Administrative Tribunal set up by the Assembly to act as final arbiter on personnel questions.

The Union agreed that all U.S. citizens employed by the UN have the right of "due process"—that is, the right to be informed of charges, hearings, counsel, and appeals—and therefore has filed a brief with the Tribunal in support of those principles. It has in addition sustained the right of the UN to determine the conditions of employment without interference by member States. The Union has not regarded as interference the President's order setting up a system of checking all U.S. employees of the UN and its agencies, here and abroad, since its expressed purpose is limited to making recommen-
dations to the Secretary General. But the Union opposes a bill passed by the Senate, pending in the House, to make criminal the acceptance of any UN post by an American citizen without prior clearance.

Another conflict between the U.S. and the UN came to a head when in the Spring of 1953 the Attorney General refused entry to the U.S. of two representatives of non-governmental organizations on the ground that their Communist connections barred them. The UN countered with a legal opinion that the Headquarters agreement with the U.S. requires that no discrimination for political associations be shown. The issue is under negotiation. The Union has taken a position in support of the UN contention.

Difficulties were also encountered in getting passports for American members of the UN secretariat to go abroad on UN business. Passports were so long delayed that their purpose was no longer relevant. No system of appeals from bureaucratic decisions of the Passport Division has yet been set up in actual practice, despite an announcement of it by Secretary Acheson in 1952. Nor has the U.S., unlike most other UN member states, subscribed to the international agreement under which the UN may issue travel documents for its employees in place of passports.

All activities affecting rights and liberties in the relations of the U.S. with the UN have been marked by the fears and the cautions arising from the excitement over Communist influences. The past two years have seen a steady decline in meeting what were assumed to be U.S. obligations, and an increase in the obstructions to international agreements. The efforts of the Union, like those of scores of other organizations, have succeeded in accomplishing very little against the tide of fear and reaction.

**Occupied Countries**

While Germany and Austria still remain countries where the United States exercises authority as an occupying power, the problems of civil liberties in them, or in Japan (where the U.S. exercises some jurisdiction under agreement) became so few in relation to the U.S. that the special committee of consultants on these areas was discontinued in 1952. But contacts are maintained with civil rights agencies in those countries, and with U.S. officials.

Study groups coming mainly from Germany, with a few from Austria and Japan, have been aided by the Union on request of the government agencies sponsoring them. Two German groups invited by the State Department in 1952 were handled solely by the Union under my direction. I have visited Germany every year since I helped establish the German Civil Liberties Union (Deutscher Bund Fuer Buergerrechte) in 1950, in order to assist in its development, largely financed through Occupation counterpart funds. That aid ceased in 1953.

The court system in Germany, Austria and Japan under which citizens of those countries are tried in U.S. courts for offenses involving U.S. personnel or regulations (but not regulations in Japan) is obviously unwelcome.
and outdated, but no change can be made except under long-delayed treaties, or, in the case of Japan, by a change in the security agreement with the American government.

Efforts through the Union to raise a fund to assist the Japanese Civil Liberties Union, established with the Union’s help, were unsuccessful.

**U. S. Island Colonies**

Civil rights and the promotion of self-government in U.S. island possessions have always been a concern of the Union under the supervision of a special standing committee. Efforts have been directed to them all as occasion prompted—Puerto Rico and the Virgin Islands in the Caribbean, Samoa, Guam, and the Trust Territory Islands in the Pacific.

Puerto Rico, much the largest (two million people compared with less than 200,000 for all the rest), has progressed furthest toward self-government with a new constitution adopted in 1952 by overwhelming popular vote. Self-government in the form of a “commonwealth status,” not statehood, is so far advanced that the U.S. no longer reports to the United Nations on the island’s affairs, as it does on all other non-self-governing territories. Pro-independence parties in the Island of course object that its self-government is unreal when the Island is subject to federal laws without a single voting representative in Congress.

The Union supported the legislation in Congress which enabled Puerto Rico to prepare and adopt its constitution.

Sharp issues of civil rights arose in Puerto Rico when the Nationalist Party, fanatically for independence, staged an abortive armed uprising in the fall of 1950; hundreds of members were arrested. An ACLU representative observed the situation for the Union. He reported that many of the defendants could not get bail because of their poverty, but that excessive bail was not demanded; also many had to wait more than a year for trial because of the crowded courts and because the defendants generally wished to be represented by the same small group of lawyers. There were many convictions and many acquittals. One case of an American woman sympathizer with the Nationalist Party, Ruth Reynolds, convicted solely for being present at a meeting where an oath of support was taken, was aided by the Union on appeal. (See above, page 44.)

The Virgin Islands, comprising three islands with a population of 25,000, have continued through their legislature to press for revision of their organic act to provide chiefly for an elective governor and for a resident commissioner in Washington with a voice in the House of Representatives, like Puerto Rico. The Union has backed the reforms, which have been blocked by inattention in Congress and by the opposition of the Interior Department to such a status for so small a population.

The Pacific Islands, Samoa and the hundreds of little islands of the trust territory formerly mandated to Japan, controlled by the U.S., were moved from
Navy jurisdiction to the Interior Department by executive order effective July 1, 1951. Under Navy pressure two of the largest islands, Tinian and Saipan, were returned to Navy control in 1952. The Union supported civilian control and opposed the transfer back to the Navy.

Guam had previously been transferred from the Navy to the Interior Department control with an organic act providing for U.S. citizenship, a bill of rights, and all the home-rule that can be expected of a Navy base.

A similar organic act has been introduced in Congress for the Trust Territory. None has been prepared for Samoa, because of opposition by the native tribal chiefs, whose complex organization might be disrupted by imposing an alien system.

No issues of civil rights have come to the Union's attention from the Pacific Islands. The U.S. reports fully to the United Nations on all its non-self-governing territories. The published reports go further than those of other member states by voluntarily including political information on progress toward self-government.
BALANCE SHEET OF COURT CASES

Favorable Decisions in U. S. Supreme Court

1. The 8-0 decision holding unconstitutional Oklahoma's loyalty oath for public employees because it would have barred them from employment if they were members of subversive organizations, whether or not they knew the character of the organization.

2. The 5-3 decision holding illegal the listing by the Attorney General of organizations on his so-called "subversive" list without notice and a prior hearing.

3. The unanimous decision holding unconstitutional the New York ban on the motion picture film "The Miracle" on the ground that it was sacrilegious.

4. The unanimous decision holding unconstitutional the ban in a Texas city of the film "Pinky" on the ground that it was "prejudicial to the best interests of the people of the city."

5. The unanimous decision that the practice of a city park in Maryland in requiring permits for religious meetings without any law to support it and without any standards for its grant or denial was unconstitutional.

6. The unanimous decision holding unconstitutional a city ordinance of Pawtucket, Rhode Island, which prohibited religious meetings in a public park (while permitting church services).

7. The unanimous decision holding that evidence obtained through the forcible use of a stomach pump could not be introduced against a defendant because it had violated due process of law.

8. The unanimous decision that the Attorney General could not be permitted constitutionally to decide for himself on what conditions he might produce government papers in criminal prosecutions.

9. The unanimous decision reversing convictions for rape of three Florida Negroes because the method of grand and petit jury selection had discriminated against members of the Negro race, two of the members of the Supreme Court urging, in addition, that the Court should have reversed the conviction as well upon the grounds that inflammatory statements in the locality in which it was held had made a fair trial impossible.

10. The refusal to review the decision of U.S. Court of Appeals in N.Y. reversing the conviction of Judith Coplon because the arrest was without a warrant or proof she was about to escape, and therefore, the papers seized from her were inadmissible as evidence against her; also, because of foreclosure of defense attempts to determine whether the original confidential informant against her was a wiretap.

11. The 5-4 decision holding that a special police officer who, in his official capacity, used third degree methods to get a confession may be criminally prosecuted under the federal Civil Rights Act.
12. The unanimous decision that a New York statute which specified control of churches violated the constitutional separation of church and state.

13. The 6-3 decision holding that the President had no inherent powers to seize the steel industry during a labor dispute.

14. The 6-3 decision that state laws forbidding strikes in public utility industries and providing compulsory arbitration for such disputes were invalid because of conflict with the Taft-Hartley Act.

15. The 6-1 decision holding that a violator of a racial restrictive covenant cannot be sued for damages.

16. The 8-0 decision holding that a law outlawing racial segregation in Washington, D.C., restaurants was still in force.

17. The refusal to review the decision of the U.S. Court of Appeals in Philadelphia outlawing state censorship of films on television.

18. The granting of an appeal from the decision of the Supreme Court of New Jersey upholding the action of school authorities in dismissing a teacher refusing to take the prescribed loyalty oath. (The case was dismissed on the ground of mootness.)

19. Refusal to review the decision of a three-judge federal court, that Louisiana State University must admit a Negro on the grounds that facilities in the all-Negro university were unequal.

20. The refusal to review a lower court decision banning segregation of passengers in interstate traffic on the Atlantic Coastline Railroad to Virginia.

**Favorable Decisions in Lower Federal Courts**

1. The 2-1 decision of a special three-judge federal court holding that a passport could not be revoked without a statement of the reasons therefor and a hearing.

2. The unanimous decision of the Court of Appeals in Washington, D.C., holding illegal the discharge of James Kutcher, legless war veteran, from his employment with the U.S. Veterans Administration, on the sole ground of his membership in the Socialist Workers' Party.

3. The two decisions of federal courts in Washington, D.C., holding unconstitutionally vague the provisions of the federal Lobbying Act requiring registrations of persons who raise funds to be used principally to influence directly or indirectly federal legislation.

4. The decision of the Court of Appeals in Boston holding that if a congressional investigation stirs up nationwide publicity against a person already under indictment, that person may get an adjournment of his trial to lessen the danger of prejudice.

5. That part of the decision in the Remington case by the Court of Appeals in New York holding that the judge's charge as to what constituted membership in the Communist Party was too vague and that the prosecution's
continuous references to the illegal Attorney-General's so-called "subversive list" and the harping on a change of name of a defense witness was improper.

6. The decision of the Court of Appeals in San Francisco, upon confession of error by the United States, that a person could not be denied citizenship solely because he is an atheist.

7. The decision of the Court of Appeals in North Carolina requiring the University of North Carolina to admit Negro students to its all-white law school.

8. The decisions of several federal district courts holding that the privilege against self-incrimination is applicable to witnesses appearing before congressional committees.

9. The decision of a District Court in San Francisco that the U.S. Coast Guard could not properly refuse to divulge the exact charges against a merchant seaman before his hearing on whether he was a security risk.

10. The decision of the District Court of the District of Columbia that military authorities cannot seize an ex-serviceman for trial for a crime allegedly committed when he was a service man.

11. The decision of a District Court in New York City that a grand jury cannot condemn individuals whom it does not indict, or make inquiries into their religious beliefs.

12. The decision of the District Court in Arizona ending segregation of Latin- and Mexican-American students in the Tolleson, Arizona, public schools.

13. The decision of a District Court in San Francisco that the Attorney General could not refuse suspension of deportation to an alien claiming he would be physically persecuted in the country to which he was being deported, when the Attorney General produced no evidence to counter the alien's claim. (Appeal by government dismissed on its own motion.)

Favorable Decisions in State Courts

1. The unanimous decision of the New Jersey Supreme Court reversing the conviction of Collis English and Ralph Cooper, the "Trenton Two," on technical points.

2. The decision of the North Carolina Supreme Court holding illegal the conviction of Mack Ingram, a Negro sharecropper, for assaulting a white girl by "leering" at her.

3. A decision of the New Mexico Supreme Court refusing to bar all members of Roman Catholic religious orders from public school teaching, but forbidding the wearing of religious garb by public school teachers.

4. The unanimous decision of the Pennsylvania Supreme Court holding that the effort of the State Attorney General to investigate the political opinions of a county assistant district attorney was wholly without legal power or authority.
5. The unanimous decision of the Pennsylvania Supreme Court overruling a contempt citation against a lawyer who refused during the course of an ordinary civil case to state whether he was a Communist.

6. The decision of the Supreme Court of Massachusetts holding that it was a violation of the privilege against self-incrimination to inquire whether a person is a Communist or a member of the Communist Party.

7. The decision of the New Jersey Supreme Court that Newark could not deny a license to a Minsky burlesque theatre merely upon the expectation that it would exhibit obscene performances.

8. The decision of the New York Court of Appeals awarding a new trial to a defendant who had confessed under the pressure of psychiatric techniques.

9. The decision of the Court of Appeals of Georgia reversing the contempt of court conviction of Ralph McGill, editor of the *Atlanta Constitution*, for disobeying a court order to publish, without payment, a photograph of court records.

10. The decision of the New York Court of Appeals that a mother cannot be deprived of the custody of her child on the ground that her present husband is of a race and religion different from that of the infant.

11. The decision of the California Supreme Court holding unconstitutional California's Alien Land Law which barred aliens ineligible for citizenship from buying, acquiring or occupying land.

12. The decision of the California District Court of Appeals that the non-Communist loyalty statement required by the Regents of the University of California was unconstitutional because it conflicted with the required oath of allegiance in the State Constitution.

13. The 4-3 decision of the New York Court of Appeals reversing the conviction for contempt of court for picketing the court with an anti-Catholic sign asking religious quotas in judicial appointments.

14. The decision of the New York Court of Appeals that a policeman who takes a bribe to help an arrested person escape a jail term is guilty of criminal coercion and repression.

15. The decision of the Appellate Department of the California Superior Court holding legal the distribution of Communist handbills, which neither advised nor encouraged any illegal act, dealing with the conflict in Korea.

16. The decision of the Superior Court of Pennsylvania holding unconstitutional the Pennsylvania "peace bond" practice under which one acquitted of a criminal charge could be made to put up a bond or go to jail in default thereof.

17. The decision by an Appellate Division of the New York Supreme Court holding that bail may not be used as a device to reward people for cooperating with the District Attorney, or to coerce them into doing so.
18. The decision of the California Superior Court holding unconstitutional the restriction of certain public housing projects to whites only.

19. The decision of the Appellate Department of the Los Angeles Superior Court holding unconstitutional a county ordinance requiring registration of Communists, on the grounds that it violated the privilege against self-incrimination.

20. The decision of a Westchester County, New York, Supreme Court holding mostly unconstitutional the Cortlandt ordinances restricting public meetings.

21. The dismissal of several indictments by a judge of the Chicago Criminal Division Court against persons who had defended the rights of victims of the Cicero riots.

22. The decision of a Justice Court in Seattle, Washington, dismissing an indictment for obscenity based on a pamphlet on marriage instruction.

23. The decision of a lower New Jersey court that a county prosecutor who had asked distributors of "objectionable" books and magazines to halt distribution, had thus acted arbitrarily and violated freedom of the press.

24. The decision of a Toledo, Ohio, municipal court outlawing, as a violation of freedom of the press, state censorship of newsreels.

25. The decision of a court in Baltimore, Maryland, overruling the attempt of the State Board of Censors to delete scenes from the film "Damaged Lives."

26. The decision of the New York Supreme Court holding that disclosed former Communist Party membership may not be used as a reason to deny employment to a person as a municipal washroom attendant.

27. The decision of the New York Supreme Court holding that mere signing of a Communist Party nominating petition could not make a person ineligible for a position as a policeman.

28. The decision of a lower Illinois court lifting the Chicago ban on "The Miracle."

29. The decision of a Providence, Rhode Island, police court holding unconstitutional a local ordinance banning distribution of handbills on streets and sidewalks.

30. The decision of the New York Supreme Court upholding the right of women to earn their living as barmaids.

Unfavorable Decisions in U. S. Supreme Court

1. The 6-2 decision in the case of the 11 Communist leaders holding constitutional the Smith Act of 1940 penalizing conspiracy to advocate the overthrow of the government by force and violence, in the absence of a jury finding of existence of a clear and present danger, though in the presence of a court finding (by judicial notice) of a clear and probable danger.
2. The 5-4 decision upholding the constitutionality of an Illinois group libel law making it a criminal offense to distribute a publication which libels a class of citizens of any race, color, creed or religion, in the absence of a finding of a clear and present danger.

3. The 4-4 decision of the U.S. Supreme Court in an appeal from the Washington, D.C., U.S. Court of Appeals, in effect refusing to upset the lower court decision holding that the government could constitutionally refuse to grant the right of cross-examination and confrontation of accusers to a federal government employee in a non-sensitive position in loyalty proceedings.

4. The 7-2 decision that although the Portsmouth, New Hampshire, City Council had wrongfully denied a license to a Jehovah's Witness to conduct religious services in the public park, his remedy was appeal through the courts rather than holding such services without permission.

5. The 6-2 decision that servicemen are not entitled to federal court review of due process questions if they were fully considered by military authorities, no matter what their determination.

6. The 6-3 decision that a defendant in a state criminal prosecution has no constitutional right to cross-examine his accusers, that a person's criminal record may be considered in determining whether psychological coercion was used in obtaining a confession, and that a conviction will generally not be set aside in a state criminal case where coercion of a confession was in dispute (to be decided by the jury) if there was enough evidence to convict outside of the confession.

7. The 5-4 decision upholding the constitutionality of the Los Angeles city employee loyalty oath requirement which required the foreswearing of advocacy of violent overthrow of the government or membership in an organization so advocating, and also holding constitutional the city's requirement that an affiant disclose past or present membership in the Communist Party, though not considering the question of whether such affiliation would justify discharge.

8. The 6-3 decision upholding the constitutionality of New York's "Feinberg Law" establishing procedure for discovering "subversives" who under an earlier law are barred from teaching in the public schools.

9. The 6-2 decision that an alien could be constitutionally deported solely on the ground of former membership in the Communist Party.

10. The 5-4 decision holding that bail could be denied to an alien during deportation proceedings on the sole ground that the alien is an active member of the Communist Party.

11. The unanimous decision upholding loyalty oaths for candidates for state and city offices in Maryland (Ober Law) by construing the oath to mean merely that they are not engaged and will not engage in attempting to overthrow the government by force and violence.
12. The 5-4 decision, holding that a returning alien denied admission to the U.S. on security grounds, and refused a hearing, who is being detained on Ellis Island because no other country would accept him, can be refused bail, without disclosure of the charges against him, and without a hearing.

13. The 6-3 decision upholding the constitutionality of New York's "released time" program which permitted parents to have their children excused from class for religious instruction.

14. The 8-1 decision upholding the constitutionality of that part of the McCarran Act, which makes it a crime for an alien ordered deported to fail to apply for papers which might facilitate his deportation.

15. The 6-3 decision holding that under the federal Civil Rights Act, private parties may not sue for damages for violations of their civil rights by other private parties except under the most exceptional circumstances.

16. The 8-1 decision holding that a private person could not sue the members of the California Un-American Activities Committee (Tenney Committee) for damages, under the federal Civil Rights Act, when the Committee had called him before it allegedly not for legislative purposes, but solely to silence him because he had circulated literature against it.

17. The 7-1 decision holding that a defendant in a State criminal case could not get a federal court, under the federal Civil Rights Act, to enjoin the introduction of evidence obtained against him by an unlawful search and seizure.

18. The 7-1 decision upholding the constitutionality of the practice of broadcasting music and commercials to captive audiences in Washington, D.C., streetcars.

19. The 5-4 decision holding that the FBI agent who had overheard conversations between a government informer and the defendant by means of a concealed walkie-talkie could testify thereto.

20. The 8-1 decision holding constitutional the admission of evidence in a state prosecution obtained in possible violation of the federal anti-wiretapping law.

21. The 5-3 decision holding that unless a witness raises the defense of the privilege against self-incrimination the first time she is asked an incriminating question, she cannot later invoke this constitutional protection for more detailed questions on the same subject matter.

22. The 7-2 decision holding that a state could constitutionally enjoin peaceful picketing when carried on for purposes in conflict with that state's right-to-work statute.

23. The 6-3 decision holding constitutional the 1951 federal tax law which taxed gamblers and required them to register with the Collector of Internal Revenue, although a gambler might thus be forced to incriminate himself under state laws.
24. The 6-2 decision upholding the constitutionality of a North Carolina law, permitting a second criminal trial when the prosecution does not have its evidence ready at the first.

25. The 5-4 decision holding that conspiracies of two or more persons to deprive citizens of their constitutional rights were not punishable under the federal Civil Rights Act where the rights violated were those arising from the relationship of the individual and the state rather than those arising from the relationship of the individual and the federal government.

26. The 7-2 decision holding that a person could be prosecuted for perjury during a criminal trial, although acquitted of the criminal charge, where the perjury prosecution was based on untruths about details.

27. The 5-3 decision holding it legal and constitutional for the Department of Justice to use contents of an FBI file in making advisory recommendations to draft boards in conscientious objector cases without disclosing their contents to the draft registrant.

28. The refusal to review the decision of the New York Court of Appeals holding constitutional the conviction of Carl Jacob Kunz for disorderly conduct, because his street-corner speech attracted a large audience which obstructed traffic.

29. The refusal to review the decision of the U.S. Court of Appeals in St. Louis, holding that a federal prisoner has no right to a writ of habeas corpus, though he alleged that he was being subject to cruel and unusual punishment at the hands of his jailers.

30. The refusal to review a decision of the New York State Court of Appeals upholding a conviction of two Jewish meat dealers, whose religion calls for observing Saturday as their day of rest, for selling merchandise on Sunday.

31. The refusal to review the decision of the Virginia Supreme Court holding that Negroes could be sentenced to death for rape although there was no evidence to show that a white man had ever been punished with death for that crime, in that jurisdiction.

32. The decision refusing, on technical grounds, to pass upon the constitutionality of daily Old Testament readings and recital of the Lord's Prayer in the New Jersey schools.

33. The 7-2 refusal to review, on technical grounds, a decision of the California Supreme Court, holding constitutional a vagrancy law defining a vagrant as a "dissolute person."

34. The 7-2 decision postponing consideration, until the Michigan courts could construe the law, of Michigan's law requiring the registration of Communists, the Communist Party, and Communist-front organizations, and preventing their appearance on the state ballot.

35. The refusal to review the decision of the U.S. Court of Appeals in New York holding that an alien otherwise qualified could be denied sus-
pension of deportation solely because of past affiliation with the anti-Stalinist Socialist Workers Party.

36. The refusal to review that part of the decision in the Remington case by the U.S. Court of Appeals in New York refusing to quash the indictment because of the alleged financial and editorial interest of the grand jury foreman in a book written by the prosecution's chief witness, unless Remington could show undue influence by him.

37. The refusal to review the decision of the federal Court of Appeals in Baltimore upholding the conviction of several communist leaders for violation of the Smith Act.

38. The refusal to review the decision of the U.S. Court of Appeals in New York holding that the Attorney General could refuse to suspend deportation of an alien to a country where he claimed he would face physical persecution, though no evidence was offered to counter the alien's claim.

39. The refusal to review two of the decisions of the California Supreme Court upholding the constitutionality of that state's Levering Act, which makes all state employees, including teachers, civil defense workers, and requires them to take a loyalty oath.

40. The refusal of the Supreme Court to review the decision of the California Supreme Court holding part of the Los Angeles County loyalty oath valid.

**Unfavorable Decisions in Lower Federal Courts**

1. The decision of the Court of Appeals in San Francisco that Harry Bridges could be prosecuted by the government for perjury in having denied past Communist Party membership in naturalization proceedings, though two prior legal proceedings involving the identical issue had been un成功fully brought by the government. (Reversed on other grounds by U.S. Supreme Court.)

2. The decision of the District Court in Washington, D.C., that segregation in federal housing projects was constitutional.

3. The decision of the District Court in Virginia holding that the Virginia poll-tax law was constitutional.

4. The decision of the District Court in San Francisco upholding the ban of the U.S. Customs for alleged obscenity on Henry Miller's novels "The Tropic of Capricorn" and "The Tropic of Cancer."

5. The decision of the District Court in Kansas subjecting a conscientious objector who had already served a jail sentence for refusing to register for the draft to an additional jail sentence for failing to fill out a selective service questionnaire and for failing to report for a physical examination and induction.

6. The decision of a District Court in New York City that a jury might speculate on whether the effect of improper coercion of a first confession had worn off so that a second confession might be used against the defendant.
Unfavorable Decisions in State Courts

1. The Ohio Supreme Court decisions upholding the constitutionality of the State Motion Picture Censorship law; the film "M" was returned to the Board of Censors for further consideration; the adverse decision on "Native Son" will be taken on appeal to the U.S. Supreme Court.

2. The 5-2 decision of the N.Y. Court of Appeals sustaining the N.Y. Motion Picture censorship law in banning for alleged indecency and immorality the film "La Ronde" against attack on the vagueness of the terms "indecent and immoral."

3. The six decisions of the California Supreme Court upholding that state's Levering Act which makes all state employees, including teachers, civil defense workers, and requires them to take a loyalty oath.

4. The decision of the Supreme Court of New Jersey upholding the dismissal of a teacher refusing to take the prescribed loyalty oath.

5. The decision of the Supreme Court of Pennsylvania upholding the discharge of a public school teacher on the sole ground of active membership in the Communist Party.

6. The 6-1 decision of the New York Court of Appeals holding constitutional the suspension and reprimand of three physicians solely because of their conviction for contempt of Congress. (To be appealed.)

7. The decision of the Maryland Court of Appeals holding constitutional a law excepting one county from a law barring admission of illegally seized evidence in a misdemeanor case. (On appeal.)

8. The decision of an intermediate appellate court in Pennsylvania upholding the constitutionality of the state sedition law making it criminal to bring the government into hatred and contempt by advocacy. (On appeal.)

9. The decision of an intermediate appellate court in Pennsylvania holding that an officer of the Communist Party could be deprived of relief assistance because she advocated changes in government by unconstitutional means.

10. The 3-2 decision of an intermediate appellate court in New York, involving 21 public elementary school and college teachers that exercise of the Fifth Amendment privilege against self-incrimination could be used as the sole basis for discharge under a New York City charter provision.

11. The decision of the New York Appellate Division, 4-1, upholding Judge Valente's barring of the press from the compulsory prostitution trial of Minot Jelke. (On appeal.)

12. In an intermediate appellate court in Ohio, a decision holding constitutional the requirement of a loyalty oath for applicants for unemployment insurance.

13. The decision of a New York Supreme Court holding constitutional the barring of a meeting on public school premises because it would be controversial.
14. The decision of a lower Illinois court that persons who asked the court to appoint a special prosecutor in a criminal action were thereby guilty of contempt of court by obstructing justice and coercing the court.

15. In a lower Virginia court, a conviction of a minister for contempt of court for criticizing a judge's decision in a sermon.

16. The decision of Judge Bok in Philadelphia upholding the constitutionality of the loyalty oath requirement for public employees under Pennsylvania's Pechan Law.

17. The conviction in Providence, Rhode Island, of the producer of the play "Tobacco Road" for putting on an indecent performance.

18. The refusal of a New York Supreme Court to issue a temporary injunction against the New York City Police Commissioner's directive forbidding policemen to join any labor union.

19. The failure of a jury in a New York City Supreme Court to come to any agreement on a suit and enjoin the License Commissioner from interfering with news and sales of the nudist publication "Sunshine and Health."

**Cases Pending in U. S. Supreme Court**

1. Five cases testing whether segregation of Negroes in elementary, junior high, and high schools is unconstitutional, and another whether exclusion of Negroes from certain public golf courses is constitutional.

2. An appeal from a decision of the federal District Court in Washington, D.C., holding unconstitutional parts of the federal Regulation of Lobbying Act.

3. An appeal from a decision of the Maryland Court of Appeals holding constitutional a law exempting one county from a law barring admission of illegally seized evidence in misdemeanor cases.

**Cases Pending in Lower Federal Courts**

1. In a three-judge federal court in Washington, D.C., a case testing the action of the Immigration Commissioner in refusing to permit an alien Chinese with scientific training to return to his homeland when the standards used were vague.

2. In the Court of Appeals at New York, an appeal from the conviction of William Remington for perjury in denying he had committed perjury in his first trial on perjury charges.

3. In the Court of Appeals at New York, an appeal from the denial of a writ of habeas corpus based on a claim that a jury could not be allowed to speculate on whether the effect of improper coercion of a first confession had worn off so that a second confession might be used against the defendant.

4. In the New York federal District Court, a suit by the Screen Writers Guild against major motion picture producing companies charged with a conspiracy to restrain trade by their blacklisting of alleged "subversives."
Cases Pending in State Courts

1. In the Supreme Court of Pennsylvania, an appeal from the decision of an intermediate appellate court upholding the constitutionality of the state sedition law making it a crime by advocacy to bring the government into hatred and contempt.

2. In the Virginia Supreme Court, an appeal from the conviction of a minister for contempt of court for criticizing a judge's decision in a sermon.

3. In the Supreme Court of Puerto Rico, an appeal from the conviction of Ruth Reynolds for advocating the violent overthrow of the government solely because of taking an oath during a fund-raising speech that she would sacrifice her life and give up her fortune for the Nationalist Party.

4. In the Supreme Court of Illinois, an appeal from a decision of a lower court that persons who asked the court to appoint a special prosecutor in a criminal action were thereby guilty of contempt of court by obstructing justice and coercing the court.

5. In the Superior Court of Providence, Rhode Island, a trial under the state obscenity law of the producer of "Tobacco Road" for putting on an indecent performance.

6. In trial courts in Newark, New Jersey; Brooklyn, New York; Buffalo, New York; Chicago, Illinois; Denver, Colorado; and Los Angeles, California cases to test the constitutionality of the Gwinn Amendment, denying to members of organizations on the Attorney General's so-called "subversive list" the privilege of residing in certain federally aided housing projects solely because of such membership.

7. In the Cook County Circuit Court in Chicago, a challenge to the refusal of the Chicago Police Commissioner to license "The Miracle."

8. In the local court at Youngstown, Ohio, an injunction sought by a book publisher against the local police chief for allegedly interfering with book distribution by threat to enforce a local obscenity ordinance.

9. In the New York Supreme Court, an action to secure reinstatement of a union member who in effect had been expelled, without notice or hearing, from an allegedly Communist-dominated labor union allegedly because of his opposition to the union leadership.

10. In the lower Michigan courts, a case to test the requirement of loyalty oaths for all city employees of Detroit.

11. In a lower court in Illinois, a suit testing teaching by nuns in religious garb in the public schools.

12. In the federal District Court at Detroit four suits against reputable book publishers for allegedly transporting in interstate commerce in violation of federal statutes obscene literature.

13. In a New York State Supreme Court, a test case of New York City's vagrancy law.
# STRUCTURE AND PERSONNEL

## General Membership and the Corporation

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

### Corporation Officers

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

### Board of Directors

**Chairman**—Ernest Angell  
**Vice Chairmen**—Edward J. Ennis and Whitney North Seymour  
**General Counsel**—Morris L. Ernst and Arthur Garfield Hays

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Mrs. Dorothy Dunbar Bromley  
Richard S. Childs  
Norman Cousins  
John F. Finerty  
H. William Fitelson  
James Lawrence Fly  
Osmond K. Fraenkel  
Walter Frank  
Varian Fry  
Walter Gellhorn  
Rev. John Haynes Holmes  
B. W. Huebsch  
Rev. John Paul Jones  
Dorothy Kenyon  
James Kerney, Jr.  
Cordiss Lamont  
Merle Miller  
Herbert R. Northrup  
Merlyn S. Pitzele  
Elmer Rice  
Telford Taylor  
Norman Thomas  
J. Waties Waring  
James A. Wechsler  
William L. White

### National Committee

**Chairman**—Roger N. Baldwin  
**Vice Chairmen**—Pearl S. Buck, Lloyd K. Garrison, Dr. Frank P. Graham and Rt. Rev. Edward L. Parsons

Sadie Alexander  
Thurmond Arnold  
Bishop James Chamberlain Baker  
Alan Barth  
Francis Biddle  
Julian P. Boyd  
Van Wyck Brooks  
James R. Caldwell  
Dr. Henry Seidel Canby  
Dr. Allan Knight Chalmers  
Stuart Chase  
Grenville Clark  
Prof. Henry Steele Commager  
Morris L. Cooke  
Prof. George S. Counts  
Prof. Robert E. Cushman  
Elmer Davis  
J. Frank Dobie  
John Dos Passos  
Melvyn Douglas  
Frederick May Eliot  
Thomas H. Eliot  
Walter T. Fisher  
Rev. Harry Emerson Fosdick  
Dr. William E. Goslin  
Abram L. Harris  
Earl G. Harrison
Quincy Howe
Palmer Hoyt
Dr. Robert M. Hutchins
Dr. Charles S. Johnson
Dr. Mordecai W. Johnson
Dr. Percy L. Julian
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Dr. John A. Lapp
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Max Lerner
Prof. Robert Morss Lovett
Prof. Robert S. Lynd
Prof. Archibald MacLeish
John P. Marquand
Mike Masoaka
William Mauldin
Bishop Francis J. McConnell
Millicent C. McIntosh
Dr. Alexander Meiklejohn
Dr. Karl Menninger
Dr. J. Robert Oppenheimer
Bishop G. Bromley Oxnam
James G. Patton
A. Philip Randolph
Will Rogers, Jr.
Elmo Roper
Morris Rubin

National Executive Staff
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Assistant Director—Alan Reitman
Research Director—Louis Joughin
Field Director—George E. Rundquist
Membership Director—Jeffrey E. Fuller
Staff Counsel—Herbert Monte Levy
Special Counsel—Clifford Forster
International Work Adviser—Roger N. Baldwin
Washington Office Director—Irving Ferman
(Room 601-2, Century Building,
412 Fifth Street, N.W., Washington—REpublic 7-8123)

Structural Committees
Nominations—Walter Frank, chairman
Budget and Office Management—Richard S. Childs, chairman
Membership and Affiliates—H. William Fitelson, chairman
Public Relations—Mrs. Dorothy Dunbar Bromley, chairman
Publications—Norman Cousins, chairman

Functional Committees
National Security—Ernest Angell, chairman
Freedom of Expression/Religion/Conscience—Wm. L. White, chairman
Due Process/Equality—Osmond K. Fraenkel, chairman
Academic Freedom—Arthur C. Cole, chairman
Censorship—Elmer Rice, chairman
Radio—James Lawrence Fly, chairman
Labor—James Kerney, Jr., chairman
Aliens—Edward J. Ennis, chairman
Indians—Jay B. Nash, chairman
Women's Rights—Dorothy Kenyon, chairman
International Civil Liberties—Robert M. MacIver, chairman
Civil Rights in American Colonies—A. A. Berle, Jr., chairman
Major Local Organizations

(There are some twenty sub-groups within the area of several of these major local organizations.)

California

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

American Civil Liberties Union, Southern California Branch*
257 South Spring Street, Los Angeles 12.
Jerome W. MacNair, Chairman; Eason Monroe, Director

Colorado

American Civil Liberties Union, Colorado Branch
Charles A. Graham, Chairman;
William F. Reynard, 709 Kittredge Building, Denver, Secretary-Treasurer

Connecticut

New Haven Civil Liberties Council
Dr. Sidney Lovett, Chairman;
Miss Elizabeth Bixler, 310 Cedar Street, New Haven, Secretary

Illinois

Chicago Division, American Civil Liberties Union*
19 South LaSalle Street, Chicago 3.
Rev. A. C. McGiffert, Jr., Chairman; Edward H. Meyerding, Director

Iowa

Iowa Civil Liberties Union
Donald R. Murphy, Chairman;
4211 Grand Avenue, Des Moines 12.

Maryland

Maryland Civil Liberties Committee
Carl Bastett, Jr., 225 East Redwood Street, Baltimore, Chairman pro tem.
Blanche Coll, Secretary

Massachusetts

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

Michigan

American Civil Liberties Union, Metropolitan Detroit Branch
Rev. Edgar M. Wahlberg, Chairman;
Mrs. Kathleen J. Lowrie, Hilltop Lane, Birmingham, Secretary

Minnesota

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

* Maintains office.
Missouri
St. Louis Civil Liberties Committee
Eugene H. Buder, Chairman;
Benjamin Roth, 611 Olive Street, St. Louis, Secretary

New York
Niagara Frontier Branch, ACLU
John Clarke Adams, 1477 Eggert Road, Buffalo, Chairman;
Mary Manning, Secretary
New York Civil Liberties Union*
170 Fifth Avenue, New York 10.
Rev. John Paul Jones, Chairman; George E. Rundquist, Executive Director

Ohio**
Civil Liberties Union of Central Ohio
P.O. Box No. 3034, University Station, Columbus 10.
Warren P. Hill, Chairman; Rev. Sidney Peterman, Executive Secretary
Cincinnati Branch, American Civil Liberties Union
James Paradise, 2347 Vine Street, Cincinnati, President;
Mrs. Frances Schmidt, Secretary
Cleveland Civil Liberties Union*
Room 714, Perry Payne Building, 740 Superior West, Cleveland 13.
Oscar H. Steiner, President; Rev. Edwin A. Brown, Executive Director

Pennsylvania
American Civil Liberties Union, Greater Philadelphia Branch*
260 South 15th Street, Philadelphia 2.
James M. Brittain, President; Spencer Coxe, Executive Director
Pittsburgh Legal Advisory Committee
Richard B. Tucker, Jr., First National Bank Building, Pittsburgh, Secretary

Washington
State of Washington American Civil Liberties Union
Kenneth A. MacDonald, Chairman;
R. Boland Brooks, 1114 - 37th Avenue North, Seattle 2, Executive Secretary

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

* Maintains office.
** A state branch with headquarters in Cleveland is now in the process of organization.

State Correspondents
(These correspondents assist the ACLU by securing information and giving advice on local matters, but do not represent the Union officially.)

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Other Organizational Information

The voluntary service of the Union's approximately one thousand co-operating attorneys, located throughout the country, continues to be one of its major resources. Their names and addresses can be supplied by local ACLU organizations or the national office.

The Union is a member of the National Civil Liberties Clearing House, 1637 Massachusetts Avenue, N.W., Washington 6, D.C., of which Mrs. Mary A. Baldinger is now full-time executive secretary, after rendering yeoman service as the Union's part-time Washington representative from 1948 to 1952. The Union is also the American affiliate of the International League for the Rights of Man, 756 Seventh Avenue, New York 19, N.Y., of which Roger Baldwin is board chairman. The Union has working relations—formal or informal, regular or occasional—with other organizations, in so far as their activities are concerned with civil liberties and if their policies are in accordance with the Union's democratic belief in civil liberties for all.

A conference of representatives of nearly all of the then existing ACLU local organizations, with members of the Board and the national staff, was held in New York in May 1951. The chief problem discussed was the development of the Union into the kind of organization required by the times—with increased democratization and local activity on the one hand, and increased national effect on the other hand. Progress since then is indicated above, in the paragraph introducing the section on General Membership and the Corporation and in the list of Major Local Organizations; and below, in the report on Membership and Finance.

A revision of the Union's constitution and by-laws, designed as an experiment in the required democratization and systematization, was begun by the Board before the affiliates' conference mentioned above. After the conference, it was adopted by the Board, and approved by an overwhelming majority of each component of the corporation—the Board, the National Committee, and the boards of the local organizations. The Union is operating on the basis of its 1951 revision, but various suggestions made by Corporation members will soon be presented to the Board as a basis for possible further revision.

During 1952, the service and reference library in the national office was completely rehabilitated, under the able and generous direction of Mr. Aaron Fessler of the Cooper Union Library staff; and the Union is eager to have this unique collection of materials on civil liberties widely used by qualified inquirers. The New York Public Library is microfilming its entire collection of past ACLU correspondence and clippings (regularly sent by the Union to the Library when the material is four years old), and will microfilm each year's increment; the actual material previously held by that library is to be transferred to the Princeton University Library, as will each year's
increment. Potential researchers are advised to ascertain in advance from either library the date when access will begin to be possible, but the Union wishes now to express its deepest appreciation to both libraries.

**Personnel Changes**

**Board of Directors**

Of the thirty-four members listed in the June 1951 report, seven are not now on the Board: Jonathan B. Bingham, who resigned to take a post with the Department of State; Carl Carmer, who resigned because his work too often takes him away from New York; August Heckscher, who resigned because of his increased responsibilities on becoming chief editorial writer of the New York *Herald Tribune*; Eduard C. Lindeman, who died in April 1953, after many years of devoted and able service to the Union in many areas; Benjamin F. MacLaurin, whose term expired in 1952; C. Dickerman Williams, who resigned to take a post with the Department of Commerce; and Raymond L. Wise, who resigned because of having moved to Florida.

The following four members have been added since the June 1951 report was printed: James Kerney, Jr., editor and publisher of the Trenton (N.J.) *Times*; Telford Taylor, attorney and former prosecutor at the Nuremberg trial; J. Waties Waring, retired judge of the Federal District Court in South Carolina; and James A. Wechsler, editor of the New York *Post*.

The Board thus now numbers thirty-one of a maximum of thirty-five provided under the by-laws.

**National Committee**

Of the sixty-seven members listed in the June 1951 report, twelve are not now on the Committee: Edwin M. Borchard, who died in 1951, leaving a generous bequest to the Union to supplement his long and distinguished service to legal scholarship and civil liberties; William Henry Chamberlin, who resigned in 1951; Sherwood Eddy, whose term expired in 1952; Christian Gauss, who died in 1951; Charles W. Gilkey, whose term expired in 1952; Marvin C. Harrison and Saburo Kido, whose terms expired in 1951; A. J. Muste, Odell Shepard and Abba Hillel Silver, whose terms expired in 1952; Raymond Swing, who resigned in 1951 because of having taken a post with the Department of State; and L. Hollingsworth Wood, one of the founders of the Union, whose term expired in 1952.

The following eighteen members have been added since the June 1951 report was printed:

Sadie Alexander, attorney, Pennsylvania  
Julian P. Boyd, author; professor at Princeton University, New Jersey  
James R. Caldwell, professor at the University of California, California  
Stuart Chase, author, Connecticut  
J. Frank Dobie, writer and educator, Texas
Frederick May Eliot, clergy, Massachusetts
Willard E. Goslin, professor at George Peabody College, Tennessee
Abram L. Harris, economist, Illinois
Palmer Hoyt, publisher and editor, The Denver Post, Colorado
Percy L. Julian, chemist; member of the Executive Board, Chicago Round Table of Christians and Jews, Illinois
Mike Masaoka, Washington Representative of the Japanese-American Citizens League, Washington, D.C.
Millicent C. McIntosh, Dean, Barnard College, New York
Karl Menninger, psychiatrist, Kansas
Morris Rubin, editor, The Progressive, Wisconsin
George R. Stewart, professor at University of California, California
William W. Waymack, editor, economist, Iowa
Benjamin Youngdahl, Dean, Washington University, Missouri

The National Committee thus now numbers seventy-three of a maximum of seventy-five provided under the by-laws.

Officers
Mrs. Katrina McCormick Barnes has been elected Secretary of the Corporation, in place of Mr. Bingham. The executive director has been elected Assistant Treasurer, in place of Messrs. Finerty and Wise. Edward J. Ennis has been elected a Vice-chairman of the Board, in place of Walter Gellhorn, who declined renomination in 1952 because of the extended leave of absence required by a special legal study on which he was engaged.

Staff
Shortly after the June 1951 report went to press, the expansion of Union activities led to the assignment of George Rundquist as national Field Director and executive director of the New York Civil Liberties Union; the assignment of Alan Reitman as Assistant Director, while retaining his public relations duties; and the part-time appointment of Louis Joughin, a faculty member at the College of the City of New York and the New School for Social Research, as Research Director and executive officer for the Academic Freedom Committee. In the autumn of 1952, Clifford Forster, special counsel, once again became a full-time employed staff member; and Irving Ferman, New Orleans attorney and specialist in labor law, became director of the new Washington office.
MEMBERSHIP AND FINANCES

During the three fiscal years covered in this report (February 1, 1950 through January 31, 1953), the national ACLU's currently-contributing membership grew from 9,355 to 21,284, an increase of over 127%. In addition, the ACLU's Northern California affiliate (not integrated as to membership and income) grew to about 3,000 members. Thus there was a grand total of approximately 24,000 members in January 1953.

During the same three years, the Union's basic annual income from membership dues and contributions grew from $73,832, the 1949-50 figure, to $162,695, the 1952-53 total—an increase of more than 120%. Each year the rise in both membership and income was about 30% over the previous year. In 1950-51 over 11,700 separate contributions were received from members, averaging $8.27; in 1951-52 more than 14,300 came in, for an average of $8.77; and 1952-53's 19,700 contributions averaged $8.25 each. In each of the three years, approximately 20% of the contributions were under $5; 55% between $5 and $9; 20% between $10 and $24; only 3% between $25 and $49; only 1% between $50 and $99; and only 1% of $100 and over.*

Full details on membership growth, and on income from all sources, will be found on pages 151-158. Members there described as "acquired through integration" had previously been listed only on the separate rolls of ACLU.

* Contributors of $200 and over during one or more of the three fiscal years, February 1, 1950 through January 31, 1953, were:

William Prescott Allen, Texas; Max Ascoli, New York; Mrs. Evelyn Preston Baldwin, New York; Cyril J. Bath, Ohio; Dr. Viola W. Bernard, New York; Dr. Nelson M. Blachman, District of Columbia; Mrs. E. B. O. Borgerhoff, New Jersey; Miss Julia C. Bryant, Connecticut; Joseph Burstyn, New York; Miss Fanny Travis Cochran, Pennsylvania; Edward T. Cone, New Jersey; Professor and Mrs. Albert Sprague Coolidge, Massachusetts; Mrs. Henry T. Curtiss, Massachusetts; John Danz, Washington (state); Walter T. Deininger, El Salvador, C.A.; Mrs. Margaret DeSilver, New York; Melvyn Douglas, New York; Robert T. Drake, Illinois; Mrs. Stanton A. Friedberg, Illinois; Miss Gloria Gartz, California; Mrs. George H. Gray, Texas; Richard Grumbacher, Maryland; Mr. and Mrs. Gilbert A. Harrison, New York; Arthur Garfield Hays, New York; John W. Herz, New York; Mr. and Mrs. George H. Hogle, New York; Mrs. Frederick E. Hyde, New York; the International Ladies Garment Workers Union, New York; Glen L. Kellogg, California; Mrs. William J. Korn, New York; Corliss Lamont, New York; the late Mrs. Thomas W. Lamont, New York; the late Albert D. Lasker, New York; Mrs. Mary Woodard Lasker, New York; Charles L. Liebman, Illinois; the late Ummo Franklin Luebben, Nebraska; the Robert Marshall Civil Liberties Trust, New York; Dr. Francis S. North, California; Dr. Linus Pauling, Jr., Hawaii; Elias Perlman, Illinois; Professor R. B. Pettengill, California; the Philadelphia Jewish Community Council, Pennsylvania; Mr. and Mrs. Ralph Pomerance, Connecticut; George D. Pratt, Jr., Connecticut; Mrs. Jane A. Pratt, Connecticut; H. Oliver Rea, Connecticut; Joseph H. Reinfield, New York; Harold L. Renfield, New York; Renfield Importers, Ltd., New York; Mrs. Ruth V. Ross, Wisconsin; Mrs. Alice F. Schott, New York; A. Joseph Seltzer, Michigan; the Slovene National Benefit Society, Illinois; Mrs. Eleanor Lloyd Smith, California; the Swarthmore College Chest, Pennsylvania; Miss Anne L. Thorp, Massachusetts; Mr. and Mrs. Frank Untermeyer, Illinois; Mr. and Mrs. Carlo Vicario, New York; Duane E. Wilder, Pennsylvania; Norman Williams, Jr., New Jersey. The following anonymous contributions were also received: one of $200, one of $250 and one of $300.
affiliates. The largest of these were the Southern California Branch, the Chicago Division and the Civil Liberties Union of Massachusetts. By the end of the 1952-53 fiscal year, all of the eighteen active branches except the Northern California ACLU had merged their memberships with the national organization's, under a plan whereby all members in each chapter's area are members of both the local and the national and all pay dues to the national, which returns to each branch an agreed-upon share of all membership income it receives from that affiliate's members. Transfers by the national ACLU to integrated affiliates reached $42,600 in 1952-53. (See page 154.)

Expenditures have grown even more than income. 1952-53 expenditures reached $210,200, an increase of almost 154% over 1949-50. There was an over-all deficit of $8,200 in 1950-51, a surplus of $15,400 in 1951-52, and a deficit of $27,400 in 1952-53—with corresponding effects on the Union's general reserve fund. The increase in expenditures has been due in part to the general price rise and the Board's decision to pay normal salaries, but mostly to the expansion of activities: e.g., an almost tripled volume of membership and operational mail, the opening of the Washington office, and the vast enlargement of funds for integrated affiliates—five of which now have staffs of their own.

In mid-1951 the Union received the first $5,000 of a magnificent $25,000 grant from the estate of the late Florina Lasker, a member of the national Board of Directors and Chairman of the old New York City Civil Liberties Committee for fifteen years until her death in 1949. The purpose of the grant, made by Florina Lasker's sisters, Miss Loula Lasker and Mrs. Samuel J. Rosensohn, is twofold: (1) to transform the New York Committee into an effective local branch—the New York Civil Liberties Union received a New York State charter in 1951, and since then has been rapidly expanding its program; and (2) to promote the effectiveness of other existing local branches, as well as to help bring new affiliates into existence—the expanding income of old and new affiliates shown on page 154 is an indication of the accomplishment in this regard. The second $10,000 of the Lasker Grant (for the 1952-53 fiscal year) was received in January 1952, and the third and last $10,000 (for the 1953-54 fiscal year) was received in January 1953. Details on Lasker Grant expenditures will be found on page 154.

During these three fiscal years the Union also received $34,000 in general bequests, the largest of which (over $22,000) was from the estate of the late Evelyn T. D. Morley.

Apart from the Union's general account, net income from the Maxine Hilson Estate trust fund, set up by the Board to pay Mr. Baldwin's part-time salary as International Work Adviser, averaged $1,774 during the three years, while the salary paid was $3,600 annually. Also, during the 1951-52 and 1952-53 fiscal years, the ACLU supervised the disbursement of $3,471 allocated by the Robert Marshall Civil Liberties Trust for expenditure, in accordance with its specific instructions, on legal fees and expenses in certain cases under the federal loyalty program.
<table>
<thead>
<tr>
<th>Membership Enrollment</th>
<th>1950-1951 Fiscal Year</th>
<th>1951-1952 Fiscal Year</th>
<th>1952-1953 Fiscal Year</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>At Start of Fiscal Year</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New members enrolled</td>
<td>3,730</td>
<td>3,349</td>
<td>4,728</td>
</tr>
<tr>
<td>Acquired through integration</td>
<td>857</td>
<td>857</td>
<td>2,408</td>
</tr>
<tr>
<td>Total gain in membership</td>
<td>3,730</td>
<td>4,206</td>
<td>7,136</td>
</tr>
<tr>
<td>Dropped: delinquent, resigned, deceased, etc.</td>
<td>838</td>
<td>905</td>
<td>1,400</td>
</tr>
<tr>
<td><strong>Net increase during fiscal year</strong></td>
<td>2,892</td>
<td>3,301</td>
<td>5,736</td>
</tr>
<tr>
<td><strong>At End of Fiscal Year</strong></td>
<td>12,247</td>
<td>15,548</td>
<td>21,284</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Financial Report</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Income</strong></td>
<td></td>
</tr>
<tr>
<td>Contributions from new members</td>
<td>3,730</td>
</tr>
<tr>
<td>Membership renewal contributions</td>
<td>6,784</td>
</tr>
<tr>
<td>Special contributions from members and friends</td>
<td>1,217</td>
</tr>
<tr>
<td><strong>Total, income from contributions</strong></td>
<td>11,731</td>
</tr>
<tr>
<td><strong>Other income:</strong></td>
<td></td>
</tr>
<tr>
<td>From investments</td>
<td>3,253.55</td>
</tr>
<tr>
<td>Executive director's honorariums</td>
<td>489.57</td>
</tr>
<tr>
<td>Sale of pamphlets</td>
<td>1,425.98</td>
</tr>
<tr>
<td>Royalties: &quot;The Judges and The Judged&quot;</td>
<td>...</td>
</tr>
<tr>
<td>30th Anniversary Conference and Dinner</td>
<td>5,308.00</td>
</tr>
<tr>
<td>From Robert Marshall Civil Liberties Trust</td>
<td>7,000.00</td>
</tr>
<tr>
<td>From Estate of the late Florina Lasker, for Lasker NYCLU and Field Project</td>
<td>...</td>
</tr>
<tr>
<td>General bequests (see page 158)</td>
<td>1,654.52</td>
</tr>
<tr>
<td><strong>Total Income</strong></td>
<td>$116,087.11</td>
</tr>
</tbody>
</table>

Footnotes 1, 2, and 3 will be found on page 152.
**EXPENDITURES**

### General Operations

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Salaries</td>
<td>$ 3,220.00</td>
<td>$ 4,860.00</td>
<td>$ 6,500.00</td>
</tr>
<tr>
<td>Clerical Salaries</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Administrative Expenses</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rent</td>
<td>2,062.92</td>
<td>1,375.37</td>
<td>1,060.83</td>
</tr>
<tr>
<td>Stationery</td>
<td>2,856.00</td>
<td>3,590.93</td>
<td>4,213.51</td>
</tr>
<tr>
<td>Letterpress services</td>
<td>3,927.96</td>
<td>5,218.46</td>
<td>3,262.17</td>
</tr>
<tr>
<td>Equipment and repair</td>
<td>2,463.27</td>
<td>1,164.38</td>
<td>2,697.63</td>
</tr>
<tr>
<td>Telephone and telegraph</td>
<td>1,986.99</td>
<td>1,973.18</td>
<td>1,980.00</td>
</tr>
<tr>
<td>Board meetings</td>
<td>1,161.12</td>
<td>1,123.48</td>
<td>1,123.48</td>
</tr>
<tr>
<td>National Committee election</td>
<td>1,500.00</td>
<td>2,604.46</td>
<td>2,604.46</td>
</tr>
<tr>
<td>Executive Director's travel</td>
<td>1,161.12</td>
<td>820.91</td>
<td>820.91</td>
</tr>
<tr>
<td>Books, subscriptions, clippings, etc.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payroll taxes and insurance</td>
<td>2,463.27</td>
<td>1,260.00</td>
<td>1,260.00</td>
</tr>
<tr>
<td>Auditor</td>
<td>1,500.00</td>
<td>1,200.00</td>
<td>1,200.00</td>
</tr>
<tr>
<td>Bank charges</td>
<td>6.86</td>
<td>3.917.76</td>
<td>2,697.63</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$ 25,557.83</td>
<td>$ 30,521.44</td>
<td>$ 35,340.33</td>
</tr>
</tbody>
</table>

### Membership Services

<table>
<thead>
<tr>
<th>Item</th>
<th>1951-1952 FISCAL YEAR</th>
<th>1952-1953 FISCAL YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Liberties monthly</td>
<td>6,470.92</td>
<td>10,297.07</td>
</tr>
<tr>
<td>Annual Report</td>
<td>679.24</td>
<td>9,994.66</td>
</tr>
<tr>
<td>Special Funds appeals</td>
<td>676.98</td>
<td>1,250.66</td>
</tr>
<tr>
<td>Membership promotion</td>
<td>1,677.08</td>
<td>1,190.18</td>
</tr>
<tr>
<td>Membership maintenance services</td>
<td>15,902.82</td>
<td>16,232.43</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$ 33,555.95</td>
<td>$ 44,059.05</td>
</tr>
</tbody>
</table>

1 Includes $1,402.75 earmarked for newspaper advertisement on blacklist in Radio-TV.
2 $5,000 for second half of 1951-52 fiscal year, $10,000 for all of 1953-54 fiscal year.
3 For 1953-54 fiscal year.
Specific Activities

Cases and Causes (see pp. 157-158..)

<table>
<thead>
<tr>
<th></th>
<th>1,370.93</th>
<th>7,865.31</th>
<th>5,688.99</th>
</tr>
</thead>
</table>

**EDUCATION**

| Pamphlets and reprints | $3,781.60 | $3,104.72 | $3,715.49 |
| Bill of Rights Day Celebration | 1,576.13 | 479.75 | 1,245.37 |
| Public Relations Committee | 65.56 | 105.66 | 399.13 |

**FUNCTIONAL COMMITTEES—DOMESTIC**

| National Security Committee | $         | $9.79  | $145.19  |
| Due Process and Equality Committee |          | 17.95  | 194.49  |
| Academic Freedom Committee | 34.14     | 330.51 | 561.37  |
| National Council on Freedom from Censorship | 119.62  | 680.35 | 260.40  |
| Radio Committee |                    | 118.04 | 473.08  |
| Labor Civil Rights Committee | 115.39  | 87.81  | 302.43  |
| Indian Civil Rights Committee | 48.06    |        | 104.71  |
| Other committees |                    | 157.47 | 86.20   |

**INTERNATIONAL CIVIL LIBERTIES**

<table>
<thead>
<tr>
<th></th>
<th>1,142.34</th>
<th>1,254.58</th>
<th>656.03</th>
</tr>
</thead>
</table>

**WASHINGTON**

| Full-time office opened, fall 1952: Executive salary, from Sept. 1 | $2,937.50 |
| Clerical salary, from Oct. 15 |          | 875.00 |
| Office expenses, travel, etc. |          | 1,741.20 |
| Contribution to budget of National Civil Liberties Clearing House | 584.10  | 750.00  | 2,500.00 |
| Services and expenses of part-time Washington representative, to 8/20 | 2,166.91 | 2,293.27 | 1,560.14 |

**TOTAL**

<table>
<thead>
<tr>
<th></th>
<th>2,751.01</th>
<th>3,043.27</th>
<th>9,613.84</th>
</tr>
</thead>
</table>
### LASKER PROJECT: NYCLU AND FIELD

*(commenced August 1, 1951)*

<table>
<thead>
<tr>
<th>Description</th>
<th>1950-1951 Fiscal Year</th>
<th>1951-1952 Fiscal Year</th>
<th>1952-1953 Fiscal Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Salary</td>
<td></td>
<td>$2,850.00</td>
<td>$5,850.00</td>
</tr>
<tr>
<td>Clerical Salary</td>
<td></td>
<td>$967.50</td>
<td>$2,728.75</td>
</tr>
<tr>
<td>NYCLU and Field expenses</td>
<td></td>
<td>$1,182.50</td>
<td>$1,421.75</td>
</tr>
<tr>
<td>Supplement to Lasker Grant, additional NYCLU and Field expenses</td>
<td>$1,300.76</td>
<td>$170.85</td>
<td>$1,502.90</td>
</tr>
<tr>
<td>May 1951 Affiliates Conference</td>
<td></td>
<td>$1,804.47</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,300.76</strong></td>
<td><strong>$1,975.32</strong></td>
<td><strong>$1,502.90</strong></td>
</tr>
</tbody>
</table>

### Transferred to Integrated Affiliates

*(month noted indicates when transfers commenced)*

<table>
<thead>
<tr>
<th>Affiliation</th>
<th>1950-1951 Fiscal Year</th>
<th>1951-1952 Fiscal Year</th>
<th>1952-1953 Fiscal Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>C.L.U. of Massachusetts (May 1952)</td>
<td></td>
<td></td>
<td>$5,123.49</td>
</tr>
<tr>
<td>Greater Philadelphia Br. (June 1951)</td>
<td></td>
<td>$4,934.54</td>
<td>8,217.06</td>
</tr>
<tr>
<td>Cleveland C.L.U. (May 1950)</td>
<td>$188.00</td>
<td>2,446.08</td>
<td></td>
</tr>
<tr>
<td>Chicago Division (June 1951)</td>
<td>$807.00</td>
<td>16,600.00</td>
<td></td>
</tr>
<tr>
<td>So. California Branch (Sept. 1952)</td>
<td></td>
<td>$7,454.36</td>
<td></td>
</tr>
<tr>
<td>New Haven C.L. Council (June 1952)</td>
<td></td>
<td></td>
<td>223.13</td>
</tr>
<tr>
<td>Maryland C.L. Committee (Feb. 1951)</td>
<td></td>
<td></td>
<td>702.55</td>
</tr>
<tr>
<td>Cincinnati Chapter (Oct. 1951)</td>
<td></td>
<td></td>
<td>150.37</td>
</tr>
<tr>
<td>St. Louis C.L. Committee (Feb. 1952)</td>
<td></td>
<td></td>
<td>498.50</td>
</tr>
<tr>
<td>Minnesota Branch (August 1952)</td>
<td></td>
<td></td>
<td>267.50</td>
</tr>
<tr>
<td>Iowa C.L.U. (February 1951)</td>
<td></td>
<td>354.84</td>
<td></td>
</tr>
<tr>
<td>Colorado Branch (March 1952)</td>
<td></td>
<td>245.88</td>
<td></td>
</tr>
<tr>
<td>State of Washington Br. (Sept. 1952)</td>
<td></td>
<td>334.00</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$188.00</strong></td>
<td><strong>$17,020.41</strong></td>
<td><strong>$42,619.76</strong></td>
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</tbody>
</table>

### 30th Anniversary Conference and Dinner

<table>
<thead>
<tr>
<th>Description</th>
<th>1950-1951 Fiscal Year</th>
<th>1951-1952 Fiscal Year</th>
<th>1952-1953 Fiscal Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>30th Anniversary Conference and Dinner</td>
<td></td>
<td>$7,317.40</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$7,317.40</strong></td>
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</tbody>
</table>

### Expenditures, Grand Total

<table>
<thead>
<tr>
<th>Description</th>
<th>1950-1951 Fiscal Year</th>
<th>1951-1952 Fiscal Year</th>
<th>1952-1953 Fiscal Year</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>$124,315.81</td>
<td>$158,763.84</td>
<td>$210,200.30</td>
</tr>
</tbody>
</table>
### BALANCE SHEET

<table>
<thead>
<tr>
<th></th>
<th>As of January 31, 1951</th>
<th>As of January 31, 1952</th>
<th>As of January 31, 1953</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ASSETS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash</td>
<td>$21,991.01</td>
<td>$43,845.51</td>
<td>$23,266.01</td>
</tr>
<tr>
<td>Airlines deposit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contributions receivable</td>
<td>7,000.00 (Marshall Trust)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts receivable</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loans receivable:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chicago Division, ACLU</td>
<td></td>
<td>1,750.00</td>
<td>1,150.00</td>
</tr>
<tr>
<td>Greater Philadelphia Branch</td>
<td></td>
<td></td>
<td>1,000.00</td>
</tr>
<tr>
<td>C.L.U. of Massachusetts</td>
<td></td>
<td></td>
<td>3,000.00</td>
</tr>
<tr>
<td>Investments—at book value</td>
<td>61,504.00</td>
<td>60,537.42</td>
<td>59,621.75</td>
</tr>
<tr>
<td>Furniture and fixtures</td>
<td>5,000.00</td>
<td>5,000.00</td>
<td>6,000.00</td>
</tr>
<tr>
<td><strong>TOTAL ASSETS</strong></td>
<td>$95,495.01</td>
<td>$111,132.93</td>
<td>$ 94,591.01</td>
</tr>
<tr>
<td><strong>LIABILITIES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable</td>
<td>$ 250.34</td>
<td>$ 127.24</td>
<td>$ 92.24</td>
</tr>
<tr>
<td>Withholding and payroll taxes payable</td>
<td>896.85</td>
<td>1,187.96</td>
<td>1,637.32</td>
</tr>
<tr>
<td>Loan payable</td>
<td></td>
<td></td>
<td>10,000.00</td>
</tr>
<tr>
<td>Lasker Project reserve</td>
<td></td>
<td>10,000.00 (for 1952-53)</td>
<td>10,000.00 (for 1953-54)</td>
</tr>
<tr>
<td>Radio-TV Blacklisting advt. reserve</td>
<td></td>
<td>1,402.75</td>
<td>407.05</td>
</tr>
<tr>
<td>Robert Marshall Civil Liberties Trust: Special loyalty case reserve</td>
<td></td>
<td>60.00</td>
<td>364.50</td>
</tr>
<tr>
<td><strong>TOTAL LIABILITIES AND NET WORTH</strong></td>
<td>$ 1,147.19</td>
<td>$12,777.95</td>
<td>$22,501.11</td>
</tr>
<tr>
<td><strong>NET WORTH:</strong></td>
<td>94,347.82</td>
<td>98,354.98</td>
<td>71,989.90</td>
</tr>
<tr>
<td><strong>TOTAL LIABILITIES AND NET WORTH</strong></td>
<td>$95,495.01</td>
<td>$111,132.93</td>
<td>$ 94,591.01</td>
</tr>
</tbody>
</table>
BALDWIN SALARY SECTION
(Maxine Hilsen Estate)

1950-1951 FISCAL YEAR 1951-1952 FISCAL YEAR
1952-1953 FISCAL YEAR

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NET WORTH</strong> $4 at start of fiscal year (cash and investments)**</td>
<td>$45,139.75</td>
<td>$43,875.01</td>
<td>$42,759.04</td>
</tr>
<tr>
<td>Net income from investments</td>
<td>$2,335.26</td>
<td>$2,464.03</td>
<td>$503.71</td>
</tr>
<tr>
<td>Paid: Mr. Baldwin's part-time salary</td>
<td>3600.00</td>
<td>3600.00</td>
<td>3600.00</td>
</tr>
<tr>
<td><strong>LESS: deficit for fiscal year</strong></td>
<td>$1,264.74</td>
<td>$1,115.97</td>
<td>$3,096.29</td>
</tr>
<tr>
<td><strong>NET WORTH</strong> $4 at end of fiscal year</td>
<td>$43,875.01</td>
<td>$42,759.04</td>
<td>$39,662.75</td>
</tr>
</tbody>
</table>

4 Net Worth is subject to adjustment for difference between book value and market value of investments.

CERTIFICATE

We hereby certify that the foregoing Balance Sheet and summary of Expenditures and Income for the fiscal years 1950-51, 1951-52, and 1952-53 are in accordance with the books, and, subject to adjustment for the difference between the book and market value of investments, in our opinion correctly set forth the financial condition of the American Civil Liberties Union, Inc., as of January 31, 1951, January 31, 1952, and January 31, 1953, and the results of operations during each of the three fiscal years.

APPRI. AND ENGLANDER
Certified Public Accountants

NOTE: Copies of the Auditor's complete report on each of the last three fiscal years will be sent to any member of the Union who requests them. 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, because the Treasury Department has held that a "substantial part" of the Union's activities is directed toward influencing legislation. The Union itself is exempt from taxes other than Social Security, Old Age Benefit and Workmen's Compensation levies in connection with its employees' salaries.
CASES AND CAUSES: COURT ACTIONS, ETC.

1950-1951 FISCAL YEAR

Investigation of blacklisting in radio-TV industry ........................................... $1,994.83
Kunz free speech case, New York courts and U.S. Supreme Court ......................... 624.17
Johnson extradition (Georgia) case, Penna., N.Y. and federal courts .................... 420.92
Smith Act constitutionality test case, federal courts ....................................... 386.62
Maryland Ober Law test case, Maryland courts .................................................. 336.16
New Jersey loyalty oath test case, N.J. courts and U.S. Supreme Court ................ 334.87
Investigation of 1949 Peekskill riots, delayed expenses .................................. 311.02
Defense of ACLU's Pittsburgh representative, Mrs. Marjorie Matson .................. 310.77
Steiner free speech case, U.S. Supreme Court .................................................. 250.00
Investigation of trade union democracy ................................................................ 197.74
Hartman academic freedom case, New York courts .............................................. 151.25
Capital Transit Co. forced listening case, Washington, D.C. courts ..................... 126.13
Expenses connected with ACLU Board member Dorothy Kenyon's refutation of Sen. McCarthy's attacks ................................................................. 123.20
Eisentrager *habeas corpus* case, U.S. Supreme Court ....................................... 101.08
ACLU contribution to National Committee for a Genocide Convention .................. 100.00
Fifty-seven actions under $100 ............................................................................ .1,196.05

TOTAL .................................................................................................................. $7,370.93

1951-1952 FISCAL YEAR

Samuel "Titto" Williams death sentence appeal, New York courts and U.S. Supreme Court .......................................................... $1,108.88
Ralph Cooper and Collis English ("Trenton Two") life sentence appeal, New Jersey Supreme Court ......................................................... 1,026.25
Defense of ACLU's Pittsburgh representative, Mrs. Marjorie Matson .................. 884.39
Beauharnais free speech test case, U.S. Supreme Court ....................................... 871.99
"The Miracle" censorship case, N.Y. courts and U.S. Supreme Court ................. 864.72
Feinberg Law (N.Y. teachers loyalty) test case, U.S. Supreme Court .................... 674.30
New Jersey loyalty oath test case, N.J. Courts and U.S. Supreme Court ............... 656.13
Capital Transit Co. forced listening case, Washington, D.C. courts .................... 272.32
Jessie Brinn court-picketing case, New York courts ............................................ 176.45
ACLU contribution to Scottsboro Defense Committee to help close its books after winning release for the last of the nine "Scottsboro Boys" 116.76
Thirty-three actions under $100 ............................................................................ 1,213.12

TOTAL .................................................................................................................. $7,865.31

1952-1953 FISCAL YEAR

*New York Times Book Review* advertisement protesting blacklisting in entertainment industry, in connection with publication of "The Judges and the Judged" .................................................................................................................. $ 995.70
Ralph Cooper and Collis English ("Trenton Two") life sentence appeal, New Jersey Supreme Court .......................................................... 703.33
National ACLU's contribution to Northern and Southern California Branches ("$250 each) campaign against two loyalty oath amendments to the California state constitution .................................................. 500.00
Williams vs. Steele case (cruel and unusual punishment, right to *habeas corpus*), U.S. Supreme Court .......................................................... 410.33

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James Kutcher case, testing application of Attorney General's List in federal employment, U.S. Circuit Court of Appeals, Washington, D.C. ........................................ 353.68
Test of N.J. compulsory bible-reading law, N.J. courts ........................................ 342.40
Dorothy Albert academic freedom case, Pennsylvania courts .................................. 315.52
N.Y. vagrancy law test case, N.Y. courts ............................................................. 227.18
ACLU contribution to NAACP's Civil Rights Leadership Conference .................... 200.00
Oklahoma Loyalty Oath test case, U.S. Supreme Court ........................................ 135.15
Kunz freedom of speech case, New York courts ..................................................... 123.32
Brown vs. Topeka, Kansas segregation case, U.S. Supreme Court ...................... 113.64
Blau hearings, academic freedom, Pennsylvania State College ............................. 100.00
ACLU contribution to Edward Alsworth Ross Memorial Fund (Professor Ross, who died in 1951, was Chairman of ACLU National Committee from 1940 until 1950) ................................................................. 100.00
Thirty-six actions under $100 ................................................................. 1,068.74

TOTAL .................................................. $5,688.99

GENERAL BEQUESTS RECEIVED BY THE ACLU
(From the estates of former members)
(1950-51 Fiscal Year)
Clara E. Grueninger ........................................ $ 1,000.00
Fay Lewis .................................................. 500.00
William W. Norton* ..................................... 154.52
TOTAL, 1950-51 ........................................ $ 1,654.52

(1951-52 Fiscal Year)
Evelyn T. D. Morley* .................................. $18,000.00
Helen G. Sahler ............................................ 5,000.00
Alice Stone Blackwell .................................. 1,000.00
Gertrude Orendorff ..................................... 955.00
Mary B. Knoblauch ...................................... 750.00
Mathilda Busick .......................................... 500.00
Caroline Bonar ............................................. 385.01
Margaret T. Olmstead ................................... 215.91
TOTAL, 1951-52 ........................................ $27,121.60

(1952-53 Fiscal Year)
Evelyn T. D. Morley* ................................ $ 4,148.86
Edwin M. Borchard ...................................... 1,000.00
Bernard M. Allen ........................................ 100.00
William W. Norton* .................................... 67.56
TOTAL, 1952-53 ........................................ $ 5,316.42

* Supplement to earlier bequest.

Membership and Finances, 1953-1954 Fiscal Year

By the end of June 1953, the national ACLU's membership had increased to a total of 23,142, nearly 2,000 more than on January 31. Income received from February through June 1953 was more than 40% over income received during the same period in 1952. If—and it is a big if—this 40% increase can be maintained during the balance of the 1953-54 fiscal year, income should cover budgeted expenditures, and the Union's small reserve fund will not have to be further reduced to provide the sorely needed expansion of these exceptionally demanding years.
ACLU PUBLICATIONS AVAILABLE — NOVEMBER, 1953

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


2. CIVIL LIBERTIES VERSUS THE SMITH ACT. Brief statement of ACLU policy on this controversial law. (See No. 7) 1951, 5 pages. 5¢.


5. THE STATES AND SUBVERSION. The ACLU’s analysis of state loyalty oaths, anti-subversive legislation, etc. Maps, 1953, 12 pages, 20¢.


7. THE SMITH ACT AND THE SUPREME COURT. The ACLU’s detailed analysis and statement of policy on this law. 1952, 39 pages, 35¢.

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


10. TWENTY QUESTIONS ON CIVIL LIBERTIES. A quiz which will tell you where you stand on policies followed by the ACLU. 1953, 2 pages. Single copy—free, 10 or more copies—2¢ each.

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


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

Published by others, distributed by ACLU:


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

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

38. LOYALTY IN A DEMOCRACY. A roundtable report by the Public Affairs Committee. 1952, 32 pages, 25¢.
CURITY ACT OF 1950. From the Congressional Record. 1950, 4 pages, 5¢.

43. MUST LIBERTY BOW HER HEAD IN SHAME? A report on the Northern California's ACLU defense of individuals held by the U.S. Immigration Service. From Reader's Digest. 1952, 6 pages, 5¢.

48. PRESENTING THE INTERNATIONAL LEAGUE FOR THE RIGHTS OF MAN, with which the ACLU is affiliated. 1952, 6 pages, free.


Join the American Civil Liberties Union!

ACLU members of the following classification receive Civil Liberties each month and this 1951-1953 Report (and future annual reports), and are entitled to single copies of some 25 pamphlets currently available:

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

Associate Members at $2 receive Civil Liberties and the 1951-53 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 appropriate local ACLU organization, without payment of additional dues: Southern California, Colorado, Illinois, Iowa, Maryland, Massachusetts, Minnesota, Ohio, Washington (state), Wisconsin, and Greater New York, Philadelphia, St. Louis, Detroit, Buffalo, and New Haven. If you live in one of these states or city areas,* your chapter will automatically receive a share of your contribution. The more you give the larger its share. Be as generous as you can!

* Similar arrangements are being worked out with all NEW ACLU affiliates.

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

Please enroll me as a NEW MEMBER of the American Civil Liberties Union. Here is my $ membership contribution.

________________________________________-----------------------------------------

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

Please enroll me as a NEW MEMBER of the American Civil Liberties Union. Here is my $ membership contribution.

________________________________________-----------------------------------------

NAME

ADDRESS

CITY ZONE STATE

Occupation

PLEASE PRINT CLEARLY

160
YOU HAVE AN INTEREST IN CIVIL LIBERTIES! WHY NOT BECOME A MEMBER* OF THE ACLU?

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

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

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

See Membership Blank On Page 160.

*If you already belong, won't you pass this copy of "We Hold These Truths: Freedom—Justice—Equality" on to a friend, when you have finished it, urging him or her to join the ACLU.

Bequests

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

Price of this pamphlet: 50¢ post-paid. Quantity prices on request.