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Democracy, the dictionaries say, is "government by the people; direct or representative." But something more than a democratic government is needed for a free society; the people must have a large measure of freedom even from their own democratic government. They must have rights as citizens—civil liberties. "Personal liberty," said Charles Morgan in his Zaharoff Lecture at Oxford in 1948, "cannot survive without constitutional liberty. . . . In countries with a written constitution the removal of checks upon power is blessedly difficult. The people of the United States have wisely denied themselves the opportunity to sweep away their institutions and plunge themselves into slavery by the impulse of one vote. . . . Montesquieu puts [the] question in concrete form: will democracy preserve the Balance of Powers? Unchecked power is no less tyranny because someone has voted for it."

The American Civil Liberties Union has for forty years been enthusiastically grateful for this nation's democratic government and free society; neither the democracy nor the freedom is complete, but both are wide and deep. The task of the Union has been, and still is, simply to preserve and improve both democracy and freedom by defending the central constitutional safeguards which keep power in check. Those central safeguards—the rights of the people as citizens, their civil liberties—are set forth in the Bill of Rights (the first ten amendments to the federal constitution) and other cognate provisions of the federal and state constitutions. They are: freedom of inquiry and communication, fair procedures, equal protection of the laws, and the "reserved" and "reserved" rights of the people (emphasized in the Ninth and Tenth Amendments).

It has never been easy for even the American people to preserve and improve both democracy and freedom by defending those central safeguards. It became downright hard with the country's "coming of age," internationally and industrially, at the time of World War I. Hence, there was nothing accidental or astonishing about the American Civil Liberties Union's coming into existence in 1920, as an agency—typically American in being at once organized and private—for the more effective defense—by the people—of those central safeguards, against mounting threats.

International and industrial factors have all along been the chief scene-setters for the Union's work. So it took no special insight, late in December 1949—when the then newly-appointed second executive director of the Union was asked at his pre-induction press conference what would be the main sources of difficulty for civil liberties in the next few decades—for him to answer: "War and machines."

War had to be stressed because, even if there were to be no all-out war, terrible events were already occurring throughout the world; and this country was, for the first time, entering what would probably be a long period of unremitting international danger. The resultant intense pre-occupation of our people with national security, normal and admirably patriotic, would incidentally cause morbid pressure of many
sorts on civil liberties. (Less than two months afterward, the late Senator Joseph McCarthy launched his attack on the State Department's personnel; and, four months after that, the Korean conflict added strong impetus to an indiscriminate assault on civil liberties.)

Machines had to be stressed because the ever-swifter growth of machine technology, with the attendant increase in social complexity, would bring in its wake other problems for civil liberties far more intractable than those of the simple economy of 1787-91, when the Constitution and the Bill of Rights were framed—more intractable than those of "the good years" of 1900-14, even than those of the 1920's and 1930's and 1940's. (The 1950's were marked by a worsening of the problem of wiretapping: how can our people, through the police, curb crime in the automobile-airplane-telephone age, without letting themselves become the prey of ravening invasions of their privacy?)

Nineteen-sixty has deepened concern on the war front. Even before the U-2 was shot down and the summit conference was destroyed, the world had entered the most sombre period since the end of World War II. Now, in mid-October, the United Nations Assembly is struggling to recover from Khrushchev's desk-pounding attempt to have his own way on the Congo and disarmament, and so keep the Chinese Communists in leash; a Japanese party leader is assassinated, the French people are tearing themselves asunder over Algeria, and the Castro-American conflict rages just short of war.

We can thank our lucky stars that the defection of two communications intelligence experts of the National Security Agency in the Department of Defense came after Congress had finally adjourned for the presidential campaign, and—more important—that comment in governmental circles and outside has shown maturing recognition that such real dangers to national security cannot really be countered by slap-dash methods which threaten civil liberties. Linus Pauling's stand against the Senate Internal Security Sub-committee has not yet brought a contempt citation. Vice-President Nixon and Senator Kennedy have been sober in talking about how to deal with Communist subversion.

But, as long as the international temperature is feverish, there will remain at least latent trouble for civil liberties. Even during this year of relatively good sense, Willard Uphaus is in a New Hampshire jail because of a 5-4 United States Supreme Court decision on his refusal to give a list of names. And the House Un-American Activities Committee has proved anew that it should be abolished, by once again staging a meaningless side-show in its almost sole remaining happy-hunting-ground of California. That serpent in our demi-paradise of a democratic government and a free society can be scotched only by the people, through their Representatives.

Nineteen-sixty has deepened concern on the social-complexity front, also. The fathers of this Republic, desiring both religious freedom and national unity, aimed to keep their new federal government out of religion altogether, whether for or against; and they did a magnificent job of pointing the way. But they did not have to cope, as we must, with the multiplying complications growing out of the success of our machine civilization—which has attracted the most heterogeneous population on earth (heterogeneous—among other ways—in its religion,
non-religion and anti-religion), and has made our educational institutions both a prime necessity for national strength and a rich prize for anyone who can control them. The schools—most of all in finance and in curriculum—are the chief stake in the church-state contest.

That controversy, despite frantic efforts of one sort or another, will not disappear from the current presidential campaign. But the problem is much bigger than what would, or would not, result from the election of a particular President. The comprehensive problem is this: Will all our governmental executives and legislators and judges (federal, state and municipal) and all our people—Catholic, Protestant, and Jewish; Quaker, Moslem and atheist—adhere scrupulously to the constitutional principle that there should be neither any governmental restraint on, nor any governmental support of, religion or non-religion or anti-religion?

Not merely governmental officials, but most of all the people themselves. Because, not only could the people remove that principle from the Constitution by amendment, but also—with more immediate significance—they can, and often do, nullify it by the pressures they bring to bear on their officials. In the last analysis, and day by day in a host of specific decisions (most especially in regard to education), it is by the people that it will be decided whether promotion of, or opposition to, any form of religion or non-religion or anti-religion, is to be entirely a private matter—with no resort to governmental action even for what they privately want in regard to religion. If they want a free society too, it will have to be maintained—by the people.

Nineteen-sixty has also been a year of Negro “sit-ins,” additional handwriting on the wall for those who have not yet learned that machine civilization spells the doom of racial discrimination (in northern housing as in southern voting and schooling)—though not without dust and heat even for those who believe that doom to be as right as it is sure. Modern industry means big factories and supermarkets instead of small farms and shack stores, skilled workers and college students instead of share-croppers and handymen. Modern industry needs a large body of well-disposed workers and customers at home, as well as enthusiastic friends in Asia and Africa; and “Jim Crow, he’s real tired.”

The party platforms show that such handwriting on the wall has been more widely read than ever before, as does the Civil Rights Act of 1960: but we still cannot realistically expect further federal legislation at more than a snail’s pace. The immediate practical question, with regard to governmental efforts to end discrimination, is still this two-fold one: Will the White House and the Department of Justice and the other federal agencies energetically and courageously use their already-existing powers, in southern voting and education and in northern housing; and will northern states and municipalities act to solve the multiplying problems of their own bailiwicks? Here again, what governments do will be determined by the people—who indeed could privately do a lot more than they are now doing, without waiting for governmental action.

Finally, nineteen-sixty marks the 40th Anniversary of the founding of the American Civil Liberties Union. Our now 52,000 members should
re-read the brief historical summary of what the Union has done with its time (and their money!) printed as the January 1960 issue of the monthly bulletin; and may also wish to order (for themselves and others) two more recent publications: "What is the American Civil Liberties Union?,” and Osmond K. Fraenkel’s “The Supreme Court and Civil Liberties.”

The present 40th Annual Report, covering the period July 1, 1959-June 30, 1960, is more compressed than last year’s—because, in using the funds for which we are grateful to our increasing and increasingly generous membership, we must allocate as much as possible to the almost immeasurably increased demand for the work in courts and legislatures and executive departments of government for which we are trustees of that income. But the present report is still detailed enough to indicate the tremendous amount of the Union's work, which—by its contrast with our small employed staff—is always astonishing to those who do not know the secret of our hundreds of unpaid volunteers, especially the cooperating attorneys.

The ACLU is like a healthy free society and democratic government. It gets its work done by the people. It now looks forward to 2000, after forty more years of work by the people.

This report, like those of immediately preceding years, was written by Mitchell Levitas, a New York newspaperman, and supervised and edited by Alan Reitman, our associate director, with the help of other members of the national staff, as well as our affiliates' staffs and officers. The twentieth anniversary of the Battle of Britain should remind us of how much the many owe to the few!
FREEDOM OF BELIEF,
EXPRESSION AND ASSOCIATION

THE GENERAL CENSORSHIP SCENE

1. Books and Magazines

THE COURTS. A new constitutional interpretation by the U.S. Supreme Court struck down a Los Angeles anti-obscenity law which had held booksellers criminally liable for the possession of "obscene" literature, whether or not the seller was aware of its contents. The ruling breaks new ground along the path marked earlier by the Supreme Court in the Roth, Alberts, Kingsley and Butler decisions in limiting restrictions upon freedom of speech and press made in the name of combating "smut," and by last year's U.S. Court of Appeals verdict upsetting a U.S. Post Office ban on Lady Chatterley's Lover. (See 1956-1957 Annual Report, pp. 37-39 and 1958-1959 Annual Report, p. 11.) Acting unanimously, the high court reversed a California Superior Court verdict convicting Eleazer Smith for violating the law because he offered for sale, Sweeter Than Life, a novel about a ruthless lesbian business woman. Smith argued that he had not read the book and had no reason to believe it obscene. While this was not an adequate defense under the Los Angeles law, the opinion of the U.S. Supreme Court regarded it as the crux of the matter. "By dispensing with the requirement of knowledge," said the opinion, "(the law) tends to impose a severe limitation on the public's access to constitutionally protected materials." The opinion declared that since there was a limit to the number of books a dealer could personally read and since "his timidity in the face of his absolute criminal liability" would induce him to restrict sales to books he had read, "the state will have imposed a restriction upon the distribution of constitutionally protected as well as obscene literature... The door barring federal and state intrusion into the fundamental freedoms of speech and press cannot be left ajar. It must be kept closed, and opened only the slightest crack necessary to prevent encroachment upon more important interests."

The U.S. Supreme Court decision was quickly applied in several localities where prosecutions were pending. In Indianapolis Criminal Court Judge Richard Salb declared unconstitutional a state law under which 17 booksellers had been arrested for the possession of "obscene" books and magazines. "(I) am firmly opposed to government censorship of adult reading material and adult speech," the jurist declared.

The Attorney General of Vermont dropped the prosecution of a local magazine distributor because of the Smith decision. The official said he would ask the legislature to adopt a law tailored to meet the court's new requirements, however. The Rhode Island legislature has already done so, and the new law has been upheld as constitutional by the state Supreme Court. The Rhode Island Affiliate, ACLU, in a brief supporting bookseller Harry B. Settle of Newport, said the statute was written vaguely and so broadly that it permitted punishment for acts or words protected by the federal constitution. The state high court
ordered a new trial for Settle to determine whether the novel he is accused of selling to a minor, *Peyton Place*, is obscene. A jury did find the book to be indecent, but the case is being appealed. The *Smith* decision also found echoes in Spokane, Wash. where a state court voided a state law barring the sale of "obscene" literature whether or not the purveyor knew the contents of what he offered for sale. In Cincinnati, Cleveland, Miami Beach, Newport News, Va. and New York City obscenity convictions and prosecutions were reversed or dropped because of the Supreme Court's *Smith* ruling.

Sections of state laws in Maryland and West Virginia which sought to protect minors from gaining access to allegedly harmful reading matter have been declared unconstitutional on the grounds that they are too vague and are also discriminatory against adults. Baltimore Superior Court Judge Reuben Oppenheimer said the provisions barring sale of material do not meet due process requirements "in that they do not give fair notice of what acts will be punished, and permit within the scope of their language the punishment of acts protected by the principles of freedom of the press." In addition, he pointed out that "adults are not allowed to see the books which it is their right to buy and read. The right of young persons to read what they will," Judge Oppenheimer continued, "within the limits of permissible federal or state action, is vital not only to them but to all our citizenry. The exclusion of obscenity from protected utterances does not carry with it the right to obscure from young or old facts or events, however unpleasant, disturbing or violent. It is through realization, in formative years, of the meaning of the ordered liberties protected by the Constitution that an adult citizenry is most apt to have the feelings and thoughts and to take the actions which are 'the real protection against attempts to strait-jacket the human mind.'" The opinion was upheld by the state's highest court. The West Virginia Supreme Court of Appeals used similar reasoning in ruling unconstitutional that part of the state statute against obscenity aimed at protecting the morals of youth.

The Post Office Department finally gave up attempts to ban *Lady Chatterley's Lover* following the decision of the U.S. Court of Appeals in New York that D. H. Lawrence's classic is not obscene. (See last year's Annual Report, p. 11.) The appeals court was unanimous in deciding that the book is mailable, but divided 2-1 on its literary and moral values. Though the jurists were divided on esthetic grounds, they were agreed that Postmaster General Summerfield was "extreme" in banning the book from the mails.

The Illinois Division, ACLU won a Federal District Court suit in Chicago on behalf of the first issue of *Big Table*, a literary magazine banned by postal authorities on the grounds that two short stories were "obscene, lewd, lascivious and filthy." The affiliate said that the magazine was a serious literary effort. In addition, the complaint attacked the Post Office procedure under which allegedly objectionable material is impounded without any prior notice or hearing. The judge agreed with the Illinois affiliate that *Big Table* represented conscientious literature but did not pass upon the constitutionality of the administrative practice. The government plans no appeal.

The ACLU and the New York Civil Liberties Union also success-
fully countered the machinery of the Post Office Department when they won an end to the use of post office property to publicize the views of a magazine editor who opposed the circulation of the unpurgated *Lady Chatterley's Lover*. The incident arose when it was noticed that post offices in New York's Nassau County had posted reprints of an editorial by the Rev. Daniel Poling, editor of *The Christian Herald*, attacking the book. In a joint letter, the ACLU and the NYCLU expressed dismay that taxpayers' money was being used to publicize the views of a private individual, especially since the action "seemed to flout" a Federal District Court ruling upsetting the Postmaster General's administrative action. The response to the civil liberties protest was an order removing the Poling reprint as "not in accord with postal regulations" and the pledge that "henceforth (officials) should not post statements by private individuals."

A Federal District Court ruled that Iowa's Attorney General had a legal right under the state's anti-obscenity statute to warn wholesale magazine distributors that he had asked county attorneys to remove 42 "girlie" magazines from the newsstands and to prosecute local dealers who offered them for sale. The magazines' publishers, backed by the Iowa Civil Liberties Union, had charged that the official's threat, in place of regular criminal procedures, "amounts to practical pre-censorship of reading matter without the safeguards inherent in a trial by jury and without due process of law." The court's opinion, however, said that no issue of pre-censorship is involved as no attempt was made to ban future issues of the magazine.

**U.S. POST OFFICE CENSORSHIP.** The latest in a series of court tests over the past decade seeks once again to prevent the Customs Bureau and the Post Office Department from banning entrance and delivery of material they regard as "foreign propaganda." The most recent actions were brought in the Federal District Court in Washington, D.C., on behalf of two Chicago plaintiffs, the Modern Book Store and Mrs. Helen MacGill Hughes, a sociologist. The Washington suits were filed by attorneys for the Illinois Division, ACLU to back up similar suits brought in Chicago. The Chicago suits appear mooted because the postal and customs units which had been screening foreign political propaganda mail in Chicago were closed down and transferred to post offices in New York and San Francisco. The Modern Book Store had sought an injunction enjoining the Chicago postmaster and customs collector from withholding delivery of six shipments of books and magazines from two Canadian publishers; the book store claimed the Post Office acted without statutory authority in violation of the First and Fifth Amendments of the federal constitution. Mrs. Hughes, managing editor of the *American Journal of Sociology*, had tested the Post Office's authority to bar delivery of two Czechoslovak publications *(See last year's Annual Report, pp. 14-15.)* The Washington, D.C. suits, brought against Postmaster General Summerfield, Treasury Secretary Anderson and Customs Commissioner Kelly, were filed in the nation's capital, the Illinois Division said, to bring before the courts the officials ultimately responsible for the "foreign political propaganda program." Noting that in previous cases the government avoided any court test of
its censorship authority by delivering the detained mail to persons who
challenged the program, the ACLU affiliate said the program was "hit-
and-run government in which officials continue a censorship program
of questionable legality and at the same time seek to prevent citizens
from having the courts rule on the legality of their conduct."

It was against this background that the Senate Subcommittee on
Constitutional Rights began an investigation of the Post Office practice
of intercepting mail from abroad that it considers subversive—about
15,000,000 pieces of mail annually. Although the practice is no longer
carried out in secret and libraries and universities now get the material
as a rule, firm opposition remains to the regulation demanding that
the addressee sign a card saying that he requested the literature being
withheld by the Post Office before it is delivered.

PROTECTION OF JUVENILES. Most legislative action directed
against "obscene" books, magazines and other material is intended to
protect young children and teen-agers against what many believe to be
the harmful effects of such reading matter, such as the inducement to
commit acts of juvenile delinquency. The ACLU has long questioned
whether there actually is such a causal relationship between reading
and the commission of a crime. On several occasions during the 86th
Congress Union spokesmen again emphasized that in view of expert
disagreement over whether, in fact, such a causal relationship exists,
efforts to protect youth against "smut" through legislative proposals to
curb the flow of obscene matter cannot violate constitutional safeguards
against censorship. The Union therefore regarded as a qualified victory
a new law which limits the power of the Postmaster General to impound
mail allegedly connected with the sending of obscene materials by
forcing him first to seek authority from a Federal District Court.
Although the Union is opposed to pre-censorship in any form, the
measure at least thwarted attempts by the Postmaster General to in-
crease his vast and often abused powers and deprived him of his pre-
vious power to impound mail by his own fiat.

Such moderate legislation was in contrast to two proposed constitu-
tional amendments against which ACLU executive director Patrick
Murphy Malin testified. Appearing before the Senate Subcommittee on
Juvenile Delinquency and Constitutional Amendments, Malin opposed
one measure which would allow each state to decide "on the basis of
its own public policy, questions of decency and morality" and would
bar any abridgement of the right of states to enact legislation in this
field. The other suggested amendment would suspend free speech and
free press guarantees from application to materials found obscene
according to the definition laid down by the U.S. Supreme Court in the
1957 Roth case. The former amendment was introduced by Sen. East-
land, the latter by Sen. Kefauver. The Eastland bill, said the ACLU,
could nullify all the safeguards in the Bill of Rights because the words
"morality" and "decency" are so vague as to "defy precise definition"
and invade constitutional protections. The Kefauver bill was "extremely
bad social policy" because it sought to "petrify by constitutional amend-
ment so amorphous and slippery a concept as 'obscenity'." The Union
added that while it differed with the high court definition made in the
Roth case, the time may come when the Court may change its definition of obscenity "based on new evidence discovered by social scientists."

Malin said it was "natural that in the common desire" to combat juvenile delinquency "there should be sought a simple cause and a quick solution. The emotions of pity and indignation." he said, "lead to the plausible conclusion that if we can give some public official broad power to stop the flow of "smut" we shall then have gone a long way to insulate our children from pernicious influences which, unrestrained, lead them into degradation and crime. Nonetheless, we must hear constantly in mind that with respect to juvenile delinquency no less than with respect to any other area of anti-social or criminal behavior, minimum standards of constitutionality must not be circumvented in the search for a cure. . . . We wish to make it clear," Malin added, "that we do not profess to be experts on the issue of whether there is a causal relationship between the reading or viewing of books and films and the commission of an illegal act, but we know there is a great difference of expert judgement on the matter."

The ACLU favored a House bill to create a commission to study the effect of allegedly obscene material on juvenile delinquency, but this idea died in the lower chamber. A Senate bill to establish a Commission on Noxious and Obscene Matters, based on the assumption that the causal relationship exists, was opposed as establishing, in effect, a national censorship board. A special commission appointed by the state of Massachusetts to investigate the ties between juvenile delinquency and the distribution and sale of offensive publications reported that it had discovered no proof that such publications have even a contributory effect towards anti-social behavior.

STATE LEGISLATION. The Virginia legislature has passed a new law to replace one declared unconstitutional by the state Supreme Court of Appeals because it limited the choice of adults' reading material to those which did not "manifestly tend to corrupt the morals of youth." The new measure follows the language of the U.S. Supreme Court in defining obscenity as works which have as their dominant theme or purpose an appeal to prurient interest. A Rhode Island Superior Court heard a constitutional challenge of the state law establishing a Commission to Encourage Morality in Youth. The suit charged that the law violates free press protections of the First Amendment and due process provisions of the Fourteenth Amendment. As part of its "educational" work the Commission has been circulating lists of volumes it believes to be in violation of the law to wholesalers and retail store owners. Fearing prosecution, the dealers have often stopped ordering the books. Four publishers who brought the suit declared that the Commission actually was halting the sale of books without a prior judicial finding that they violated the law. The activities of the Commission have drawn the criticism of segments of the press as well as of the ACLU's Rhode Island affiliate. The affiliate condemned police officials in a number of cities who had asked local drugstore owners and other dealers to remove from their shelves books criticized by the Commission.

The Governors of Illinois and Ohio vetoed bills which limited the
distribution of magazines and films by unconstitutional means. Gov. William G. Stratton of Illinois vetoed a measure giving Cook County the power to prohibit “obscene” theatricals and exhibitions, stating that it invaded “the constitutional rights of citizens” by failing to include an adequate definition of “obscenity.” Gov. Michael V. DiSalle vetoed a bill, backed by the County Prosecutors Association and the Ohio Citizens for Decent Literature, to cancel the exemption of magazines and newspapers mailed under second-class postal permits from prosecution under Ohio nuisance and obscenity laws. Gov. DiSalle called the measure unnecessary because the Post Office already checks on the contents of publications having second-class mailing privileges. He also said it “threatens the constitutional guarantee of freedom of the press and endangers the dissemination of news, which, by some, could be considered lewd or indecent. . . . We must not overlook the harm done to our basic democratic structure should we eliminate such freedom for all because of the abuse of a few,” Gov. DiSalle commented in his veto message. A test of the Ohio obscenity law which bars mere possession of obscene literature, backed by the Ohio Civil Liberties Union, is now before the U.S. Supreme Court. The affiliate believes that mere possession by an adult of such material cannot be banned, because it violates the right of privacy and the right to read as well as the Fourteenth Amendment’s equal protection clause.

THE LOCAL SCENE. San Francisco and many nearby communities were put in a turmoil over police censorship actions sparked by local Citizens for Decent Literature groups. (See below for more activities by this group.) The ACLU of Northern California, which has been in the forefront of the opposition, made it clear that while it is not opposed to any private group expressing its views, when such groups put pressure on newsdealers and distributors to censor books and magazines through the threat of economic boycott or the circulation of lists of objectionable literature, then “the constitutional rights of citizens are in grave danger.” A group of San Franciscans inspired a drive to enact a local anti-obscenity ordinance that reached such a pitch that six large bookstores received threats that their stores would be bombed if they did not stop selling books and magazines proscribed by the Vigilante Committee for Decent Literature. The San Francisco postmaster, armed with a San Mateo CDL list, removed 100 publications from the newsstand in the federal building. Said the official: “As far as I’m personally concerned, the test to what is good literature is whether or not I would want my teenage daughter to read it.”

Members of the San Mateo City Council and the ACLU of Northern California objected vehemently when the local chief of police, aroused to anger by a picture in Playboy magazine, promptly had the issue removed from the stands, and announced that his judgement would be enough for future moves against other “girlie” magazines. The Union affiliate said that it was the police chief’s duty to make an arrest if he believed a law was broken, but not to “substitute his own judgement for that of the court’s.” Playboy was barred by the police chiefs of four other area cities, although it remained on sale in San Francisco, Redwood City and Marin County. The publication was also removed
from newsstands in Connecticut, a move which drew the criticism of the Connecticut Civil Liberties Union in a letter to the Commissioner of the State Police, the official who initiated the ban. The CCLU warned that when the Commissioner says a publication is "objectionable" or "actionable" and encourages its elimination from newsstands, he is virtually exercising prior restraint over printed matter, which is protected by the First Amendment's guarantee of a free press.

Following lengthy hearings a Municipal Court judge in Portland, Ore. set aside an anti-obscenity ordinance, the second time within a year that such a measure has been declared unconstitutional. The ACLU of Oregon was the only civic group to oppose the local law before it was voided by the Portland court. A statement submitted to the City Council before the ordinance was passed summarized the affiliate's objections, emphasizing its procedural failings. Among these were the fact that after a summary judgement that a publication was obscene a retailer could not argue in a subsequent prosecution that the publication was not obscene. A state statute prohibiting the sale of books "tending to incite to lustful thoughts" is before the Oregon Supreme Court. The ACLU state correspondent in Alaska lodged a protest with police officials in Anchorage after police ordered the removal of two nude paintings in a local nightclub. Members of the City Council, calling the nudes "works of art," overruled the police.

The situation was different in Milwaukee and Oklahoma City, however, where local review boards were established. The sole voice of protest in Oklahoma City was raised by the ACLU state correspondent, who said the ordinance gives a "small group of persons . . . the power to determine what the citizens shall and shall not be allowed to read." The Minnesota Civil Liberties Union is keeping a watchful eye on a situation that developed after a police raid on a bookstore failed to disclose what the police were sure they would find—"obscene" literature. A grand jury immediately wanted to know if the raid had been tipped-off to the store.

Chicago was the scene of two unusual incidents. The Chicago Transit Authority, a public agency, barred a number of publications from sale on newsstands and defended itself from criticism by the Illinois Division, ACLU by declaring: "This is not censorship, but rather the exercise of our right to say what can be sold on CTA properties." The Union affiliate said that the agency acted capriciously and by administrative fiat, without the use of a standard or definition of what is objectionable material. The agency finally rescinded its order. On the other occasion, a Municipal Court judge directed a verdict of guilty, holding that obscenity is a question of law which a judge can decide without a jury's help. Subsequently, however, the judge granted the defendant a new trial after the U.S. Supreme Court ruled in the Smith case that a bookseller had to know that a publication was obscene before he could be prosecuted. Since then the ordinance has been revised to meet the Court's requirement of knowledge.

A Harvard University professor has become enmeshed with the Massachusetts law on obscenity. Dr. John P. Speigel, a psychiatrist, has the backing of the university in pleading not guilty to an indictment charging that he imported obscene photographs from London for pur-
poses of exhibition. Prof. Spiegel said he was using the photographs for professional purposes in a study of "the causes of emotional disturbance." The court contest resembles the seven-year successful battle of the Kinsey Institute against the Customs Bureau seizure of concededly pornographic objects from abroad.

PRIVATE PRESSURE GROUPS. Undoubtedly the most active private pressure group in the nation is the Citizens for Decent Literature, a network which was born in Cincinnati in 1958 and which now has inspired more than 100 similar groups in all 50 states. The organization claims 17 units in Ohio, 14 in California, and eight each in Indiana and Illinois. Prominent citizens, churchmen and political figures are often listed as local sponsors of CDL cadres, as in Portland, where the group is called the Mayor's Committee for Decent Literature. The CDL, which makes no secret of its dissatisfaction with the trend of court verdicts on obscenity prosecutions, is planning a national crusade to "enlighten the public" by forming local branches in every community in the country. The immediate target of the CDL are newstands and drug stores which sell allegedly obscene magazines and paperbacks. The CDL's method is to "demand action from police, the courts and juries," it also is campaigning for tougher federal anti-obscenity laws.

The CDL denies that it practices censorship or attempts economic boycotts. "It is merely the exercise of every citizen's right to stand up and be counted, to state his belief in what should be allowed and prohibited in society." Despite the organization's disclaimers, local CDL committees have often resorted to the use of lists of "objectionable" publications which police then use in clean-up campaigns—a technique first developed by the long-established National Office of Decent Literature. A more original method has been the encouragement by the CDL of its members to attend public trials of obscenity prosecutions—a step which forced judicial rebukes by judges in Cincinnati and Indianapolis who were on the receiving end of CDL letter writers. The Indianapolis judge warned that such correspondents could be held in contempt of court. The paths of CDL committees and ACLU affiliates crossed in many localities, among them: Evanston, Ill., where the North Shore Committee of the Illinois Division, ACLU viewed with dismay the CDL campaign, including distribution of placards to stores which have agreed to abide by the CDL's "code of decency;" Youngstown, Ohio, where the Civil Liberties Committee warned against a CDL petition endorsing "any positive action" against the "menace" of obscene literature; Minneapolis, Minn. where the CDL pressed for an ordinance shifting the burden of presumption to the defendant—the display of any "obscene" publications would become prima facie evidence that it was intended for sale. The Union affiliate is investigating the proposal. The York County, Pa. ACLU put on notice a local PTA campaign aimed at removing certain books from newsstands with the statement that "the responsibility of private groups and citizens extends only to the right to refer such problems to law enforcement officers." The Buffalo Youth Board's Salacious Publications Committee has been reinforced by the addition of a pair of policemen who reportedly "suggested" to retailers that they remove offending magazines and books to avoid "running
CENSORSHIP IN SCHOOLS, LIBRARIES. The National Education Association reported an increase in the number of attempts to censor students' reading lists and textbooks. The NEA sampling was confirmed by a University of California social psychologist who estimated that 29 per cent of California's school librarians normally avoid purchasing so-called controversial books. The usual excuse of the librarians, who say they believe in the principle of "freedom to read," is that the books are "trash" or are on "too advanced a reading level." In 26 California communities studied for the report, libraries removed 56 per cent of books challenged by outside pressure groups and 85 per cent of the books about which library personnel had doubts. In addition, because of the attacks by vigilante groups, many school and public libraries established written rules, albeit vaguely worded, for book purchases. The results of the study closely corresponded with a previous study in New Jersey and librarians in 10 other states who read the report agreed that their communities had endured similar censorship drives. Fiction by John Steinbeck and James Joyce and non-fiction by Karl Marx and Alfred Kinsey are often among the target of such campaigns. Sometimes librarians hid books or placed them "on reserve," at least one burned books. An attempt at legislative interference with the subject matter of textbooks was rejected by the California Supreme Court when it decided that the legislature could not refuse to pay for the printing of two illustrated science texts ordered by the Board of Education. The legislature disapproved the format of the books.

The Florida Civil Liberties Union protested the removal of two modern classics from the required reading lists of Miami high school students in a dispute that made national headlines in almost an anti-climax. This came when U.S. Commissioner of Education Lawrence Derthick said he had never heard of George Orwell's 1984 or Aldous Huxley's Brave New World. "I've never heard of those books and I don't think it would be prudent of me to discuss them," the U.S. Commissioner of Education said. The controversy began with an anonymous phone call to the principal of North Miami High School complaining that the books contained "immoral material." The principal was backed by two superiors in the county educational system when he removed the books from the reading lists although neither he nor his superiors were familiar with both books. In a public statement and in an appearance before the school board, the Florida Civil Liberties Union said that the incident had raised serious issues of censorship and academic freedom. "The action . . . also reflects serious inroads on the right of the teacher to teach as he sees. . . . The precedent thus established leaves the school system dedicated to a new standard—the standard of mediocrity. . . . It turns over the school system to those critics who are obsessed with obscenity."

The newly-formed ACLU of New Jersey opened its ledger with an inscription to the credit of civil liberties. The affiliate praised the Clifton Library Board for standing up to community pressure and keeping open a shelf on which such "controversial" novels as Lolita, Lady Chatterley's
Lover, and Peyton Place had previously been guarded behind a locked glass door. "Who are we to censor books?" asked Board chairman George Qulick. The New Jersey affiliate said: "Censorship in any form has no place in our free society and our libraries as custodians of human thought have a particular responsibility to maintain the open market of ideas." A faculty committee of a Levittown, L.I. public school decided to retain two articles used in a sixth grade "reading kit" after a study prompted by criticism of the articles which appeared in The National Review, a conservative publication. The articles were "Alexander Hamilton," reprinted from the American Stream of History and another by Norman Cousins in the Saturday Review of Literature. The kit was temporarily withdrawn from circulation while the study was in progress. The committee reported that the issue raised by the criticism and the counter-criticism of censorship made when the kit was withdrawn had raised a basic question for local citizens: "Do they really want their children to be taught by the fearful, the unimaginative, the conforming, the dull? It is our heritage to respect and cherish variety in points of view. Insistence upon uniformity of thought is not our way."

HANDBILLS. The U.S. Supreme Court declared unconstitutional a 28-year-old Los Angeles ordinance requiring all handbills distributed in the city to carry the name of their author and distributor. Although the city tried to justify the ordinance as a protection against fraud and libel, the high court majority said it would discourage pamphlet writers and thereby restrict freedom of speech and expression. The decision appears to mark a new frontier of the Constitution's protection of anonymity of expression. The landmark ruling was supported by the ACLU of Southern California, which sponsored the appeal of Manuel D. Talley. Talley was fined $10 in 1958 when he distributed handbills which urged consumers to boycott a local market because it sold products of manufacturers "who will not offer equal employment opportunities to Negroes, Mexicans and Orientals." The majority opinion declared that there was no doubt that the requirement of the law identifying handbill authors would intimidate them. "Anonymous pamphlets, leaflets, and even books have played an important part in the progress of mankind," the opinion declared. "Persecuted groups and sects from time to time throughout history have been able to criticize oppressive practices and laws either anonymously or not at all." The majority opinion relied in part on recent high court decisions holding that the National Association for the Advancement of Colored People could not be required to disclose its membership lists because they might be subject to reprisals. The dissenters said there was no claim or proof that Talley would suffer any injury by signing the handbills. "The Constitution says nothing about freedom of anonymous speech," said the minority. The decision did not concern the federal law requiring the identification of political campaign literature.

Court action was only threatened in Sacramento but it was enough for the city to end a year-long ban on the self-service newsstands of the Socialist Labor Party newspaper, Weekly People. The City Attorney had argued with the ACLU of Northern California, which was pressing the issue, that the newspaper primarily supported certain political and
economic views and was not generally sold or delivered throughout the city. Therefore, he maintained, the newspaper was not entitled to sidewalk space for its stands. The ACLU affiliate replied that the tests were arbitrary and unreasonable and violated freedom of expression.

2. Motion Pictures

THE COURTS. The U.S. Supreme Court has under consideration an appeal from two lower federal courts challenging the constitutionality of pre-censorship of films. The ACLU and its Illinois Division filed a friend-of-the-court brief arguing against pre-censorship. The test case, based on the refusal of the Times Film Corp. to submit the movie Don Juan to prescreening under the Chicago ordinance, may decide whether the film medium is entitled to the same constitutional guarantees against prior restraint of communication that other media enjoy. Previous high court decisions in movie censorship cases touched on the question of whether pre-censorship is constitutional, but the verdicts were decided on more limited grounds of whether the film was, in fact, obscene, or whether definitions of sacrilege and immorality were unconstitutionally vague. Meanwhile, Don Juan cannot be shown in Chicago and city officials have shelved a new ordinance curbing juveniles' attendance at certain films pending the outcome of the case.

Chicago is also the scene of another legal dispute over movie censorship, involving the French film, The Lovers. But unlike the distributors of Don Juan, which refused to submit the film for municipal screening, the distributors of The Lovers took the case to the Federal District Court after the police review board, composed of six widows of minor Chicago politicians, refused to license the film. The court refused to upset the ordinance on the grounds that it failed to interfere with movie production. The decision is being appealed. The Lovers was judged obscene by three Common Pleas Court judges in Cleveland who said they had scrupulously applied the standard for judging obscenity set down by the U.S. Supreme Court in the Roth case. The verdict also resulted in a felony conviction for the theatre manager who showed the film, thus jeopardizing his bid to become a naturalized citizen. Counsel for the manager, who is being assisted by the Cleveland chapter of the Ohio Civil Liberties Union, has pledged to carry the case to the U.S. Supreme Court. The trio of Common Pleas Court judges said that "in evaluating this motion picture the court has been ever mindful of the film taken as a whole and its appeal to the average person and has applied contemporary community standards"—the language of the Roth verdict. The Lovers, which appeared to be the trouble-making movie of the year, also made censorship news in Portland. The ACLU of Oregon planned to file a friend-of-the-court brief on behalf of a theatre manager who is appealing a Municipal Court conviction for showing the film without a license. The police had ordered two portions of the movie deleted, the theatre refused, and prosecution followed. The affiliate brief seeks to test the constitutionality of the ordinance which contains vague language and sets no standards.

Also on its way to the higher courts is a "model" Pennsylvania film censorship law establishing a three-member Motion Picture Control
Board that was declared unconstitutional in a unanimous decision by the Commonwealth Court in Dauphin County. The state immediately said it would appeal the decision. The opinion said that the new law was "so vague and indefinite as to be inoperable" and that it violated freedom of expression and due process safeguards of the state and federal constitutions. The opinion found that the obscenity standards went far beyond the standards set down by the U.S. Supreme Court and made this additional point: "There is no rational basis for the act's distinction between what may be shown to persons over and under the age of 17." The ACLU of Pennsylvania criticized the law when it was passed in 1959 as "dangerous and unconstitutional" because, among other things, it had the effect of imposing prior restraints by becoming effective after a film was shown. (See last year's Annual Report, p. 22.)

STATE AND LOCAL ACTIONS. An informal and extra-legal attempt at film censorship, using the device of classification, has aroused trade interest in Memphis, Tenn. There, film exhibitors who had been harassed by the city's board of censors, agreed to publish the movie ratings of the Green Sheet in exchange for an end to attempts by the censors to win a formal film classification ordinance. Green Sheet ratings, approved by the Motion Picture Association of America, are a monthly roundup of opinion of 11 organizations. The agreement put the MPAA in an awkward situation, since it has traditionally opposed all forms of film censorship or classification, and did not visualize that the Green Sheet could be put to that very use. Among the films banned by the Memphis board was Island in the Sun, which was labelled "obscene because of its white-Negro romance." Meanwhile, the Texas Council of Motion Picture Organizations took matters directly into its own hands by adopting the report of a committee representing major church denominations as the basis for its own classification system. The service is similar to the Green Sheet, except that the Texas ratings include movie reviews to explain the categories into which films are pigeon-holed. A film classification law passed one house of the New York state legislature but not the other. The result was not viewed as a complete victory for anti-censorship forces, however, since it was considered certain that a similar measure will be introduced next year. The Milwaukee chapter of the Wisconsin Civil Liberties Union condemned the role of the city's motion picture commission in refusing to allow a showing of The Lovers. The affiliate called the action prior restraint in violation of the First Amendment. The attack brought an angry denial from Milwaukee's Mayor, who argued that the commission "is not a censorship body. Somebody's got to scrutinize films before they are shown to the public," he added. The Massachusetts Civil Liberties Union tried to bury the phrase "banned in Boston" but failed, although the attempt won favorable press comment. The issue was touched off by the newly-appointed city censor, who deleted some dialogue and gestures from Lock Up Your Daughters, a London hit which folded in Boston. A protest by the Union affiliate brought a ruling from the city law department that the censor could continue to examine the content of films, plays and night club acts for obscenity. Not far from Boston is Taunton, Mass. where the Mayor has proudly
saved his community $3,500 a year by acting as the city's film censor himself. Mayor Cleary said he doesn't see any of the films he condemns, but is guided by the listings of the National Legion of Decency.

BLACKLISTING. The Hollywood blacklist—the first formidable political checklist in the mass media—is easing. Two major independent producers, Stanley Kramer and Otto Preminger, publicly announced that they were hiring writers who had tangled in the past with the House Un-American Activities Committee. In addition, two major studios followed suit by announcing that they would give screen credit to writers previously blacklisted. The studios, Paramount and Universal-International, had previously followed the common Hollywood practice of buying scripts from blacklisted writers who submitted them under an assumed name. An exception to the trend was Frank Sinatra, who first announced he had hired Albert Maltz, one of the original "Hollywood Ten," to do a screenplay and then said he had fired Maltz in deference to "the majority of American opinion." Kramer's decision to hire Nedrick Young was immediately assailed by the American Legion. But unlike past occasions when Hollywood bowed to the Legion pressure, Kramer declared that the Legion itself was "Un-American" when it seeks to "inflict their viewpoint on others." The producer's counter-attack was praised by the ACLU, which said that "by vigorously asserting the principle that an individual should be judged on the basis of his competence and not his political belief, you have affirmed a basic concept of American democracy which the American Legion has long forgotten." The Legion, subsequently, said that it does not attempt to censor films nor to regulate the film industry's employment, but merely tries to "ventilate the record" and supply information to the public. The screenwriter hired by Preminger was Dalton Trumbo, convicted for contempt of the House Un-American Activities Committee, who also will get screen credit from Universal-International for another movie. During Trumbo's days in the underground of the blacklist he wrote more than 30 films, one of which won an Academy Award.

PRESSURE GROUPS. The Legion of Decency, the Roman Catholic Church's active watchdog of movies' content, is continuing a public discussion of its principles and practices intended to clarify its role to Catholics and non-Catholics. (See last year's Annual Report, p. 23.) At the same time, the Legion instituted a new category for films: "adult and not intended for teen-age audiences." The Legion defines its view of film censorship as accepting the "principles of liberty and a minimal amount of legal restraint . . . The area of difference between the Legion and the (Motion Picture) Code is not in the area of theme because the Code can keep a picture moral; the difference is in treatment and this is an area of decency." One Catholic spokesman, John E. Fitzgerald, amusement editor of a Catholic weekly, said that the esthetic judgement of film critics "makes the most sensible classifier of good and bad motion pictures." He defended the right of private groups to classify films, but added that such classification can be binding only on specific groups—parents for their children, a church for its followers, etc. Another Catholic spokesman, J. D. Nicola, a lay member of the Legion's board of consultants, said that the issues raised by "adult" films are
“too complex to believe that legal censorship, mass boycotts or Legion condemnations will provide the overnight answer.” Such tactics, he said, “may create more problems than they solve.” Despite the publication of such enlightened views, however, some local Catholic groups continue to follow practices other fellow religionists deplore. In Lawrence, Mass., for example, the Mayor and local exhibitors agreed that no movie house would show a film condemned by the Legion and in Delaware County, Pa., the local chapter of the ACLU of Pennsylvania strongly protested the cancellation of *The Lovers* after a local Catholic group threatened an indefinite boycott of the movie house. Protestant denominations are taking a closer look at the content of movies and television programs, but principally from the point of view of pressing the movie industry for stronger self-regulation. Rev. Dr. S. Franklin Mack, executive director of the Broadcasting and Film Commission of the National Council of Churches, defined the church’s role as “not so much to get in and regulate, but to strengthen the hands of those . . . in the industry who are . . . aware of the need for integrity.”

3. Radio and TV

**EQUAL TIME.** The 1960 Presidential campaign marked the first time in the nation’s history that the candidates of both major parties met face-to-face in a series of “live” TV debates. While applauding the innovation as an effort to encourage more public discussion of national issues, the ACLU urged that stations be required to give minority parties reasonable and equitably-distributed opportunity to be heard. This altered the traditional ACLU position which had been that all political parties—major and minor—must be treated the same under the “equal time” Section 315 of the federal communications law.

The TV debates between the candidates were made possible by Congress’ suspension of Section 315 for the 1960 campaign and only with respect to the Presidential and Vice-Presidential nominees. While the ACLU recognized the networks’ argument that the large number of small parties who would claim equal time if the major party candidates were presented, has made it impractical in former campaigns to air the latter candidates, the ACLU opposed the suspension for a variety of reasons: under it the minor political parties are likely to get no time at all on the publicly-franchised air-waves and they will lack the legal recourse which they now have under Section 315; the suspension will, in effect, give the Democratic and Republican Parties a monopoly of the communications medium which reaches the greatest number of people and so deprive the public of its right under the First Amendment to hear a wide range of political views; the suspension of the equal time provision for one campaign may open the door for the all-time repeal of the safeguard in its present form, thus legislating a two-party monopoly of the air and endangering the democratic processes.

In its new policy statement proposing a revision, rather than a cancelling out of Section 315, the ACLU recommended that stations be required, as an affirmative obligation under their license to operate in the public interest, to make time available, on either a free or paid-for basis, to all legally-qualified candidates, and also that the networks be
required to grant some free time to all legally-qualified presidential candidates. In the past, under Section 315, broadcasters have been under no obligation to afford time to any political candidate, but have been required to allow equal time to opposing candidates if any single candidate was accorded air time. The ACLU would have the law changed so as to require each station "to afford reasonable opportunity for the use of its broadcasting facilities during the campaign for any public office of local, state or national importance," such opportunity to be afforded "equitably" to the candidates of the various parties, major and minor. The Union would continue the no-censorship clause governing political campaign material.

The Federal Communications Commission, for the first time, implemented the so-called "fair play" amendment to Section 315 exempting newscasts, news interviews, news documentaries and on-the-spot news events from the equal time clause. (See last year's Annual Report, pp. 24-25.) The FCC demanded to know why three Little Rock, Ark. television stations carried speeches by local Democratic candidates while the Republican National Convention was going on in Chicago. Station officials replied that they considered the local news more important.

DIVERSITY OF PROGRAMMING. The ACLU supported a measure that would give the FCC broader powers to promote balanced programming without imposing censorship of the airwaves. The law passed by the Congress gave the agency the discretion to grant licenses for a term less than three years. The new law also requires FCC approval before an applicant can withdraw because he has received a financial settlement from a competing applicant, and authorizes a system of fines as an alternative to the revocation of station licenses. The Union praised in particular a fourth provision of the statute which requires an applicant or a person filing for renewal of a license to give notice of his intention in the area to be served by the station. The new procedure should facilitate local hearings by the FCC to determine community sentiment. This change in the law coincided with a new FCC policy requiring applicants for new licenses or renewals to consult with community leaders on programming. "Pre-programming consultation . . .," the Union said, "will . . . make for the better-balanced, more widely-diversified programming to which the ACLU holds the people are entitled under the First Amendment" and the communication law.

In a year marked by prolonged investigation by Congress and the FCC of radio-TV problems, brought on by the TV quiz shows and payola scandals, the ACLU made clear the double-barreled civil liberties issue: government agencies should not have the power to censor by adding or subtracting program content, but the FCC should "energetically exercise" its power to require the industry to provide the maximum possible range and balance in subject matter and treatment. In this connection, the Union congratulated the FCC on the establishment of a monitoring bureau to determine whether stations fulfill their pledge to operate in the "public interest, convenience and necessity."

A policy statement by the ACLU Board of Directors was aimed directly at the technical problems limiting the number of TV channels
now available to the public which thereby also limit diversity in programming. The statement proposed a gradual shift of the nation's television system to the 70 channels that would be available under an Ultra High Frequency transmission. Only 13 channels are now available to the public under the present Very High Frequency broadcasting system. In a letter to the FCC, the Union praised the initiation of an experimental research program to be carried on in New York City aimed at the improvement of UHF transmission and expressed confidence that the technical difficulties involved in the UHF change-over would be solved if the switch were made mandatory over a five-to-ten-year period, with the VHF system to be retained in the interim. The 70 UHF channels, said the ACLU, should be made available to all types of broadcasters—pay TV, commercial, educational and municipally-owned stations and others operated by non-profit corporations.


THE FEDERAL SCENE. The seesaw battle continued between newspapers and the Administration over how much government information the public has a right to know. There were gains and losses on both sides. A five-year study of government secrecy by a House subcommittee concluded that secrecy had grown despite a law passed in 1958 designed to increase the flow of information about official agencies. The tendency, said the report, is evident "from the White House down." The President gave the power to classify information to eight new executive agencies and removed the power from about 30 others. It was still impossible, however, for newsmen to obtain the complete list of which agencies had the power and which did not. The pressure of public opinion was demonstrated by the decision of the Senate to open its payroll accounts (as the House had done previously) after a Federal District Court had rejected a reporter's demand to see the records. The House declined, however, to reveal all the expense accounts of its members despite a newspaper series which documented extravagant charges to the taxpayers.

The ACLU backed an amendment to the Administrative Procedures Act to increase the amount of government news available to the public by making clear that the public information section of the Act does not provide statutory authority for withholding or restraining government information. The Union opposed, on due process grounds, a Senate bill which would permit inspection of all papers on file in federal courts, even those which have not been heard in pre-trial motions. The latter measure was prompted by a ruling of the Federal District Court in Detroit barring newspapers of that city from inspecting filings in civil suits when either party asks for it. The Union said that since the rule provides that the suppression automatically would be lifted when "some phase (of the action) shall be heard in open court, . . . the public's access to information about court proceedings is guaranteed." The ACLU said that on some occasions, such as divorce actions or commitment of the mentally ill, " . . . the subject matter of the pleadings present the danger of exposing individuals to public obloquy or scorn without a fair opportunity to meet the bare allegations. . . ."
IN THE STATES. Twenty of the 50 states have laws guaranteeing open meetings of government bodies and open records. Seven states have open meeting protections only and 12 have only open records guarantees. Thirteen states make no promises on either score.

Maine newspapers lost in their first test of the state’s “right-to-know” law when the state Attorney General ruled that the Parole and Probation Board had a right to keep confidential the fact that a prisoner had rejoined society. The official made his decision on technical grounds, but the Board had argued that disclosure of a release could do great harm to the individual and little good to the community. The Chicago City Council reversed a long-standing rule and permitted radio and television coverage of its sessions. The Illinois affiliate of the ACLU supported the electronic coverage as a matter of press freedom—a right that has already been won in seven other cities. A precedent-making suit may be underway in the Chicago Federal District Court. A reporter and a photographer of the Chicago Tribune are suing three policemen and a city commissioner of nearby Aurora after newsmen and cameramen tried to cover a meeting of the city council. A melee ensued.

ACADEMIC FREEDOM
1. Federal, State and Local Issues

THE NATIONAL SCENE. Following mounting objections by leading universities to the provision of the National Defense Education Act which requires students receiving government financial aid to sign an affidavit forswearing membership in any organization advocating violent overthrow of the government, (See last year's Annual Report, pp. 29-30.), the Senate suddenly passed and sent to the House a “compromise” measure which eliminated the disclaimer affidavit. The ACLU Board of Directors, which vigorously supported repeal of the affidavit requirement, opposed the compromise amendment because it too, in effect, subjected loan applicants to a political test. Left unchanged was the law’s requirement that any student seeking to qualify for a loan must take an oath of allegiance. This, the Union said, was “unnecessary and discriminatory,” though less invidious than the disclaimer affidavit. The latter, the ACLU declared, is in violation of the First Amendment in that it runs counter to provisions for freedom of thought, speech and association, “and the general belief of our citizens that the national government shall not interfere in the management of schools and the right of teachers and students to seek the truth.” The amendment approved by the Senate, but not passed upon by the House before adjournment, also provided that no person may apply for or get a loan while he is a member of the Communist Party or any other organization having for one of its purposes the seizure of the government through force and violence; that no person who has been a member of such an organization within five years shall seek or receive aid unless he files a sworn statement of the facts concerning his membership; and that anyone who violates either of these provisions shall be fined not more than $10,000 or imprisoned not more than five years, or both. At the time the Senate acted, 22 institutions, including Harvard, Yale and
Princeton, had withdrawn from the NDEA program in protest against the disclaimer affidavit, while an additional 83 had publicized their disapproval of it. Despite this opposition, the disclaimer affidavit is still in the law. Dr. H. Bentley Glass, professor of biology at Johns Hopkins University and former president of the American Association of University Professors, condemned all loyalty oaths in refusing to serve on the newly-created Radiation Control Advisory Board of Maryland. A second attack on loyalty oaths was delivered by Jack E. Holman, Jr., director of the American Freedoms Council, a new group formed to encourage interest in civil liberties among Roman Catholics. In a letter to the American Legion Magazine, Holman disputed the Legion's approval of student loyalty oaths and said "The practice is futile and unwarranted. It is obviously a contradiction to seek to safeguard freedom by lessening freedom."

A report of the ACLU's Academic Freedom Committee on the effects of multi-billion dollar government and private grants for research projects has stirred wide interest in the scholarly community. "Is it in the interest of society to permit the universities to lose a large measure of their authority in shaping the development of their own affairs?" asked the report. The answer, the study said, could best be found through an "objective review of the situation on a nation-wide scale." The Committee's exhaustive comment raised an issue that had been perturbing the campuses for some time. Harvard's dean of admissions and financial aid warned that increasing federal grants carry with them the danger that they will "limit freedom of inquiry and expression." He said "The potential for evil as well as good is enormous." Five months later Harvard initiated a special research project to determine the effect increasing use of federal funds has had on its programs.

The ACLU estimated that two-thirds of the money for all research and development carried out in schools and universities is contributed by the government and that the figure for the physical sciences adds up to 90 per cent, including private foundation and industry allotments. Acknowledging that sponsored research has made "tremendous contributions to American scholarship," the Union statement cautioned that "the dangers of control through subsidy are imminent. . . . We should face squarely the question as to whether we are prepared to break with the long-established tradition which entrusts to universities a large measure of autonomy in their proper functions of education and research—whether we are prepared to replace a significant fraction of this autonomy by a patchwork control exerted by a variety of bureaus with widely differing aims and interests." Among the specific problems involving academic freedom resulting from heavy subsidization, the ACLU listed the following: The necessity of obtaining security clearances for faculty members; the neglect of the humanities and the social sciences in favor of the physical sciences; the burgeoning of so-called programmatic team research at the expense of the highly individualistic investigator; the magnetic influence over even greater funds exerted by well-established institutions, creating even greater difficulties for less-developed schools with younger and less-famous faculty members. Not long after the Union's Academic Freedom Committee reported its findings and conclusions, the government announced an experimental
plan to change a 20-year-old system of allotting funds for science research. The National Science Foundation, which allots more than $58,000,000 to 230 institutions, said it would give universities five percent of their previous year's grant to use as they see fit on a non-strings-attached basis.

LOYALTY AND SECURITY. The Pennsylvania Supreme Court ordered the reinstatement of four Philadelphia school teachers dismissed by the Board of Public Education in 1954 for declining to answer questions posed by the House Un-American Activities Committee in the fall of 1953 concerning alleged Communist activities. Three of the teachers had relied on the Fifth Amendment privilege against self-incrimination—the Greater Philadelphia Branch of the ACLU had filed a brief with the court on behalf of the trio—and a fourth teacher based her refusal on First Amendment protections. The majority opinion of the court agreed with the contention of the Union affiliate that "a discharge based solely upon the exercise of the privilege against self-incrimination . . . is either an effort to penalize the use of the privilege . . . or it is an effort to punish the guilt which the discharging authorities have inferred from its use. Neither of these motivations from the standpoint of substantive due process is constitutionally permissible." The court declared: " . . . appellants' dismissals . . . because they refused to answer certain questions of the congressional committee . . . deprived them of liberty and property without due process of law and, at the same time, worked abridgement by State action of the same constitutional privilege, all in violation of the Fourteenth Amendment." The court said further that the Fifth Amendment plea "is not relevant as evidence of incompetency"—the technical charge on which the teachers were dismissed.

A similar ruling by the New Jersey Supreme Court reversed the firing, for the second time, of Robert Lowenstein, a Newark school teacher who was ousted on charges of conduct unbecoming a teacher for refusing in 1955 to answer questions of the HUAC. (See last year's Annual Report, p. 32.) The unanimous verdict said that the Board of Education must determine whether Lowenstein is fit to teach on the basis of his current beliefs about Communist ideals and democratic principles. Only if information about his past conduct suggests that his answers are less than truthful can his past associations be studied, the court said. By a 5-4 vote the Board refused to reemploy Lowenstein, but another appeal will be taken.

In a move that could eventually decide the validity of Washington state’s loyalty oaths for public employees, the U.S. Supreme Court sent back to the state courts the appeal of Howard L. Nostrand and Max Savelle. The two University of Washington professors have been aided throughout their five-year case by the ACLU of Washington. (See last year's Annual Report, pp. 86-87.) The court explained its refusal to act on the case by pointing out that the state Supreme Court had not passed on whether an employee who refused to take the oath would get a hearing before dismissal to defend or explain his act.

New York, like Pennsylvania, New Jersey, California and other states, has also conducted loyalty investigations of teachers on the
public payroll. In New York City, an impartial referee has recommended to the Board of Education the dismissal of seven teachers accused of lying about their past Communist Party membership in applications for licenses and promotions. The recommendation, however, is subject to modification by the Board, for whom the cases represented the last phase of an investigation launched in 1955. (See last year's Annual Report, p. 32.) The original charges against the teachers were dropped by the Board after the state's highest court had upheld the State Commissioner of Education's decision that teachers could not be compelled to disclose the names of former Communist colleagues. The current set of charges was then drawn up. Students also figured in politically-sensitive developments in New York City. There five students refused to take the oath of allegiance required of all academic high school graduates. At the insistence of the NYCLU the rule was waived in their cases. The Board of Education is considering, as a substitute, an Ephebic pledge of devotion to the city.

The ACLU's opposition to political tests for teacher employment, whether the test seeks to eliminate Fascists or Communists from the schools, was again voiced in an unusual case involving an American-born college teacher who renounced his citizenship on the eve of World War II and went to work in a Nazi radio station. The professor, Edward V. Sittler, resigned from Long Island University's C.W. Post College after publication of his past political record stirred a major controversy. At no time in the dispute, however, was criticism made of Sittler's classroom behavior. The New York Civil Liberties Union and the ACLU's Academic Freedom Committee issued a joint statement on the case re-emphasizing the Union's basic philosophy: "In the absence of substantial evidence of perversion of the academic process, the ACLU opposes the prohibition in educational employment of any person based even in part on his views or associations, such as Communist or Fascist. . . . The central issue in considering a teacher's fitness is his own performance in his subject and his relationship to his students."

A Colorado school teacher, Robert Lehrer, also refused to answer questions of the HUAC and was temporarily taken off his teaching assignment. When Lehrer later signed the state loyalty oath required of teachers he was permitted to return to his fourth and fifth grade pupils. The Florida Civil Liberties Union has intervened in a court test of the state loyalty oath prompted by the refusal of a high school teacher with nine years' tenure to sign the oath. The Illinois Division, ACLU took pleasure in the decision of the Chicago school board no longer to ask applicants to list their "un-American activities."

NON-POLITICAL ISSUES. The ACLU of Northern California is supporting the appeal of a social studies teacher in a junior college who was fired after writing five letters-to-the-editor in the local newspaper that were pungently critical of public education in Lassen County and also assailed bureaucracy in the California Teachers Association. The right to express an opinion on free love was at issue in the case of assistant professor Leo Koch of the University of Illinois, who was dismissed for publicly advocating pre-marital sexual relations for college
students "sufficiently mature to engage in them without social consequences and without violating their moral codes." Koch's views were published in the college newspaper as part of a discussion on sexual ethics. The Illinois Division, ACLU, which is supporting the teacher's appeal of his dismissal, charged that the university committed "a serious breach of academic freedom" by violating a faculty member's right to engage in public discussion on any topic. Koch's views, the affiliate declared, were expressed without "vulgarity or sensationalism" and were a serious contribution on a matter of "genuine concern."

Two young instructors at Kentucky State College were ousted for helping students plan strategy in demonstrating against student rules. The Kentucky Civil Liberties Union said the firings violated due process protections because the teachers were not given 10 days' notice in writing and a hearing by the college governing board, as provided by state law. The university president claimed that the two were only temporary employees and so were not covered by the statute.

**STUDENT RIGHTS.** The Administration and student body of the University of California continued to remain at odds over a number of free speech issues. (See last year's Annual Report, p. 33.) The Administration finally permitted student groups and publications to take public stands on off-campus issues, but refused the student government organization the right to do so on the ground that membership in the school-wide group was compulsory. The ACLU of Northern California objected to this restriction as well as to others limiting the rights of students to be heard on controversial subjects.

**2. Pressures Arising from the Integration Conflict**

Repercussions from the wave of lunch counter sit-in demonstrations throughout the South were felt immediately on the campus—even in colleges north of the Mason-Dixon line. The movement was born among Negro college students and it was against them and their allies among the faculty that state authorities and college officials took punitive action which violated academic freedom. The ACLU strongly supported the peaceful protests against lunch counter discrimination and condemned expulsions of students and dismissal of faculty members who joined with them in one of the most remarkable and effective mass protests in recent years. (For a full report of ACLU action on the sit-ins, see p. 47.) In Alabama, for example, one reaction of Gov. John Patterson to the sit-ins was to fire Dr. Lawrence D. Reddick, chairman of the history department of Alabama State College, a Negro school. Previously, the State Board of Education publicly called for the firing of 11 faculty members who had supported nine students expelled for their role in the demonstrations. In two telegrams to Patterson, the ACLU first called on the Governor to assure the faculty members that they would be retained "despite the bitter feeling about the race segregation issue," and later protested his firing of Reddick on the charge that the latter had Communist associations. Since no charge was brought that Dr. Reddick had misused his academic position and no hearing was held, the Union said to the governor, "We fear that you and the state Board of Education have fallen into the error of equating Communism
with the indigenous Southern movement to attain racial equality by non-violent means. A loose charge of this nature can only further excite public feeling and impede rational consideration of the ways and means by which a minority group can achieve constitutional rights.”

A University of Mississippi law professor who taught that the U.S. Supreme Court decision on desegregation was the law of the land was a target of a state representative who also cited the professor’s membership in the ACLU as reason why he should be ousted. The teacher, William P. Murphy, struck back hard, declaring that, “I do not intend to give up my membership in the ACLU because of attempted political intimidation. I do not intend to tailor my teaching to satisfy any cult of crackpots, fanatics and willful ignoramuses.” A bitter dispute rocked the faculty of the Vanderbilt University Divinity School over the expulsion, for his role in sit-in demonstrations, of the Rev. James M. Lawson, a graduate student. The dean of the Divinity School resigned, as did eleven of the school’s faculty members; of these, nine withdrew their resignations when the university offered to allow Lawson, who had entered Boston University, to return to Vanderbilt to take examinations in order to earn a Vanderbilt degree. An Arkansas law requiring public school teachers to list all organizations to which they belonged or contributed during the last five years has been accepted for review by the U.S. Supreme Court. A federal court has already struck down another Arkansas law which barred employment to any teacher who was a member of the NAACP.

A Tennessee Circuit Court judge has refused a new trial to the Highlander Folk School, thus clearing the way for an appeal to the state Supreme Court of a ruling that integration in private schools in the state is unlawful. (See last year’s Annual Report, p. 35.)

RELIGION

1. Church and State: Education

RELEASED TIME. The state Supreme Courts of Washington and Oregon upheld the validity of released time programs for religious education. The Washington court, dealing with the constitutional issues raised by a group of Spokane parents, said that while several aspects of the program were improper, it did not invade federal and state guarantees for the separation of church and state. The court did object, however, to the school distribution of consent cards for parents’ signatures as well as to announcements by teachers or representatives of religious groups. This, the opinion said, makes of the children “a ‘captive audience’ to participate in a religious program” contrary to state constitutional protections barring public schools from sectarian influence. A friend-of-the-court brief, submitted by the ACLU of Washington State, had dwelt on the fact that since the released time program is conducted by the Spokane Council of Churches and thus, in effect, is restricted to Protestant children, it has segregated non-Protestant children in violation of the Fourteenth Amendment. The court rejected this argument. The Oregon Supreme Court verdict, which reversed a lower court ruling, was restricted to the technical
issue of whether the statute was sufficiently clear in naming the authority responsible for releasing the children or to provide who would be punished for violations. The state high court found the statute sufficiently clear on these points.

**BIBLE READING AND RELIGIOUS TEACHING.** A special three-judge federal court has refused to set aside its order banning Bible reading in the public schools of Pennsylvania despite a change in the state law allowing children to be excused from the Bible reading on the written request of a parent. The Greater Philadelphia Branch of the ACLU supported the original test case, the first in the federal courts. *(See last year's Annual Report, p. 38.)* This case, which was brought by Mr. and Mrs. Edward Schempp, was appealed to the U.S. Supreme Court which sent it back for further hearing.

One of the most closely watched court cases in recent years was brought by the Florida Civil Liberties Union in attacking a wide range of religious practices which have long been a fixture in the state's public schools. *(See last year's Annual Report, p. 37.)* These include Bible reading, use of school buildings for religious instruction after hours, and religious pageants. The FCLU is backing Harlow Chamberlain, an agnostic, in his suit, which has been joined by three Jewish parents (backed by the American Jewish Congress) and one Unitarian. Although the Dade (Miami) County school board passed a resolution making participation in religious practices voluntary, the parents contend that social pressures compel their children to attend. The Greater Philadelphia Branch of the Union requested the State Superintendent of Public Instruction to instruct all local officials not to permit baccalaureate services in public schools.

**PAROCHIAL SCHOOL AID.** The recurrent debate over state aid for transportation of private and parochial school students has been renewed in several states. The Connecticut Supreme Court upheld the state law giving towns the local option of whether to pay for non-profit private school bus transportation entirely out of local taxes. The majority opinion said the law "comes up to but does not reach the 'wall of separation' between church and state" and primarily serves "the public health, safety and welfare. It aids the parents in sending their children to a school of their choice, as is their right," the opinion added.

A new law passed by the New York state legislature may eventually lead to the U.S. Supreme Court. The law guarantees private and parochial school pupils the same free transportation provided for public school children. The New York Civil Liberties Union is already backing an appeal in the state Supreme Court from the State Education Commissioner's ruling that voters of a school district can authorize travel for students no matter what the distance is. In the current suit a Long Island taxpayer is contesting the results of a voters' referendum which subsidized travel expenses for private and parochial school pupils who in some cases have chosen to go to schools 35 miles away. The affiliate said that the Constitution "requires that a limit be put on the transportation to parochial schools" and that in the current case, the distance infringes the separation of church and state demanded in the First and Fourteenth Amendments. The Maine legislature killed a bill providing
for local option on the same issue a year after the state Supreme Court ruled that existing law did not allow public funds to be spent on transportation of parochial school pupils. A Minnesota state legislator sought to win such aid for such students but the move was vigorously opposed by Protestants, Jews, non-church affiliated people and the ACLU's Minnesota affiliate. The question of bus transportation for students in sectarian schools has been a lively state issue and probably will remain so since the U.S. Supreme Court ruled in 1947 in the *Everson* case that no federal constitutional issue was raised by the free travel arrangements. The high court left open, however, issues of legality under state constitutions and matters of administrative regulation.

The *Everson* case was one of two U.S. Supreme Court precedents cited by an Oregon Circuit Court judge in upholding the constitutionality of a state law requiring local school boards to furnish free textbooks at public expense to parochial school children attending qualified institutions. The decision was unusual in that the judge added his personal comment that he "emphatically . . . dissents from a decision I am required to make as a result of the majority opinion of the U.S. Supreme Court." The case will be carried to the high court, however, by the ACLU of Oregon, which supported the suit of three Oregon City taxpayers. Answering the affiliate's contention that the *Everson* case was not binding on the textbook test, Judge Homan pointed out that "transportation to a parochial school is a direct aid to the religion that is taught there, while the most that can be said of secular textbooks is that they are an indirect aid to religion in that they help the operation of the educational process which is used for religious purposes. If direct aid is permissible, an indirect one must be. In principle, I cannot distinguish the decision in the *Everson* case from the present one."

In other cases involving public aid to parochial schools, the Greater Philadelphia Branch of the ACLU endorsed the use of public money to supply health services on the grounds that inferior health services would constitute discrimination because of religion, thereby inhibiting religious liberty; the Civil Liberties Union of Massachusetts opposed on First Amendment grounds an unsuccessful bill proposing state payment of tuition to parents whose children attend non-public schools.

**COMPULSORY EDUCATION.** Strict religious observance by the children of Amish parents and members of other religious sects continued to cause friction with state school officials over the issue of compulsory education. The ACLU recognizes the state's right to impose minimum educational standards but believes that every effort should be made to safeguard religious liberty of dissenters. The mediatory role of Union affiliates in York and Lancaster counties in Pennsylvania, for example, helped to settle a heated controversy between Amish parents and state officials. The state had threatened to prosecute Amish parents who refused to admit their children to the "worldly" atmosphere of a new $2,000,000 school, but the threat was dropped when the Amish agreed to send their children to another public school or to open a parochial school that meets the state's standards. The Indiana Civil Liberties Union offered help to the parents of Amish children in Decatur who were declared "juvenile delinquents" by a court and whom the
state threatened to place in foster homes for failure to attend public school. The sect's own school failed to meet state requirements.

2. Church and State: The General Public

"BLUE LAWS." The U.S. Supreme Court considered Sunday "blue laws" for the first time since the turn of the century, taking up federal court suits in Maryland, Massachusetts and Pennsylvania. Approximately 35 states now have laws curtailing work and business on Sunday. A conflict between Federal District Courts in Massachusetts and Pennsylvania may have encouraged the high court, after 59 years, to review the problem even though it refused last year to hear the appeal from an Ohio "blue law" conviction. (See last year's Annual Report, pp. 41-42.)

Seven months after a special three-judge federal court ruled that the Massachusetts Lord's Day Act, dating back to colonial times, violated constitutional rights by favoring one religion over another (See last year's Annual Report, p. 42.), another three-judge federal court in Philadelphia upheld Pennsylvania's Sunday closing law in denying an injunction sought by Two Guys From Harrison, Inc., a highway discount house with a branch also in Glen Burnie, Md. The store owners claimed that since other retail firms were permitted to sell goods on Sunday, they suffered discrimination. The state was upheld in its argument that since it could properly prescribe one day of rest each week for each citizen, it could choose the day favored by the majority—Sunday. In a brief filed with the U.S. Supreme Court, the ACLU declared: "The automobile age, the distance of shopping centers from concentrated areas of population, the demands of minorities to observe their own days of rest for purposes of religious worship, the need of the public for manifold forms of recreation and entertainment on their day of rest: all these call upon the judicial arm of our government to protect the right of all men to choose their form of rest and worship and also the time of rest and worship so long as it does not interfere with the right of others to enjoy their days of rest and worship. . . ."

New Jersey, another state in which arrests for "blue law" violations have spurred public debate, was upheld on the constitutionality of its statute by the state Supreme Court.

PLANNED PARENTHOOD. The U.S. Supreme Court heard a challenge of Connecticut's 80-year-old anti-birth control law which makes it illegal to prescribe and use contraceptive devices. The ACLU and the Connecticut Civil Liberties Union filed a friend-of-the-court brief supporting the test of the state law. Previously, the CCLU had filed a brief with the state Supreme Court of Errors which upheld the constitutionality of the law while noting that "the claims of infringement of constitutional rights are presented more dramatically than they have ever been before." Still, the court added, "(we) cannot abrogate a clear expression of legislative intent, particularly when the legislature has consistently refused to rewrite the existing legislation." (See last year's Annual Report, pp. 42-43.) The ACLU opposes state laws prohibiting the sale and use of contraceptive devices as a violation of the due process guarantees of the Fourteenth Amendment and the "right reserved to the people by the Ninth and Tenth Amendments to live.
enjoy liberty and pursue happiness free of unnecessary government restraint.” In Arizona the Planned Parenthood Committee of Phoenix and the Arizona Civil Liberties Union have asked a County Superior Court to rule on the constitutionality of a state law prohibiting the dissemination of birth control information. The ACLU affiliate’s suit contends that the ban violates free speech and due process protections.

OTHER ISSUES. The Maryland Court of Appeals, the state’s highest court, has refused to license a notary public because he refused to take an oath that he believes in God. The ACLU backed the appeal of avowed atheist Roy R. Torcaso to the U.S. Supreme Court on the grounds that a state does not have the power to inquire into a man’s religious views and that a man has the right to disbelieve without suffering discrimination. The Maryland court declared that “... under our Constitution disbelief in a Supreme Being, and the denial of any moral accountability for conduct, not only renders a person incompetent to hold public office, but to give testimony, or to serve as a juror. The historical record makes it clear that religious toleration ... was never thought to encompass the ungodly.”

3. Problems of Conscience and Religious Freedom

MILITARY SERVICE AND ROTC. The Universities of Maryland and Illinois reversed long-standing rules and permitted conscientious objectors to be exempt from ROTC programs. The switch left the University of California as the only college which denies exemptions to C.O.’s. The Universities of Rutgers, Utah State and Wisconsin have voluntary ROTC programs. While the old policy prevailed at the University of Maryland one student was suspended for refusing to continue military training on grounds of conscience and two others who served their civilian draft duty as C.O.’s were denied exemptions from ROTC and brought suit against the school. The pair, Kenneth Hanauer and Jack Crabhill, took their case to the U.S. Supreme Court but were denied review.

CITIZENSHIP. An English citizen who became a resident alien in the United States in 1949 and served in the Army has been denied his naturalization petition on the grounds that his conscientious objection claim was based on “internationalist” rather than religious beliefs. The government said he was unable to take the oath of allegiance and that he had failed to establish that he was attached to the principles of the Constitution. The petitioner, 31-year-old Eric Victor Levy, appealed the finding of the naturalization examiner to the Federal District Court in Los Angeles. A Quaker C.O. who received a “loss of nationality” certificate in 1954 was able to return to this country after a review board found that he had not voluntarily expatriated himself by failing to register for the draft.

OTHER CASES. ACLU executive director Patrick Murphy Malin urged the reinstatement of William R. Martin, an aide to the Senate Republican Minority, who was fired because he urged Washington high school students to register as conscientious objectors when they are
called to the draft. In a letter to Mark Trite, Secretary for the Minority, Malin said that Martin’s expression of opinion “was hardly relevant to (his) administrative duties and it would seem that he was punished for speaking out on a controversial subject.” Although Martin’s dismissal does not violate any law, the ACLU official added, “we believe it does infringe on the spirit of the First Amendment . . . and we are particularly distressed that an important arm of the Senate has penalized an individual for exercising his right of free speech.” Martin, a political science student at George Washington University, was a member of the Friends Meeting of Washington and chairman of the Washington Young Friends. The ACLU of Northern California and San Francisco school officials have agreed that students who have conscientious objections will be exempted from saluting the flag or reciting the pledge of allegiance. Previously, city school regulations exempted only students who claimed a “conscientious religious objection.” The ACLU affiliate pointed out that the word “religious” has been dropped, in conformity with a 1943 U.S. Supreme Court decision which held that no citizen could be required to affirm any belief for any reason whatsoever. The Iowa Senate voted to allow C.O.’s to hold civil service positions, revoking a state law that had been on the books since 1917.

**GENERAL FREEDOM OF SPEECH AND ASSOCIATION**

1. Right of Movement

PASSPORTS. Ever since the U.S. Supreme Court ruled in June, 1958 that Congress had not authorized the State Department to withhold passports on grounds of suspected Communist affiliation or to ask applicants questions about their political beliefs (See 1957-1958 Annual Report, pp. 35-36.), each congressional session has been the scene of attempts to override the high court decision despite the fact that there has been no demonstrable need for broader government powers. The 86th Congress was no exception. After the House adopted a less stringent measure, the Senate Judiciary Committee approved an omnibus security bill which featured a restrictive passport section but the full Senate did not act on it. The bill would have forbid issuance of passports to persons who had been members of the Communist Party or supporters of the international Communist movement since Jan. 1, 1951; permitted the Secretary of State to place geographical limitations on travel; required an oath to give the State Department “a full and accurate report concerning the places visited;” allowed the denial of passports on the basis of confidential information; and granted exclusive passport review power to the State Department.

The ACLU opposed this proposed legislation, asserting that a citizen has the right to travel as part of his personal freedom and can be denied a passport only if he is involved in a court action that imposes a legal obligation to remain in this country. The Union also protested the power of the Secretary of State to deny passports to Communists or others simply because he feels that their presence abroad would be
harmful to the security of the United States. If a person has committed a crime, the Union believes, he should be arrested and charged, not deprived of his liberty by administrative fiat. Moreover, where there has been a delay or refusal by authorities to issue a passport, the applicant is entitled to a prompt due process hearing including full disclosure of the facts—through confrontation and cross-examination—on which the administrative action was based.

WORTHY CASE. The U.S. Supreme Court refused to review the appeal of newsman William Worthy, whose case had been supported by the ACLU for four years, in a direct challenge of the constitutionality of the government's right to limit the peace-time travel of its citizens. In commenting on the high court's refusal to hear the appeal from the U.S. Court of Appeals in Washington, D.C., ACLU executive director Patrick Murphy Malin said that the Worthy case had "particular significance because of the effect such a ban has on the right to receive information from foreign correspondents." Malin added that the refusal to review left undisturbed the lower court's finding that the Secretary of State is authorized, under the President's power to regulate foreign affairs, to restrict travel to areas he considers harmful to United States interests. (See last year's Annual Report, p. 48.)

2. The Vote: Minority Parties and the Right to Franchise

REAPPORTIONMENT. The U.S. Supreme Court accepted for review a citizen's suit to force reapportionment of the Tennessee legislature, encouraging hopes that the high court will act on a growing number of such cases that have been thrown out of lower federal courts on the basis of the high court's 1946 decision that reapportionment is a "political" matter and therefore not subject to judicial review. A three-judge federal court in Tennessee, for example, dismissed the suit saying that it had no right to intervene while at the same time acknowledging that a "clear violation" of the federal constitution was involved. The ACLU and several of its affiliates, especially in Minnesota and Michigan, are taking an active role in pressing for equitable representation of voting rights.

The Tennessee suit was based on the fact that although the state constitution calls for reapportioning the voting districts after each federal census, no such action has been taken by the legislature since 1901. Basing its claim on the grounds that the present "inequitable" distribution of seats deprives them of equal protection of the law under the Fourteenth Amendment, the citizens' group started federal court action to force reapportionment. The group called for election of the next legislature at-large by voters generally rather than by districts, or by temporarily apportioned districts set by the Federal District Court. The court, however, held that to grant the petition would result "in a destruction of the state government itself, since the de facto doctrine would not be applicable to maintain the present members of the legislature in office and there would be no prior valid apportionment act to fall back upon."

A similar suit in Minnesota, supported by the Minnesota Branch of
the ACLU, finally brought some improvement in state re-districting in 1959, but the affiliate is strongly opposing a constitutional amendment which would take effect after the 1970 census. The Minnesota Branch said that while the principle of equality is observed in allocating House seats, it is completely abandoned in the Senate.

The Metropolitan Detroit Branch of the ACLU also actively took part in an attempt to win a change in determining state Senate districts. In a brief before the state Supreme Court on behalf of August Scholle, president of the state AFL-CIO, the Union affiliate anticipated reliance on the U.S. Supreme Court decision of 1946 by declaring: "We believe . . . that any court . . . may properly and should exercise its jurisdiction to protect important constitutional rights even though they arise in a 'political' context. In a democratic society," continued the brief, "every citizen should have a right to vote and the votes of all citizens should be of equal value. The Michigan senatorial districts . . . arbitrarily give citizens in some districts votes of one-twelfth the value of those of citizens in other districts . . . Disfranchisement by dilution has resulted in the vote being weighted so heavily in favor of the rural areas that in effect there exist in Michigan two classes of voters—first and second. We have an 'Alice in Wonderland' situation where the minority of the voters has been accorded first class citizenship and the majority has been accorded second class citizenship. . . ." The Michigan Supreme Court, by a 5-3 vote, disagreed with the Detroit affiliate's position. The high court ruled, in line with the U.S. Supreme Court's reasoning, that the malapportionment issue is "political" and not within its purview. An appeal is now before the U.S. Supreme Court.

The highest court of another state, New Jersey, squarely met the issue raised by the inaction of the state legislature in facing changing population distribution. "If by reason of time and changing conditions," said the state Supreme Court in a unanimous verdict, "the reapportionment statute no longer serves its original purpose of securing to the voter the full constitutional value of his franchise, and the legislative branch fails to take appropriate restorative action, the doors of the courts must be open to him. The lawmaking body cannot by inaction alter the constitutional system under which it has its own existence."

The court said the legislature must act by the 1961 primaries.

Home rule advocates in Washington, D.C. scored their first victory when Congress passed a bill amending the Constitution to allow residents of the nation's capital to vote in Presidential elections. The amendment must be approved by two-thirds of the states.

MINORITY PARTIES. The apparently unintentional omission of a petition section from Minnesota's recodified election laws has not infringed on the right of minority parties to nominate candidates for public office, according to the state Attorney General. The missing section, which had been included in past state election laws, required minority parties to submit a petition signed by 2,000 persons to insure the right of a party to appear on the ballot. The danger that the omission might be used to block the inclusion of minority parties on the ballot had been brought to the attention of the Minnesota Branch of the ACLU by the Socialist Labor Party. The Maryland Branch of the
ACLU lost an appeal in the Baltimore City Criminal Court on behalf of a substitute school teacher who was given the choice of resigning or being fired after he was arrested by police on a disorderly conduct charge. The incident arose when the teacher was attacked and heckled by a crowd of high school students for selling a Socialist Party newspaper on the sidewalk.

3. Right of Assembly in Public Facilities

ROCKWELL CASE. . . . "No danger flowing from speech can be deemed clear and present, unless the incidents of the evil apprehended is so imminent that it may befall before there is opportunity for full discussion. . . ." Thus wrote U.S. Supreme Court Justice Louis D. Brandeis in 1927 and the words have remained as guideposts for the ACLU in defending the right of free speech for spokesmen of unpopular and even despicable causes. The Union's position has been stated many times on behalf of many controversial speakers—Communists and Fascists, integrationists and segregationists—but in recent years few incidents have created a public and emotional furor to match the case of George Lincoln Rockwell, self-styled leader of a band of 30 men who call themselves the American Nazi Party.

The ACLU and the New York Civil Liberties Union, although expressing strong opposition to Rockwell's anti-Semitic, anti-Negro views, is supporting his right to be heard in a public park in New York City. A Parks Department permit for the meeting, scheduled for July 4, was refused by Mayor Wagner. The Mayor's refusal to grant the permit was based on the assertion that to do so would be "an invitation to riot and disorder from a half-penny Hitler," although the Police Department had previously declared that it could furnish the necessary protection. Criticizing the Mayor and several organizations which had sought to bar the domestic Nazi from speaking, the NYCLU declared: "While recognizing the strong emotional feelings on the part of many New Yorkers towards Rockwell's views, the NYCLU does not believe that a city official should precensor any speaker. In the Union's view, speech can be limited only when a speaker urges immediate violent action and there is a real danger that his followers will act then and there on his incitement. This 'clear and present danger' limitation applies only to violence urged by the speaker. It does not apply to threats of violence by his opponents, (or even actual attempts to carry out such threats), although, of course, opponents of the speaker have every right . . . to peacefully express their views."

The NYCLU pointed out that unless the right of "provocative" speech is upheld, even for white supremacists, "it cannot be defended for other persons who advocate policies with which the democratic-minded members of the community agree—for example the freedom of speech of the NAACP and the 'sit-in' students.” The NYCLU highlighted the comparison by underscoring the fact that both Mayor Wagner and Governor Faubus acted under the mere "threat" of mob action. "In both cases," the NYCLU said, "although the local police force said it could handle the situation, the pressure of the mob won out." The affiliate's forthright stand in the Rockwell case was supported over-
whelmingly by the local press and by most newspapers who commented on the affair throughout the country. "Rockwell is not going to shake the foundations of this Republic," noted The New York Times. "If he were left quietly to speak his piece, however revolting and abominable it is, he would create no impact. It is only when he or his henchmen are throttled, or physically attacked as one of them finally was in Washington, that they achieve the attention they crave, and we begin to chip away at the structure of the free and liberal society in which all of us believe—all but the Rockwells, the extremists of Right and Left." In the first round of court action, a New York state Supreme Court judge ruled that "self-confessed advocates of violence" are not entitled to free speech protections of the Bill of Rights. The decision will be appealed.

Before the legal battle opened in New York, the ACLU was involved in a previous defense of Rockwell in Washington, D.C. on disorderly conduct charges sparked by a scuffle when an irate bystander tried to grab a pile of Rockwell's handbills. The literature advocated the forced resettlement of Negroes in Africa and urged the liquidation of Jews. In a memorandum explaining its intervention, the Union said that it regarded the views contained in the pamphlet abhorrent and that it understood the feelings of those who tried to put an end to its distribution. But, added the Union, "to condone such action would leave free speech completely at the mercy of individuals to whom the ideas expressed are repugnant." The charges against a Rockwell cohort and the bystander were dismissed.

The Rockwell case arose while memories were still fresh with an outbreak of anti-Semitism in this country and abroad that expressed itself chiefly in the defacement of synagogues by painting swastikas on the walls. The daubings of synagogues were not defensible, the ACLU said. "Such action steps over a line . . . the line between speech and direct action," said ACLU executive director Patrick Murphy Malin. "And the law (against attacking persons or property) can be applied when such action is taken—whether by boys defacing a Jewish synagogue in New Haven or men bombing a Negro leader's home in Alabama."

PUBLIC MEETINGS: The protests of the ACLU of Northern California were sustained when the City Attorney of San Francisco ruled that regulations limiting the use of Union Square park "to projects of significant civic or national importance" were unconstitutional. The regulations also sought to bar the use of the park "for political or sectarian religious purposes." The affiliate said the rules were discriminatory and violated freedom of speech. At the request of the Greater Philadelphia Branch of the ACLU, the Police Department issued a supplemental directive which made clear the right of every citizen "to make a speech on any lawful subject he chooses to a public gathering" without a permit. The request was made after police interfered with a pacifist demonstration.

USE OF PUBLIC SCHOOLS. The California Supreme Court granted an appeal by the ACLU of Southern California in two test cases
that may decide the constitutionality of requiring a "non-disloyalty" oath from groups seeking to use public high schools. (See last year's Annual Report, p. 51.) After winning an early legal round, the affiliate was set back in the District Court of Appeals which upheld the oath requirement. "The restriction is slight," said the court, "and the danger is great. . . . If the state cannot go at least this far in protecting its own interest, it is powerless to act in any effective manner." The cities involved in the suit are Los Angeles and San Diego. In the latter city folk singer Pete Seeger performed in a public high school without having to sign a loyalty oath. The performance took place less than 10 hours after Seeger appeared before a Superior Court judge with attorneys of the affiliate. The judge ruled that school authorities had no power to impose the oath since Seeger's business manager has already signed the oath and other contractual agreements must be met.

OTHER CASES. A Federal District Court judge agreed with the New York Civil Liberties Union that a restaurant in Central Park and the city's Parks Commissioner must stand trial for refusing the facilities to the Committee to Secure Justice for Morton Sobell. He said that while a private business was not affected by the anti-discrimination provisions of the Fourteenth Amendment, the restaurant in the park, operating under a lease from the city, "is far from an ordinary private business enterprise." The ACLU, in New York, Iowa, Pittsburgh and Washington, D.C., supported peaceful picketing by refugee groups and others of the visit of Soviet Premier Khrushchev to this country. The Pittsburgh branch protested that city police had taken signs from the pickets on the request of Russian secret police. In Iowa, where members of Jehovah's Witnesses frequently run into conflict with veterans and civic groups, the members of the Marshalltown Memorial Coliseum Commission rejected the demand of five veterans organizations and voted to allow the sect to use the Coliseum for a meeting.

4. State and Local Controls

RIGHT TO LICENSE. The ACLU of Southern California will take an appeal to the state's District Court of Appeals of a test of a loyalty oath required of state officials, including applicants for a notary public commission. The suit was brought by A. L. Wirin, counsel to the affiliate, who attempted to draw a distinction before a Superior Court judge between a general state-wide oath and a relevant inquiry into political beliefs. Wirin told the court that he was opposed to such oaths on grounds of principle, religious beliefs and conscience, but stated in response to questions that he was not and never had been a member of the Communist Party and did not believe or advocate the violent overthrow of the government. The suit claimed that the oath put the burden of proof on the citizen, in violation of the U.S. Supreme Court's ruling in the California tax oath cases (See 1957-1958 Annual Report, p. 31.), and that it also invaded the right to privacy and opinion. The lower court held, however, that Wirin's willingness to answer specific questions indicated that his objections were not based on religious grounds.

The Southern California affiliate may be nearing the end of the legal
road to win a license for Raphael Konigsberg, a lawyer whose appeal will be heard for the second time by the U.S. Supreme Court since the struggle first began six years ago. (See 1957-1958 Annual Report, p. 39 and last year's Report, p. 54.) Consistently refusing to answer questions regarding his membership in the Communist Party, Konigsberg has twice been disqualified by the California State Bar although he has met all the requirements for admission, including firm denials that he ever advocated violent or forceful overthrow of the government.

The New York Court of Appeals, the state's highest tribunal, has upheld the disbarment of a lawyer after 37 years of practice on the grounds that he pleaded his constitutional privilege against self-incrimination in a judicial inquiry of illegal and unethical conduct. The NYCLU filed a friend-of-the-court brief in the case, maintaining that the disbarment violated due process guarantees of the Fourteenth Amendment by destroying a reliance on a constitutional refusal to testify against one's self.

**OTHER CASES.** An employee of the Federal Aviation Agency who was restored to his job on the orders of a Federal District Court again faces dismissal. The charge this time relies on "the efficiency of the service." The old accusation rejected by the court was "disgraceful personal conduct" committed six years before the employee was ever hired. The Colorado Branch, ACLU, which defended the employee on the first go-round, is defending him again. The argument is based on a U.S. Supreme Court decision that pre-governmental activities cannot be used against an individual now in government service. Upon the request of the Illinois Division, ACLU the Due Process Committee of the ACLU considered whether it was an invasion of privacy for a state to release normally confidential Social Security information to other state agencies in order to help locate parents who deserted their families. The Committee concluded that in this very special case, the claim to privacy was outweighed by the right to locate an absconding parent. The Niagara Frontier (Buffalo) Branch of the Union also considered the ends and the means of an issue when it objected to the New York State Crime Commission over the distribution of a questionnaire to Buffalo policemen in the course of an investigation into police corruption. The Branch said the public regarded the questionnaire, unfairly, as an assumption of guilt by the entire police force. "This is manifestly unfair," said the Branch, and suggested that the Commission find "other and proper methods" to obtain the information.

**AMERICAN LEGION.** The California Department of the Legion wound up its annual convention by demanding that the Senate Internal Security Subcommittee investigate the ACLU. The ACLU of Northern California said it has nothing to hide and would welcome an investigation of its activities by the Legion itself. The day before the resolution was passed, hundreds of Legionnaires roughed-up four college student pickets who were parading in front of the meeting auditorium. The conventioneers destroyed their signs, searched their automobiles and tore up a reporter's notes of the incident. The following day San Francisco police protected from Legion harassment 150 pickets who
showed up and the ACLU affiliate praised the police for its commendable, though belated, action. The state of Washington Department of the Legion, in contrast to its California colleagues, took a civil liberties step forward when it voted to support repeal of a state law restricting aliens from owning land.

5. Congressional Action

THE COURTS. Two Los Angeles social workers who pleaded the First and Fifth Amendments in refusing to answer questions of the House Un-American Activities Committee in 1956 lost their appeal before a closely-divided U.S. Supreme Court. The ACLU and its Southern California affiliate took the case to the high court, charging that the dismissals of Arthur Globe and Thomas W. Nelson were arbitrary and unconstitutional. The firings were based on a California law which requires that any public employee subpoenaed by a congressional committee must testify about his participation in or knowledge of groups advocating the violent overthrow of the government. "Any employee who fails to appear or to answer such questions on any grounds whatsoever shall be guilty of insubordination and be dismissed from his employment," the statute declares. The majority opinion in the Globe case, backed by a 5-3 vote, held that Globe’s dismissal resulted directly from his insubordination and violation of the law, and not because he invoked his constitutional privilege, as the ACLU had argued.

WILKINSON CASE. A new attempt to rein the headlong galloping of the House Un-American Activities Committee has been brought before the U.S. Supreme Court by the ACLU. The Union appealed the contempt conviction of Frank Wilkinson, affirmed by the U.S. Court of Appeals in Atlanta, for refusing to testify before the HUAC in Atlanta in 1958. (See last year’s Annual Report, p. 56.) The ACLU brief on behalf of Wilkinson maintained that the Committee subpoenaed him unlawfully merely to harass him for organizing public opposition to its hearings. This action, said the Union, “was nothing more than a citizen petitioning for the redress of grievances, a clear constitutional right” under the First and Ninth Amendments. The brief rejected the opinion of the Court of Appeals that the HUAC was within its rights in requiring a disclosure of motive on the part of citizens who seek such redress. Such a theory, said the Union, “would defeat the very purpose of the First Amendment by foreclosing the political process through which legislative excesses may be curbed.”

After hanging fire for several years while the U.S. Supreme Court considered the Barenblatt case, the U.S. Court of Appeals in Washington issued verdicts in the cases of nine persons who had balked at answering questions of House and Senate investigating committees. All had relied on the First Amendment, guaranteeing freedom of speech, religion and assembly. The court dismissed indictments against two women, Mrs. Mary Knowles, a librarian whose support by her Quaker employers in Plymouth Meeting, Pa. drew widespread attention in 1955; and Mrs. Goldie Watson, a former Philadelphia schoolteacher. In both cases, the court held that neither the Senate Internal Security Subcom-
mittee, which questioned Mrs. Knowles, or the HUAC which questioned Mrs. Watson, had made the objective of the inquiry clear to the witness. The convictions of seven men all are expected to be appealed to the U.S. Supreme Court. Those whose contempt citations were upheld were Alden Whitman, Robert Shelton and William A. Price, New York City newspapermen; Herman Liveright, former New Orleans TV station manager; John T. Gojack, an official of the independent United Electrical, Radio and Machine Workers; Norton Anthony Russell, an Ohio engineer; and Bernard Deutch, a Pennsylvania physicist. The complete scorecard on 36 First Amendment defendants includes three who have served prison terms, one still in prison, two acquittals, and 30 others whose trials are pending or whose convictions are in various stages of appeal.

**HOUSE UN-AMERICAN ACTIVITIES COMMITTEE.** The path of the HUAC continued to leave a wide swath across the nation, affecting individuals and institutions, provoking some counterattacks, including one full-fledged riot. The ACLU Board of Directors approved a Biennial Conference resolution making elimination of the Committee "a prime order of business." In testimony before the Democratic and Republican Platform Committees, the Union said the Committee had sapped the strength of the First Amendment by engaging in trial-by-publicity in a circus atmosphere, rather than allowing security questions to be raised where they belong—in court rooms where in a full trial a judicial judgement could prevail. Congressman James Roosevelt also continued his attack upon the HUAC, renewing his proposal in Congress to abolish the panel as "a discredit to the country." One investigation criticized by Roosevelt was the inquiry into Communist influence in the California school system, as a result of which approximately half a dozen teachers—out of a total of 111,500—were dismissed or forced to resign. Both the Northern and Southern California affiliates of the Union defended a number of the teachers in local school board proceedings begun as a result of a self-styled HUAC "experiment" whereby the Committee turned over more than 90 dossiers to local boards in lieu of holding its own hearings. The ACLU of Southern California opposed this move in the Federal District Court and lost, and when the HUAC did arrive on the scene to conduct a new set of hearings in San Francisco, its appearance touched-off a riot by students, witnesses and others. Police used fire hoses, fists and clubs to quell the melee, in which 12 persons were injured and 68 were arrested on charges of participating in a riot, disturbing the peace and resisting an officer. The ACLU of Northern California, in a subsequent statement on the fracas, scolded both the demonstrators and the police for their behavior. The affiliate said that although it was opposed to the existence of the Committee, "it is also opposed to disorderly methods of expressing such opposition. At the same time, it is also clear that the whole matter was badly handled by the police. If the police had acted with firmness at the outset and ejected or arrested persons who were disturbing the peace in the corridors of City Hall, the situation would not have gotten out of hand..." The police came under heavy fire for physical attacks against the protesters, including dragging of people off the steps of the City Hall
and the use of fire hoses. The ACLU of Northern California commented: "... the police used excessive force in dealing with the situation. And we think those officers who were guilty of misconduct should be properly and immediately dealt with by the Police Department or the Police Commissioner." At a later hearing, a Municipal Court judge dismissed the charges against 67 students, remanding the case of one defendant for trial.

The ACLU protested the Committee's investigation of Communist activities among youth, which reportedly stemmed from a meeting of the Communist-controlled World Youth Festival in Europe. The Union said the investigation was "an invasion of the free speech and association guarantees of the First Amendment." Another HUAC investigation condemned by the Union was the public hearings in New York and San Juan, P.R. into alleged Communist influence among Puerto Ricans. Pointing out that such activity has never been an issue in the island Commonwealth, the ACLU said the inquiry would be "offensive" to Americans who know that Puerto Rico is quite capable of handling elements subversive to democracy. ..." The San Juan hearing particularly was scored because the HUAC's jurisdiction over the affairs of the autonomous Commonwealth of Puerto Rico was at the least "questionable." Because of this the ACLU asked the Department of Justice to drop contempt indictments returned against 13 Puerto Ricans.

**LINUS PAULING CASE.** Dr. Linus C. Pauling, Nobel Prize-winning biochemist of the California Institute of Technology, sought in the federal courts to postpone the Senate Internal Security Subcommittee from forcing him to disclose the names of persons who had assisted him in obtaining signatures to a petition urging an end to nuclear tests. The 11,000 signatures were turned over to the United Nations in 1958. Pauling said in his suit that he was willing to disclose the names of all persons who have signed the petition—they were already public—but that the subcommittee acted illegally in demanding the names of those who had aided him in the petition campaign. Pauling refused to answer the subcommittee's questions because, he contended, this might lead to "reprisals against those believers in the democratic process." Dr. Pauling also said that submitting the names would make it impossible for him to secure the distribution of a further petition. He argued that his First Amendment right of conscience, speech and press had been violated as well as his Fourth Amendment right against unreasonable search and seizure. In a public statement and legal brief the ACLU gave "strong support" to Dr. Pauling's case, both his First Amendment challenge of the subcommittee's questioning and the legal technique he pursued, to determine in advance, the scope of the subcommittee's authority. Calling the right of petition a "prized element" of civil liberties, the ACLU said the First Amendment "squarely forbids government interference with the individual's voicing of political opinion, no matter what form such expression of opinion takes."

**SMITH ACT.** The U.S. Supreme Court for the third time heard argument on the constitutionality of the membership clause of the Smith Act. The clause makes it a crime knowingly to be a member of
a party that advocates the forcible overthrow of the government. Twice before, the court has heard argument on the constitutionality of the provision in connection with the conviction of Junius Irving Scales, former Carolinas chairman of the Communist Party. It also had scheduled argument on the clause in the case of John Francis Noto, ex-secretary of the Party in New York. (See last year's Annual Report, pp. 58-59.) A third conviction of former Illinois Communist leader, Claude Lightfoot, also rests on the final outcome of the latest court action.

Meanwhile, with the Justice Department decision to drop retrial of six Ohio residents convicted under the Smith Act in 1956, the case of six Colorado Communist Party members remains the only such prosecution still active in the courts. Their conviction has been appealed to the U.S. Circuit Court of Appeals in Denver with the Colorado Branch, ACLU planning to file a friend-of-the-court brief.

In another security area, the U.S. Supreme Court was asked for the second time to decide on the constitutionality of the 1950 Internal Security Act's provision requiring public registration of Communist-action organizations. The Communist Party was ordered to register in 1953 after a finding by the Subversive Activities Control Board, but the case has dragged on for years because of lengthy hearings and challenges of perjured testimony before the Board. So far the Communist Party has not actually registered. The ACLU, in a friend-of-the-court brief to the high court, said it opposed the 1950 law. It said the statute impeded open presentation of non-revolutionary opinions on social and political topics, expression that "is far removed from incitement to violence or any other danger that Congress has the power to prevent." Regardless of what may be the Communist Party's ultimate objectives, the ACLU said, the Party expresses opinion on a variety of social issues, such as labor relations, race discrimination, and control of atomic weapons.

**LABOR**

**POLITICAL ACTION.** A policy statement by the ACLU Board of Directors upheld the use of union dues for political purposes "as an exercise of the right to free expression protected by the First Amendment." The Union declaration, which was coupled with a call for the protection of dissenting union members to voice their opposition inside and outside the union, was made as the U.S. Supreme Court agreed to review an appeal by the International Association of Machinists from a ruling by the Georgia Supreme Court. The state court had struck down as unconstitutional the National Railway Labor Act which permits union shop agreements, on the ground that such contracts interfered with the freedom of opinion of workers who disagreed with the union's political stand.

The ACLU, however, said that while the rights of a dissenting minority within a union should be recognized, they cannot thwart the will of the majority to have their dues used for political purposes. "... So long as such (minority) members have an effective right to
participate in the decision-making process within the union, including the right to vote for union officials of their choice, they are not deprived of their civil liberties," the statement said. "The remedy," added the Union, "lies not in the stifling of group opinion, but in democratic participation in the political life of their union so that a majority of the union members may, in time, be persuaded of their wisdom." In commenting on the IAM appeal, the ACLU also reaffirmed its position taken in 1943 and 1948 that special union assessments for political purposes—apart from union dues receipts—should be made "only by a vote of the union's membership, with the right of any member opposing such action to be free of assessment."

**WORKERS RIGHTS.** Several ACLU affiliates have intervened on behalf of union members who have been denied their rights through violation or lack of internal democratic processes. Such a case, supported by the ACLU of Southern California, involves two IAM members who were expelled for publicly campaigning in favor of a state "right-to-work" law—a measure bitterly and actively opposed by the union. An IAM trial board found the men guilty of disloyalty and it was the contention of the union in court that it had the "inherent" right to expel on this ground. A Superior Court judge agreed, ruling that the union may properly regard "right-to-work" laws as a threat to its existence and may consider union members who support them as disloyal. In discussing the issues raised by the case, the Labor Committee of the national ACLU supported the idea that a union member may, as a citizen, take part in a public debate. However, it added, this "does not mean that steps leading directly to the union's detriment may be taken with impunity." The Committee said that where "the relationship between advocacy of an idea and the union's well being is itself highly debatable, disciplinary proceedings should be closely limited." The panel added that "if discipline is to be imposed because of open advocacy of contrary opinion in a forum of the member's choice, the burden of establishing the gravity of the offense should rest on the union." In a case affecting job rights of union members, the Greater Philadelphia Branch of the ACLU is trying to solve the dilemma of workers in Chester, Pa., who have had great difficulty in finding employment because neither the Philadelphia nor the Wilmington, Del., locals of the International Association of Heat and Frost, Insulations and Asbestos Workers, will allow them membership. Each says it is the responsibility of the other. In a third ACLU case, the Northern California affiliate filed an appeal to federal courts from a U.S. Civil Service Commission review board ruling upholding the dismissal of a San Francisco postal worker who led a union picket line in front of the Post Office during his off hours.

**LOYALTY AND SECURITY.** Merchant seamen who had not been able to find work on American flag ships for as long as ten years because their loyalty had been questioned by the Coast Guard finally won that right on the eve of a court trial. Twenty-one seamen had sued the National Maritime Union and the employers for flaunting a 1956 Federal District Court ruling that the seamen's suspensions were
unconstitutional because the Port Security program violated due process by denying the right to confront and cross-examine their accusers. The agreement, reached by the seamen, the NMU and the employers, applies to all men who on their appeal to the industry-union Joint Appeal Board had been denied access to the hiring hall as security risks. Such seamen are now again eligible to register at NMU hiring halls. The U.S. Supreme Court refused to review an appeal, supported by the Maryland ACLU, by four Bethlehem Steel Co. employees who were fired in 1957 for refusing to testify before the House Un-American Activities Committee. The United Steelworkers of America refused to bring the firings before an arbitrator on the claim that the employees' silence before union officials on the question of possible Communist Party membership made it impossible to evaluate their grievance.

BIAS. The AFL-CIO continued to move against discrimination against Negroes among its affiliated unions, but the speed of the campaign continued to cause dissatisfaction among many Negro unionists and such organizations as the NAACP. This was the principal factor behind the creation of a National Negro Labor Council, composed of Negro unionists affiliated with the merged federation, which will try to pressure the AFL-CIO to step up its anti-bias drive.

PICKETING. In Congress, the ACLU objected to a bill that would make it a federal crime to "hinder, obstruct or delay" any message carried by a commercial communications company or to interfere with the operation of such a network. The Union declared that the proposal intended to protect military and civilian defense facilities, could easily be interpreted to prohibit a strike or picketing of such a system and therefore threatens First Amendment rights of free association by workers in unions of their own choosing. The Senate killed the bill.

OTHER ACTIONS. A divided U.S. Supreme Court upheld a New York state law prohibiting convicted felons from holding office in waterfront unions. The majority opinion rejected the constitutional argument put forward by the NYCLU in a friend-of-the-court brief that the law deprived an individual of his due process rights under the Fourteenth Amendment through the arbitrary use of a past felony conviction and by failing to provide for a hearing. The opinion said that while such a law was severe, the high court could not substitute its judgement for that of the legislature.
EQUALITY BEFORE THE LAW
THE FEDERAL SCENE

CONGRESS. The President signed the Civil Rights Act of 1960, a measure denounced by critics as weak and complicated, but which President Eisenhower hailed as "a historic step forward." Whatever view one took, it was generally agreed that the effect of the law in winning voting rights for Negroes was a long way off. The heart of the bill creates a new and intricate system of judicially-appointed "voting referees" to overcome the denial of the ballot box to qualified Negroes in the South. While the ACLU testified in favor of a simpler procedure recommended by the Civil Rights Commission whereby the temporary federal registrars would be appointed in any area where the right to vote was illegally denied, the Union also supported the Administration plan for court-appointed referees. The Union's hope, however, that the referee plan would not involve such prolonged appeals as to moot the right to vote, through repeated delays, appeared to be headed for disappointment. For before the referee machinery can be started, the Justice Department must bring specific cases under the 1957 Civil Rights Act and prove that qualified citizens of the community had been denied the right to vote because of race or color. After this case is proved, the Attorney General could ask a Federal District Court judge to find a "pattern or practice" of discrimination, thus paving the way for the appointment of referees to register Negro applicants. First, however, Negro applicants must try to register with local officials before seeking relief with the referee. And even after being registered by the referee, their qualifications are subject to further court challenge.

On two occasions during the debate that preceded final passage of the Civil Rights Act, the ACLU spoke out on specific aspects of the pending legislation. In testimony before the Senate Rules and Administration Committee, the Union called for prompt passage of a bill authorizing the appointment of temporary federal registrars. The right to vote "stands at the top of the list of fundamental rights enjoyed by United States citizens, and its abrogation—anytime, anywhere, raises a civil liberties problem of major proportion. . . . To reduce such citizen participation by denying the franchise saps the strength of democratic government itself. (It also) is seized eagerly by totalitarian forces in strategic foreign areas to strike at our position," the ACLU said. In a second public statement, the Union declared that whether registrars are appointed by the executive branch or by the courts, the legislation contains adequate safeguards for fair hearings for state officials charged with refusing to qualify eligible citizens to vote. The issue arose because at the first stage of the proceedings the bills did not provide for accused registrars to be notified of the charges against them or for the right to confront and cross-examine their accusers at hearings of the Civil Rights Commission. The ACLU said that such a procedure ought to be followed at a subsequent stage of the case, but that initial anonymity of the complainant was necessary to prevent "political, economic or physical reprisal." The constitutional protections of procedural due process, the ACLU said, "have never been held to extend to an assur-
ance of the full right of confrontation in administrative hearings which are merely investigative.” By contrast, said the Union, adjudicative proceedings should include notification and confrontation to remove any doubt as to their constitutionality.

**THE COURTS.** Two decisions by the U.S. Supreme Court cleared the way for active federal intervention on behalf of citizens who were denied the right of franchise. The high court said it was constitutional to allow the Justice Department to sue on behalf of Negro voting rights, and also held that the Civil Rights Commission did not have to tell local registrars the names of Negroes who filed complaints of voting discrimination. The CRC had suspended hearings awaiting the high court verdict. *(See below)* The opinion compared the Commission’s activities to an investigatory congressional committee and declared that, historically, witnesses in such actions never had the right to confront their accusers because they were not being judged. Such rights, said the court, paralleling the ACLU view, apply only in adjudicative proceedings where an individual was being actually judged. The dissenting opinion said that the local registrars were, in effect, being “tried” by public opinion and that their due process protections were being invaded if they did not know the names of their accusers.

**CIVIL RIGHTS COMMISSION.** The Commission resumed hearings in Louisiana, actively sought by the Louisiana Civil Liberties Union for more than a year. The Commission’s action followed the U.S. Supreme Court’s verdict upholding the constitutionality of the Commission’s procedures. The affiliate charged that a state legislative committee was encouraging registrars to challenge and discourage Negro voters and to purge voter lists of Negro registrants. The LCLU had reported that 1,377 Negroes were erased from the rolls in a single parish (county).

The ACLU Board of Directors voted to approve all the recommendations made by the Commission in its first report except one and took no action on another. The Board opposed a recommendation that the Bureau of the Census be empowered to compile registration and voting statistics by race, color and national origin on the ground that there should be no compulsion to answer such questions. The Board took no position on a suggestion that the Bureau of the Census and the U.S. Office of Education conduct an annual school census to show the number and race of public school and college students, recorded by school districts and institutions of higher learning. The Board supported a recommendation of three Commission members for a constitutional amendment establishing universal suffrage and eliminating any other requirements from voting except age, residence, and non-confinement in prison or a mental institution. Such voting tests, particularly literacy tests, are being abused in order to deprive persons of the right to vote, the Board declared. Among the other proposals endorsed by the Union were recommendations furthering voting rights, such as preservation of registration and voting records, ending housing discrimination and a suggestion by three Commissioners that federal funds be withheld from all schools and colleges which refuse, on racial grounds, to admit otherwise qualified students.
OTHER FEDERAL ISSUES. The Union objected to a question on the 1960 census form which asked the individual to indicate his "specific color or race." The basis of the Union's stand was that the vaguely-worded query will not result in reliable information while it "raises in the minds of many of our people the specter of some threatened discrimination. . . ." The ACLU asked the Bureau of the Census to eliminate the question or at least not to penalize anyone who refuses to answer it. In reply, the Bureau said it would not prosecute persons who decline to answer the "color or race" question. While the Union supported the government's right to compile "a vast and varied array" of information, it urged new safeguards to prevent disclosure of data concerning individual persons or establishments and the elimination of mandatory answers to a group of more detailed questions put to members of every fourth household.

The perennial issue of amending the federal constitution to guarantee "equal rights" for women once again occupied the Union's attention. The ACLU has opposed the amendment because it would not safeguard differential social legislation for women that has been established over the years. The Board of Directors voted to "renew cooperation with other organizations in opposing the so-called equal rights amendment and simultaneously cooperate with them in pushing a three-point program of action in the legislatures (both state and Federal), in the courts, and in the field of education," to eliminate remaining improper discrimination against women.

STATE AND LOCAL ACTION

SIT-INS. Young, educated Negroes, dissatisfied with the snail's pace of desegregation through the courts, moved dramatically and spontaneously in the late winter of 1960 to win wider citizenship rights. Their choice of a battlefront, lunch counters in Southern variety and chain stores, was only a minor sector in the over-all struggle—but the overwhelming success of their strategy of passive resistance signalled a new phase of the Negroes' determination to put an end to racial discrimination on all fronts.

From February 1, when the first "sit-in" took place in Greensboro, North Carolina, the ACLU was deeply involved in the protest movement. Through direct legal defense of arrested students, through advice and counsel to groups involved in the campaign, and through numerous public statements, the Union stressed the constitutional right of peaceful protest through picketing and the right of Negroes to be served at eating places open to the general public. The Union said that in addition to having the free speech protections of the First Amendment, Negro students were entitled under the Constitution to eat wherever they chose.

"Although the 'sit-ins' have taken place on private property," said the Union, "there is a firm legal basis for the position that once a person has been invited into a place of business—as Negroes are in the South—the storeowner cannot pick and choose what wares he will sell to customers; his place of business becomes at the very least a quasi-public facility and he must sell to all people who want to buy."

The Union opposed the arrest of 41 Negro students in Raleigh,
North Carolina on charges of trespassing on a sidewalk in front of the F. W. Woolworth store and criticized the state Attorney General for encouraging—even indirectly—the prosecution of citizens for peaceful protest. This was a violation of constitutional guarantees of equal treatment and free expression, the Union said. The official responded with a militant reply that was to set the tone for authorities throughout the South. If the ACLU did not like the law in North Carolina, said Attorney General Malcolm B. Seawell, it could "lump it." The Union's position was upheld by the North Carolina Supreme Court which reversed the conviction of the Raleigh students. The high court took the position that the ACLU view of the constitutionality of the "sit-ins" was correct, at least so far as sidewalks of shopping centers go.

The Florida Civil Liberties Union was busy in three "sit-in" cases. The affiliate supplied legal support for 11 Negro students whose arrest was demanded after they "sat-in" in a Tallahassee Woolworth store. Six white students who were arrested in Tallahassee for demonstrating in sympathy with the arrested Negroes were also defended by Florida CLU attorneys. The students' convictions for unlawful assembly and breaking the peace are being appealed. In Miami 18 members of the Congress of Racial Equality were convicted of violating a state law allowing a business proprietor to eject a customer as an "undesirable patron." The 18 were given a year's probation and an appeal is being taken in this first test of the state law. Elsewhere, the ACLU was active in Louisiana, where 16 students were expelled from Louisiana Southern University after they were arrested and jailed for "disturbing the peace" for staging a sit-in demonstration; and in Montgomery, Alabama where a touring group of white students from Illinois, their dean and his wife were arrested for eating in the private diningroom of a Negro restaurant. The Union obtained counsel for the latter group. Only the dean was convicted, for breaking a new city ordinance—designed to meet thesit-in threat—which defines disorderly conduct as behavior "calculated to cause a breach of the peace." The ACLU is backing the appeal.

Issues raised by the waves of "sit-ins" were not confined to the South, however. In the North, where college authorities and local police attempted to block student sympathy picketing, the ACLU also entered the scene. "Such action," said the Union, "raises a fundamental threat to freedom of speech and academic freedom," especially a threat of disciplinary reprisal or expulsions. In three cases the ACLU was particularly active. The Metropolitan Detroit Branch named a committee to meet with the Wayne University administration to support the students' right of protest, as well as students' rights in general; and letters endorsing the right to picket were sent to the presidents of Skidmore and Elmira State College and were publicized.

NAACP HARASSMENT. The U.S. Supreme Court upheld the right of two Arkansas NAACP officials to refuse to disclose the names of its members in Little Rock. The court said that disclosure could cause intimidation and harassment of NAACP members as well as discouraging future membership and endangering freedom of association. Louisiana, meanwhile, has appealed to the high court to reverse a Federal District Court verdict that the NAACP did not have to comply
with a state law requiring the organization to file membership lists. The federal court said the statute violated the free speech and free assembly protections of the First Amendment and the Fourteenth Amendment's guarantee of due process.

On the state court level, Virginia's highest court nullified one restriction against the NAACP and upheld two others when it said that the group could advise persons to file civil rights suits but could not solicit legal business for NAACP lawyers or other lawyers. The third opinion upheld a lower court in refusing to block a legislative committee which sought the NAACP's membership rolls.

The ACLU affiliate in Florida provided counsel to a former president of the Miami branch of the NAACP and a member of the FloridaCLU who has been ordered by a state Circuit Court judge to testify before a state legislative committee. The witness, Rev. Edward T. Graham, was subpoenaed along with Rev. Theodore R. Gibson, current head of the Miami NAACP branch, in an alleged investigation into so-called Communist infiltration into the organization. The investigation, which has been going on for three years (See last year's Annual Report, p. 68 and 1957-1958 Annual Report, p. 53.), demanded that both men reveal whether they are members of the NAACP. The FloridaCLU assailed the legislative committee for trying to "harass organizations which seek to implement the U.S. Supreme Court's decision on school desegregation." Rev. Graham was convicted of contempt but the six-month sentence was stayed until the FloridaCLU could challenge the entire issue before the state Supreme Court.

The ACLU has also come in for its share of attack from Southern politicians. In addition to attacks upon the Union made in the case of University of Mississippi professor William Murphy (See p. 27.), the Attorney General of Alabama accused the Union of having delivered "a large amount of money" to a Negro group in Birmingham, Alabama in order to promote racial agitation. Executive director Patrick Murphy Malin immediately labelled the statement "absolutely false" and pointed out that the Union has never promoted racial agitation nor has it donated any sums of money to anyone in Birmingham. Pointing out that Negro defendants have a difficult time in obtaining legal defense in the Birmingham area because of over-worked Negro attorneys and the fear of white lawyers to take on controversial cases, Malin said ACLU has, however, supported in court persons seeking equal status, and will continue to do so.

**VOTING RIGHTS.** The U.S. Supreme Court took under review a potentially significant challenge by Tuskegee Negroes who charge that a 1957 change in the city's boundaries constituted unconstitutional racial discrimination. The change made the boundaries of Tuskegee look like a "sea dragon" of 28 sides, instead of the simple square it used to be. The new boundaries did not eliminate any white residents or white voters from the city limits, but it excluded 3,000 Negro residents and all but five of Tuskegee's Negro voters. The ACLU filed a friend-of-the-court brief supporting the Tuskegee Negroes.

**OTHER ACTIONS.** U.S. Attorney General Rogers said that the refusal of federal and state grand juries to return indictments in the
lynching of Mack Charles Parker was "a travesty of justice." Parker, 23, was dragged from his Poplarville, Miss, cell in April, 1959 two days before he was to go on trial on charges of raping a white woman. His body was discovered by FBI agents in a nearby river.

The ACLU urged the Attorney General not to make public the FBI's report on the Mack Charles Parker lynching despite the fact that two grand juries did not return indictments. "To do so," said the Union, "would mean that the federal government is adopting the philosophy of the ends justifying the means. Public disclosure ... would be directly contrary to the constitutional principle that accusations against people are to be handled through the judicial process," added the letter, even though the lynching was a "terrible crime expressing the ultimate explosion of racial prejudice and deserves the condemnation of every civilized person."

UP NORTH. In a series of actions by ACLU affiliates, the Arizona CLU was upheld by a Superior Court judge who ruled that the state's law prohibiting intermarriage with a Caucasian was a violation of the First and Fourteenth Amendments; the Massachusetts CLU voted to oppose the designation of color and race on birth, marriage and death certificates; the Montana CLU state correspondent challenged a finding of the federal Civil Rights Commission's state advisory committee that there were no civil liberties problems in Montana, by pointing to discrimination in hotels and restaurants and police mistreatment of minority groups; and the ACLU of Oregon told the state Attorney General that discrimination by fraternities on state college campuses constituted state action in violation of the equal protection clause of the federal constitution.

GENERAL DEVELOPMENTS

EDUCATION. Time is running out for procrastinating and defiant school boards throughout the South. Although it may be years before such states as Georgia, Mississippi, Alabama and South Carolina finally face a U.S. Supreme Court order from which there is no appeal, the mounting legal pressure is forcing a number of communities to face, and publicly discuss, the alternative between token integration and no public schools at all.

New Orleans was the scene of a major struggle where a willing school board said it could "work out some kind of plan" to begin integration in the first grade in compliance with a Federal District Court order, but an unyielding Governor in defiance of the court invoked a state law giving him the power to take over the schools and close them completely. The federal court, however, struck down the school closings laws as unconstitutional. As a showdown in the eight-year-old legal battle approached, less than 100 Negro children are expected to apply for admission to previously all-white schools.

If the atmosphere of New Orleans is anxious and agitated, the climate of Houston was calm as first-grade integration began. Houston, like New Orleans, had been rebuffed by the U.S. Supreme Court in a last-ditch appeal to delay the Federal District Court order. Houston voters had previously voted 2-1 against integration and the federal court had
rejected as a "palpable shame and subterfuge" a school board plan that would have designated one public school, one high school and one junior high for the entire city for students who "wanted" to attend integrated classes. While Houston residents appeared passive towards the prospect of integration, the Texas legislature may not be. A state law could result in the cutting off of state aid and fines for local officials who desegregate schools without an affirmative vote.

Dollarway School District #2—just outside Pine Bluff, Ark.—has already been the scene of mob violence. Fears—fortunately not realized—that the same thing may happen again were prompted by the admission of a six-year-old Negro girl to the first grade and by a finding of the U.S. Court of Appeals that the school district had not made a "reasonable start" towards the desegregation of its schools. In an attempt to head off just such verdicts, Governor Orval Faubus placed before the voters a constitutional amendment permitting residents of a school district to close the schools by majority vote and split up school funds among the eligible students in the district. The Dollarway situation is also significant in the possibly wide application of the U.S. Court of Appeals ruling which set aside the school board's operation of the state's pupil placement law. The court said that the effect of the law cannot leave "the existing racial situation existing, just as before." In other court decisions affecting pupil placement laws—the chief device whereby integration has been held to a trickle—the Fourth and Fifth Circuit U.S. Court of Appeals ruled that under such statutes Negro students cannot be given tests different from white students before they are admitted. The rule that the federal courts appear to be applying is a practical one: is the law fair in its operations. Thus, the U.S. Supreme Court refused to review Nashville's grade-a-year desegregation, but the Third Circuit U.S. Court of Appeals struck down Delaware's grade-a-year program, which would have resulted in full integration by 1972, and ordered full integration by the fall of 1961. The U.S. Supreme Court refused to modify the lower court's order. Meanwhile, in Little Rock itself, although the eight Negro students attending the city's two high schools continue to be ostracized by their fellow students, the tide of extremism seemed to have waned. Thirteen Negroes enrolled in the schools in the third year since the riots. As the 1960-61 school year started in the South, this was the scorecard: token compliance with court rulings on desegregation began in 17 school districts for the first time—a total of 768 out of 6,676 in which some racial mixing has occurred. Six percent of the total number of Negro school children are now attending previously segregated schools.

**ACTION IN THE NORTH.** The New York City Board of Education reversed a long-established policy and announced a system of "open enrollments" whereby Negroes and others will be able to attend schools they prefer, rather than attending neighborhood schools exclusively. Segregated housing had resulted in *de facto* school segregation under the old system and Negro parents had threatened to repeat a mass "sit-out" by their children if the system was not changed. The parents charged that all-Negro schools were educationally inferior. In the colleges, the New York Civil Liberties Union opposed a recom-
mendation by the city's Commission on Intergroup Relations that would impose specific punitive measures upon campus publications printing anti-religious or anti-racial articles. The NYCLU said the recommendation would restrict freedom of speech and press of students. The Minnesota Branch of the Union investigated the case of two university students who were evicted by their landlady after they were visited by a Negro and a Chinese.

**Housing.** Laws prohibiting discrimination in housing were upheld by two state courts, while three states took their first action under recently passed legislation. Generally, the NAACP found "unmistakable signs of progress" in ending bias on the federal and state levels. Ironically, a more aggressive attitude by federal officials has resulted in a reluctance by many communities to begin public housing projects because of the requirement that they be racially integrated, the U.S. Commissioner of Public Housing reported. Among the steps taken by federal authorities was an FHA directive barring the sale or rental of foreclosed properties with regard to race, color or creed. The National Committee Against Discrimination in Housing, of which the ACLU is a member, repeated its plea for a Presidential executive order making clear a policy of non-discrimination for all federal housing.

New York City's pioneer law prohibiting discrimination in private housing was sustained by a state Supreme Court justice who said that "the individual must yield to what the legislative authority deems is for the common good." It was the first test of the law. Another first was recorded in New Jersey where the state Supreme Court ruled that a law barring discrimination in publicly-assisted housing was constitutional. Even before the U.S. Supreme Court refused to hear an appeal from the verdict, William J. Levitt, the challenger, announced he would "voluntarily" sell two of his 16,000 houses in a New Jersey development to Negroes. (See last year's Annual Report, p. 75.) Levitt also hired a group of specialists in race relations to smooth the way. The first test of the Washington state law prohibiting discrimination in publicly-assisted housing was argued in the state Supreme Court. The ACLU and 12 other national organizations, through the National Committee Against Discrimination in Housing, filed a friend-of-the-court brief backing the law.

State commissions in Colorado and Massachusetts issued their first orders to comply with new laws banning bias in private housing while California took its first steps under a recent statute barring discrimination in publicly-aided construction. Massachusetts also strengthened its year-old law by extending coverage to anyone granting mortgage loans, and a ruling by the California Attorney General put real estate brokers under the new statute. Real estate brokers and salesmen in Michigan and Massachusetts were also prohibited by state agencies from discriminating on grounds of race, creed and color in the sale or rental of real estate. Unsuccessful attempts to pass fair-housing laws applicable to private housing were made on the state level in New York and Rhode Island and on the local level in Cleveland and St. Paul.

The Metropolitan Detroit Branch of the ACLU condemned discriminatory housing practices in a case which received widespread
attention involving real estate brokers in the exclusive Grosse Point area. Realtors there had secretly adopted a complex system of rating prospective homeowners according to their nationality, accent, way of living, dress and whether they were "typically American." The system even went so far as to blackball brokers who defied it. Disclosure of the rating plan proved to be its undoing. The Michigan State Corporation and Securities Commission issued a new state ruling barring discrimination in real estate activities—a goal which the legislature has tried, but, failed to accomplish. Elsewhere on the state and local scene, investigations by private and public agencies have found much greater bias than meets the eye in housing throughout New York State, where a legislative committee said the discrimination is "vast"; in San Francisco, where real estate brokers themselves admitted that discrimination was still the practice; and in Chicago, where the search by a law firm for new quarters showed that 17 buildings in the Loop would not rent quarters for racial reasons. The Iowa Civil Liberties Union reports that the technique is still very much alive in Des Moines, where some brokers are attempting to destroy an integrated area by warning whites to move and then showing vacant homes only to Negroes. State officials met with real estate boards in New York City in order to work out a professional code barring such practices.

A growing number of colleges and universities are insisting that off-campus housing must be non-discriminatory in order to be approved for listing with school officials. Cornell and the Universities of Washington and Colorado are among the most recent institutions with such requirements. Ohio State University said that any licensed off-campus rooming house against which a discrimination charge had been proved will be dropped from the approved listing service. The general question of housing barriers faced by minority students is being studied by the New York State Commission Against Discrimination, which is investigating the housing practices of 173 state colleges and universities.

EMPLOYMENT. Delaware became the 17th state to pass enforceable legislation barring discrimination in employment because of race, creed, or color. Indiana and Kansas may investigate job bias complaints but cannot enforce their findings. (The new Delaware bill also bars discrimination because of age.)

A key test of Colorado's FEP law is before the state Supreme Court after a state District Court nullified the power of the state Anti-Discrimination Commission to act against Continental Air Lines, Inc. for not hiring Marion D. Green, a Negro pilot. The first year of California's FEP Commission saw the receipt of 123 complaints, of which nearly 100 are still pending. Seven were settled amicably. The New York State Commission Against Discrimination reported getting a record number of 753 complaints during the first nine months of 1959. And in Wisconsin, the Governor has signed a bill prohibiting firms under state contract to discriminate among their employees.

The President's Committee on Government Contracts has been stalled in an attempt to win the right for Negro electricians to work on government jobs in the nation's capital. A public row over the situation was touched off by AFL-CIO president George Meany, who
accused the Committee of dragging its feet in not compelling contractors to hire qualified Negroes. Meany also threatened to bring in non-union Negro electricians from other areas to do the work. The contractors counter-charged that the local of the International Brotherhood of Electrical Workers does not permit Negroes to join the union. Five Negroes then applied directly for jobs with the builders but were turned down as not qualified. The Committee reported more progress, however, outside the District of Columbia. It reported that as a result of personal appeals to business executives, Negroes have been hired for the first time by firms in Texas, South Carolina and Delaware and have received wider job opportunities elsewhere. Also on the federal level, the Civil Rights Commission has begun an investigation into job discrimination created by federal grants, such as the work of state agencies receiving government aid. The controversy over Negro job opportunities in Washington, D.C. was underscored by the NAACP in a detailed report charging that federal, state and local agencies were not using their available power to end racial discrimination in apprenticeship programs. The NAACP charge was supported by an official Philadelphia commission which found that Negroes received less training, less pay and fewer promotions than whites and by a report of New York state's anti-discrimination commission that only two per cent of the state's 15,000 registered apprentices were Negroes.

PUBLIC ACCOMMODATIONS. Economic competition and moral suasion have combined to make it easier to arrange racially mixed conventions in a number of Southern cities. After years of starring Negro performers in hotels and plush gambling joints, Las Vegas finally lifted a tacit ban that has existed among most establishments against Negro guests. Who will profit more by the change remains to be seen. Many years ago Negroes won their first series of desegregation decisions in the area of interstate travel, and now the U.S. Supreme Court has agreed to hear the latest of such appeals in a case involving a law student who was arrested for trespassing when he refused to leave a segregated lunchroom while traveling on an interstate bus. The bus was on its way from Washington, D.C. to Salem, Ala. The arrest took place in Richmond, Va. Beatniks continue to rub many people, including easily irritated police, the wrong way and the ACLU of Northern California continues to defend them. The affiliate, for example, intervened and persuaded the management of a pastry shop to serve a black-stockinged model and her husband. Also, in Seattle, a Negro woman won a damage suit against the local Slenderella salon, which had refused to serve her.

Many of the problems of discrimination against Negroes in the use of recreational facilities are by no means exclusive to the South. In the North, for example, the Greater Philadelphia Branch of the Union and the Lancaster Chapter of the ACLU of Pennsylvania are keeping tabs on a number of suburban swimming pools which have been converted to "private clubs" after receiving injunctions prohibiting bias. New Jersey reported that one third of the inland swimming facilities in the state practice some form of discrimination. The Washington State Board of Discrimination ruled that four golf clubs which used public courses discriminated against Negroes in tournaments. The same issue
arose in New York, where the state obtained an agreement to bar future tournaments on public courses in which Negroes are barred from participating. In two cases involving amusement parks, the Maryland Branch, ACLU wrote a friend-of-the-court brief on behalf of pickets who were arrested while demonstrating against alleged bias at Gwynn Oak; and the Indiana Civil Liberties Union investigated conditions at Riverside. The ICLU also investigated discrimination in Indianapolis restaurants. After many years of study, the New York SCAD concluded that the phrase “churches nearby” in advertising resorts is not a case of encouraging religious discrimination. And after many years of friction, the American Legion cut all ties with its 40 & 8 Society over the fun-making society’s racial membership restrictions.

**AMERICAN INDIANS**

The principal work of the Union's Indian Civil Rights Committee was its continuing efforts to persuade the government to reconsider its decision to proceed with the construction of the Kinzua Dam which would result in the inundation of the reservation of the Seneca Indians.

Subsequent to the passage, over President Eisenhower's veto, of the omnibus public works bill which contained a fund appropriation for the start of construction of the Kinzua Dam (*See last year's Annual Report, pp. 79-80.*), another ACLU appeal was sent to the White House requesting administrative re-appraisal of the dam project. The heart of the letter consisted of a detailed report prepared by Dr. Burt Aginsky, chairman of the Committee, setting forth detailed findings in support of the conclusion that the construction of the dam at the Kinzua site would “bring to an end the religious and cultural customs which give meaning to the life of [the Seneca] people.” The White House replied that “alternate plans have been carefully studied by the Corps of Engineers . . . but [it was] found that the Allegheny Reservoir, as presently planned would be the most economical solutions to the problems involved.” The ACLU letter was circulated to all members of the Appropriations Committees of the House and Senate, and although efforts are still being made to forestall construction of the dam, neither Congress nor the White House appeared to be persuaded.

The Committee was also concerned over a law-suit instituted by members of the Native American Church of America, composed to a large extent of Navajos, against the Navajo Tribal Council. The suit sought to enjoin enforcement of a tribal ordinance prohibiting possession or use on tribal property of peyote, a substance which is used as an integral part of the Church’s religious ritual. The Church contended that the ordinance invaded its members’ freedom of religion. After a decision by the U.S. Court of Appeals in Denver which held that the Bill of Rights does not apply to the acts of Indian tribal governments, the ACLU was formally requested to support an appeal to the U.S. Supreme Court. The Board of Directors agreed, in principle, that the acts of Indian tribal governments should be governed by the Bill of Rights, and that the Union should present this position in friend-of-the-court briefs on a case-by-case basis. It also helped the Church to obtain an attorney to handle this particular case.
DUE PROCESS UNDER LAW
FEDERAL EXECUTIVE DEPARTMENTS

1. Citizenship, Naturalization, Deportation

CITIZENSHIP. The U.S. Supreme Court, for the second time, returned to a lower court for clarification a case questioning the power of Congress to take away the citizenship of a draft-dodger. In a friend-of-the-court brief supporting Francisco Mendoza-Martinez, the ACLU argued that the law is unconstitutional for several reasons: it permits cruel and unusual punishment in violation of the Eighth Amendment; it infringes on procedural due process by making it difficult for an expatriate to challenge the statute in a United States court; it is not within the power of Congress' jurisdiction in foreign affairs to exile draft delinquents; and it is not a proper exercise of sovereignty or war powers by the government. Mendoza-Martinez, a dual citizen, was born in the U.S. of Mexican parents and went to Mexico in 1942 to avoid the draft. He returned here in 1946 and served a prison term for evading the Selective Service Act. In 1953 he was ordered deported as an alien.

The ACLU also supported the case of Angelika Schneider, a naturalized American whose citizenship was revoked by the State Department. The action was taken under a 1952 law which states that naturalized citizens who live continuously for more than three years in the country of their birth shall solely for this reason lose their American citizenship. Mrs. Schneider had lived here since she was five (from 1939 to 1956) and in 1956 moved to Germany to marry. ACLU attorneys maintained in their brief that the law violates the Eighth Amendment by imposing cruel and unusual punishment by discriminating between native born and naturalized citizens and that it also constitutes deprivation of liberty and property without due process of law in contradiction to the Fifth Amendment. The Federal District Court in Washington, D.C., ruled there was “no substantial issue of constitutionality” on this point, but upheld an additional ACLU contention that Mrs. Schneider had the right to pursue her case further in American courts without seeking temporary entry as an alien. As an alien due process rights are limited.

DEPORTATION. Two aliens whose right to remain in this country were challenged on grounds of alleged past Communist Party membership lost their fight in close decisions by the U.S. Supreme Court. The high court upheld a deportation order against William Niukkanen, a 50-year-old Portland, Ore. house painter who was brought to America as an infant and who was a Communist Party member from 1937 to 1939. The court also held that while an alien had the right to plead the Fifth Amendment in response to a hearing officer’s question on Communist Party membership, this still did not relieve him of the obligation of proving that he was a person of good moral character and not affiliated with the Communist Party. The ACLU of Northern California was instrumental in making it possible for a Greek seaman
to retain his status as a parolee receiving medical treatment in the face of Immigration Service attempts to deport him. In another affiliate action, the Colorado Branch finally won a five-year defense of three aged Mexican-born Denver residents when the Justice Department abruptly announced it was dropping deportation proceedings against them. The trio had been charged with membership in the Mexican branch of the Communist Party.

**ALIEN RIGHTS.** The U.S. Supreme Court decided, by a 5-4 vote, that the government was justified in cutting-off Social Security payments to an alien deported because of past Communist Party membership. The ruling came in the case of Ephram Nestor, a Party member from 1933 to 1939 who was deported to Bulgaria in 1956. His monthly old-age payments of $55.60 were based on earnings from 1936 to 1955, when he reached retirement age. The high court, in reversing a U.S. District Court, held that social security benefits were not an accrued property right and that a "rational" justification exists for the exclusion of various categories of deportees. The dissenters argued that the denial of benefits abrogated such basic constitutional rights as the right to a judicial trial and protection against ex post facto laws and bills of attainder.

The U.S. Court of Appeals in New York rejected an ACLU request that it grant Justina Soto, a Peruvian citizen seeking permanent residence here, the same due process rights that an American citizen would have. The Union said Miss Soto had not been able to cross-examine Public Health Service physicians who diagnosed her as tubercular, and therefore non-admissible, nor had she been permitted to introduce expert testimony on her own behalf. The actual decision to exclude Miss Soto, said the Union, was made by a Special Inquiry Officer, who did not consider additional evidence.

**POLITICAL ASYLUM.** The ACLU, continuing its efforts to obtain fair hearings for alien seamen seeking political asylum (See last year's Annual Report, p. 81.), filed a friend-of-the-court brief on behalf of 42-year-old Julius Szlajmer, a Polish seaman whom the Immigration Service said is not entitled to ask for entry on political grounds. The government's ruling was made on the basis of the fact that Szlajmer had not disclosed his intention upon landing, but went to the FBI to ask asylum three days later. Declaring that the Immigration Service was wrongfully regarding Szaljmer as a common ship-jumper, the Union said that "any crewman from an Iron Curtain country who risks the inevitable penalty attached to jumping ship of his nationality, should be considered prima facie a refugee from communism. . . . He should be given an opportunity to establish that he is such a refugee and should not be compelled to reship without having been given a hearing on his status. The Federal District Court agreed.

2. Confinement of Mentally Ill

The ACLU intervened in a macabre case in Virginia in which a 34-year-old innocent trash collector was picked up by police on a murder charge and committed to a mental institution all because
a telepathist received "emanations" while hovering over a year-old grave. The FBI later arrested another man for the crime after more conventional police work. The bizarre chain of events began when a local government hospital psychiatrist offered police the services of a Dutch mental telepathist to help clear up the unsolved murders of Mr. and Mrs. Carroll V. Jackson and their two young daughters early in 1959. Accompanied by state troopers, the savant went to the Virginia grave where the bodies had been found and advised police to search for a man whose business was "either junk or garbage". Police then arrested a trash collector, John Tarmon, and interrogated him extensively. Unable to obtain any evidence linking him with the crime, they induced his wife to sign a commitment petition, resulting in a hurried lunacy hearing being conducted at 3 a.m. with the psychiatrist sitting as one of the three members of the lunacy commission. As a result, Tarmon was found insane and whisked two hundred miles away to a mental institution for the criminally insane. He was released after a lawyer provided by the ACLU filed a habeas corpus petition which prompted the hospital to concede that he was not insane.

The Union in two cases also challenged a District of Columbia law requiring the automatic commitment to St. Elizabeth's Hospital of defendants who have been acquitted because of insanity. The ACLU acted on behalf of Donald Ragsdale, who ran away from the mental institution and worked without incident at a job for 10 months before he was found by police and returned to St. Elizabeth's. His plea for a conditional release was rejected after psychiatrists said that Ragsdale still had a sociopathic personality disturbance. In attacking the law as unconstitutional, the ACLU said that the statute was unfairly based on a "presumption of continuing insanity" in the period between the time the original crime was committed and the jury's verdict. A friend-of-the-court brief filed in the U.S. Court of Appeals said that Ragsdale could have recovered by the time of the trial and should not have been automatically committed. The Union also said that another judicial ruling on his mental condition should have been made before he was sent to the hospital. In the second District of Columbia case, the ACLU was accorded a rare nine-judge hearing before the entire U.S. Court of Appeals. The defendant in this case, Frederick Lynch, had attempted to plead guilty to a bad check charge, with a reasonable expectation of probation. Instead, the plea was refused and the judge found him not guilty by reason of insanity. The automatic commitment law forced Lynch's removal to St. Elizabeth's Hospital.

An investigation was started by the Senate Constitutional Rights Subcommittee into the observance of constitutional guarantees for the mentally ill and those judged mentally ill. "The entire field under which the law has the right to deprive a mentally ill person of his liberty has been the most neglected in the chronicles of American law," the late Senator Thomas J. Hennings said. He announced that two particular areas of inquiry would be the fairness of commitment procedures and the possible modification of the ancient McNaghten Rule under which an accused person claiming insanity as his defense is held responsible for his act if he can distinguish right from wrong. A 1954 decision of the U.S. Court of Appeals in Washington, D.C.
held that a person is not criminally responsible "if his unlawful act was the product of mental disease or mental defect."

The practice of detaining for long periods of time persons accused of federal crimes but found incapable of standing trial caused a federal judge to remark that the medical center in Springfield, Mo. was not to be used as a detention pen for such people. Such a practice, he said, deprives an individual to his right to a speedy trial, to bail, and to confer with counsel in the preparation of his defense. The suit was supported by the center’s medical director.

3. Loyalty and Security

FEDERAL ISSUES. A Defense Department directive establishing new procedures in the nation's industrial security program following the U.S. Supreme Court decision in the Greene case (See last year's Annual Report, p. 84-85.) was criticized by the ACLU for not providing sufficient protections for the rights of confrontation and cross-examination. The order, said the Union, “appears to be a panoply of self-defeating assertions of due process rights repudiating not only the heart of the Court's Greene decision, but the implications of that decision—that Fifth and First Amendment rights must be protected.” In a congressional aftermath of the same high court opinion, the ACLU opposed a bill passed by the House which sought to nullify the verdict by authorizing an industrial security program giving the Secretary of Defense discretion to decide what information, if any, may be disclosed in a security risk hearing. The bill failed in the Senate. The Union said that the proposal did not meet the basic questions of confrontation, which the Court said was a clearly marked "constitutional danger zone"—such as whether confrontation was constitutionally mandatory in all cases, whether the accusers are idle gossips or professional government undercover agents. The Union also objected to a provision of the proposed legislation extending the security program to all employees of any person or establishment having a contract with a federal military department. This could apply, for example, to every faculty member of any university working on a military project.

By and large, public debate over internal security practices has steadily decreased in the years since Senator Joseph R. McCarthy held sway in the capitol. In two major incidents, however, the issue again became a source of controversy. The most recent example was the defection of two code experts to the Soviet Union, prompting two congressional inquiries into clearance procedures and a statement by President Eisenhower that the entire internal security system bears re-examination. The other incident which provoked national headlines was the disclosure that an Air Force reserve training manual entitled "Communism in Religion" attacked the National Council of Churches as having been successfully infiltrated by Communists. Following a barrage of protest, the manual was withdrawn by Secretary of Defense Thomas S. Gates. This move was hailed by the ACLU which coupled its action with a request that the Defense Department prepare a directive for all military services explaining the fundamentals of civil liberties in view of the attack on constitutional rights contained
in the manual. The most glaring error in the manual, said the Union, is its direct attack on the First Amendment's guarantees of free speech and association through the vaguely defined use of such words as "subversive," "Communist" and "Communist-front". The ACLU also condemned the pamphlet's attack on freedom of religion and freedom of expression for religious groups in making charges against individuals and groups without granting "even the pretense" of due process rights such as cross-examination and confrontation.

STATE AND LOCAL ACTIONS. The ACLU petitioned the U.S. Supreme Court in a friend-of-the-court brief to rehear the case of Willard Uphaus (See last year's Annual Report, pp. 85-86.), but the court refused to reconsider its verdict. Uphaus subsequently lost a new appeal to the New Hampshire Supreme Court which claimed that a revision of the state law deprived the Attorney General of the power to require answers to questions concerning persons who attended Uphaus' summer camp. The Union said that the contempt conviction and imprisonment of the elderly director of a pacifist-oriented adult camp raised the issue of an individual's right, in accordance with the protections of the First Amendment, "not to be forced to reveal his political associations to a state investigating committee." Another New Hampshire resident, Hugo De Gregory, was released on bail pending an appeal to the state Supreme Court raising essentially the same question as in the Uphaus case. The ruling in De Gregory's case had no bearing on the imprisonment of Uphaus.

A nine-year effort by the New York Civil Liberties Union finally resulted in the peaceful death of the state's controversial security risk law. The legislature allowed the law to expire after the affiliate showed that it had been unnecessarily expensive to operate. The NYCLU had previously successfully defended three city employees who were dismissed under the law but who were reinstated when courts ruled that their jobs were not sensitive positions. The NYCLU's objections to the law were based on the fact that it did not permit confrontation and cross-examination of witnesses by accused persons, a right which is incorporated under a section of the Civil Service Law which permits the dismissal of any employee who advocates or belongs to any group advocating the violent overthrow of the government.

The ACLU of Southern California won the first favorable loyalty oath ruling in a decade from the state Supreme Court when the tribunal ruled in favor of Mrs. Virginia Wilson, who had been barred from a Los Angeles civil service job because she had refused, 12 years earlier, to sign a now-defunct state loyalty oath. Mrs. Wilson said she was willing to sign an oath requirement in a current law. The court said that "we cannot assume that one who might have been disqualified for reasons of prior associations reflecting on loyalty will forever after remain disqualified for that reason." Such "unreasonable and capricious" judgments, said the opinion, violate freedoms protected by the First and Fourteenth Amendments.

UNEMPLOYMENT INSURANCE. New York state's highest court, the Court of Appeals, upheld one set of arguments raised by
the NYCLU in ruling that the state must pay unemployment insurance benefits to a former employee of the Communist Party, William Albertson. (See last year's Annual Report, p. 87 for this and other similar cases.) The court declared, however, contrary to the affiliate's contention, that under the 1954 federal Communist Control Act, the state had the constitutional right to exclude the Communist Party from its unemployment insurance program and refuse to accept taxes from it, as the state has refused to do since 1957. Albertson had been employed by the Party in 1956. Similar verdicts were returned by other state courts in which ACLU affiliates supported appeals. The Pennsylvania Supreme Court reversed a lower court in ruling that employees discharged as security risks because they invoked Fifth Amendment privileges against self-incrimination are nevertheless entitled to unemployment compensation. The verdict applied to Evelyn Darin and Paul E. Ault. And in California, the state Supreme Court found that Marion R. Syrek was entitled to unemployment benefits even though he turned down a job referral to a state job because, on ground of conscience, he refused to take a loyalty oath.

4. Military Justice

COURTS-MARTIAL FOR CIVILIANS. The U.S. Supreme Court handed down verdicts in four cases which, in effect, ended the application of military justice to all civilians with the armed forces overseas who commit any crime. Civilians, as well as dependents of military personnel, are entitled to rights which a court-martial does not provide, the Court said, such as the right to indictment, jury trial and bail protected by the Fifth and Sixth Amendments. The high court had, in 1957, reversed its own previous ruling and said that the wives of two soldiers who committed murder overseas were unconstitutionally convicted by a military court. In its latest decisions, the Court extended this right to all civilians and to non-capital cases as well.

RIGHT OF ASSOCIATION. The ACLU and the Workers Defense League continued their joint efforts to end harassment of prospective draftees and inducted soldiers because of their political beliefs. (See last year's Annual Report, p. 88.) The latest protest concerned Pvt. Melvin Stack of New York City who had been drafted after being fully interrogated on his membership in the Socialist Party-Social Democratic Federation. Although Stack had not been found to be a security risk, he has been discriminated against by being moved to four different bases in a little more than a year, preventing his opportunity to serve continuously in any job for which he may be qualified. In addition, said the protest, Stack has been harassed through questioning by the Counter-Intelligence Corps on the political views and associations of a civilian who attended a series of discussion groups which Stack also attended; the series was held in but not sponsored by the Unitarian Church of San Antonio. Persons such as Stack, said the Union and the WDL, "have not sought out the Army. The Army should not seek out a way to degrade them by not permitting them to serve normally." After the protest was made, Pvt. Stack was promoted.
COURT DECISIONS. The U.S. Supreme Court agreed to review a U.S. Court of Appeals decision affirming the right of state officials to use wiretap evidence in state trials. The appellate court verdict lifted a temporary injunction that had been issued on the grounds that under the Federal Communications Act it is illegal to use wiretap evidence and that prosecutors who introduce such evidence in a state court could be guilty of a federal crime. The disclosure of wiretap information is already barred in federal courts. Hinging their decision on the separation of state and federal powers, the majority of the Court of Appeals stated that federal courts should not "interfere with the prosecution of a state criminal proceeding in order to provide an additional means of vindicating any private rights created by the Federal Communications Act." A separate concurring opinion, however, dismissed this line of reasoning. The jurist explained that he voted with the majority only because "I am not willing to assume that a New York State trial judge will permit such evidence to be admitted over the objection of defense counsel. After all," he added, "New York State judges, as we, were bound when they took office, to support the Constitution." The New York Civil Liberties Union filed a friend-of-the-court brief opposing the disclosure of wiretap evidence in the state trial, which involved the prosecution of Burton N. Pugach, a Bronx lawyer, who was charged with conspiracy to maim his fiancee. Before the state trial Pugach had asked the Federal District Court to enjoin the local District Attorney from using wiretap evidence. Before the Court of Appeals acted a New York City judge said he would no longer approve wiretapping applications submitted by the District Attorney's office. Under New York state law, police officials seeking to place a tap must receive permission from a judge. Such court orders are widely disregarded, however, according to a study for the Pennsylvania Bar Association financed by a grant from the Fund for the Republic. In New York City alone, the survey estimated that 13,000 to 21,000 illegal taps are placed annually by detectives and other officials. The estimate was challenged by district attorneys.

CONGRESS. The Pugach ruling by the U.S. Court of Appeals prompted the introduction of companion bills in the Senate and House which would permit wiretapping under state laws if the tap was authorized by a court order and if there were reasonable grounds for believing the interception might disclose the evidence of a crime. Five states; Maryland, Massachusetts, New York, Nevada and Oregon, now permit court-approved wiretapping by law enforcement officials. The ACLU opposed the bills on the grounds that wiretapping, with or without court orders, "is a serious invasion of the right of privacy." The Union added that the proposed laws also violate the Fourth Amendment's guarantees against unreasonable search and seizure. No action was taken by the Congress on these bills.
ILLEGAL POLICE PRACTICES

VAGRANCY AND DISORDERLY CONDUCT. The U.S. Supreme Court, for the first time in its history, set aside a loitering and disorderly conduct conviction for lack of evidence. The unusual verdict came in the case of Sam Thompson, who was supported by the Kentucky Civil Liberties Union in his claim that the convictions were an unconstitutional violation of due process. Thompson claimed he was arrested because he had secured counsel to defend him against an earlier vagrancy charge. The case was appealed directly to the high court because under Kentucky law two $10 fines were too small to be reviewed by any state court. (See last year's Annual Report, p. 92.) In two actions by the Arizona Civil Liberties Union, the affiliate defended a disabled veteran who was arrested for vagrancy after police harried him for being unable to lift his hands over his head or pick up a wallet from the sidewalk, and is challenging a Tucson loitering ordinance under which a student and a part-time gardener were arrested although both were self-supporting. Similar arrests in California were opposed by the ACLU of Northern California, which successfully defended two physicians who were out for an early morning stroll, two North Beach residents whose presence irritated a local policeman, and a butcher who was singled out as one of two white patrons in a bar patronized by Negroes. The California state Supreme Court struck down a section of the vagrancy law that defined a "common drunk" as a vagrant. Consequently, persons who were serving sentences as common drunks were released. A South Salt Lake City Justice of the Peace gave six gypsies suspended jail sentences for public drunkenness on condition that an entire gypsy community of 200 be removed across county lines, which they were. The ACLU of Utah called the procedure "a flagrant violation of due process."

ILLEGAL SEARCH AND SEIZURE. The U.S. Supreme Court ruled that suspicion alone is insufficient grounds on which the FBI can make an arrest. The high court set aside the conviction of John Patrick Henry on the charge of unlawfully possessing several cartons of radios because the radios were not discovered until after the arrest. The ACLU of Southern California is vigorously combatting a tide of false arrests by Los Angeles police, which frequently are accompanied by police brutality. The Illinois Division, ACLU is gathering specific data on complaints that police are searching an increasing number of cars driven by Negroes and Puerto Ricans following minor traffic violations. The Colorado Branch of the ACLU protested the arrest of a newspaperman from Ghana who was taking pictures of Denver policemen subduing and arresting a drunk. The Branch also urged a revision of a police manual which permits police suppression of news pictures "if he deems such action necessary." The Arizona Civil Liberties Union filed a friend-of-the-court brief on behalf of a man convicted of operating an illegal gambling establishment after police broke in without a search warrant.

REGISTRATION AND ROUNDUPS. The California Supreme
Court voided felony registration ordinances in all cities of the state on the ground that state legislation had pre-empted the field of criminal legislation. The ACLU of Southern California supported the test case challenging a Los Angeles ordinance and was also opposing similar ordinances in two other cities. The opinion of the court, while not dealing with the basic constitutional questions, agreed with the affiliate's brief that such laws interfere with the rehabilitation of offenders. A registration law was shelved by the Tucson City Council after representatives of the Arizona Civil Liberties Union and other groups testified the proposal was both a violation of civil liberties and unnecessary. The New York Civil Liberties Union criticized police attempts to fight juvenile crime by means of general roundups and unnecessary force. "By-passing due process of law," said the NYCLU, "will not cure the situation or increase respect for law and order." Protests by the Greater Philadelphia Branch of the ACLU have ended police raids on a number of coffee houses in which dozens of patrons were arrested "en masse," without warrants.

**BRUTALITY.** A damage suit against the city of Chicago and 13 policemen under the federal Civil Rights Act will be heard by the U.S. Supreme Court. (See last year's Annual Report, p. 90.) The family of James Monroe contends that their rights to due process and equal protection of the law were violated when police burst into their apartment, beat them and questioned Monroe on a murder charge. The high court also agreed to hear an Illinois Division, ACLU plea for a writ of habeas corpus on behalf of Emil Reck, whose murder conviction, the affiliate argues, was based solely on a confession beaten out of him. In a rare instance of cooperation, the Illinois State's Attorney has promised the affiliate he will open a grand jury investigation into the fatal shooting of Joseph August by a policeman. The policeman claimed he shot to halt a fleeing rapist, but medical examination showed that the victim was beaten before he was killed by bullet wounds. The ACLU of Northern California provided counsel to three San Quentin inmates who sought writs of habeus corpus on the grounds that their confessions to armed robbery were coerced by third-degree methods and that their detention was unconstitutional and unlawful. Meanwhile, a federal grand jury in Florida indicted 13 state prison officials for abusing prisoners in violation of the section to the U.S. Criminal Code prohibiting a conspiracy to deny constitutional rights; the men were subsequently acquitted.

**ILLEGAL DETENTIONS.** A bill, backed by the ACLU's Rhode Island affiliate, to strengthen the rights of detained persons by specifying a six-hour time limit for charging a suspect and guaranteeing quick arraignment and the right to speak to his attorney, passed the state Senate but failed in the House. Only three states now have formal time limits for charging suspects after arrest and in one of them, Missouri, the St. Louis Civil Liberties Committee is investigating the apparently common practice of holding prisoners almost up to the 20-hour limit, releasing them, and then putting them under new arrest. Five states require "forthwith" arraignments; 24 require it "without un-
reasonable delay;" and 15 states impose no statutory time limit for arraignments. The Iowa Civil Liberties Union received an apology from Davenport police who said they were not aware of the existence of a law giving prisoners the right to contact their family or lawyer immediately. The police held two youths incommunicado for several hours. The Minnesota Branch of the ACLU is appealing a Duluth police regulation barring drunks who are arrested from using the telephone for six hours after their arrest or after 6 p.m. The Greater Philadelphia Branch of the ACLU protested police detention of a murder suspect for almost 80 hours before he was formally declared a suspect and brought before a judge; and sought to obtain preliminary hearings for disorderly streetwalkers so that they would not be held in jail without hearings for as long as two weeks. The York County chapter of the ACLU of Pennsylvania condemned the jail detention for 71 days without a hearing, of a Puerto Rican migrant farm worker, who was then released for lack of evidence.

SHOPLIFTING. The Illinois Division, ACLU plans to intervene in a suit that will be brought by Michael Caine, a real estate appraiser, against a Chicago department store. Caine’s shoplifting conviction—the crime was theft of a 10-cent shopping bag—under a recently passed state law was reversed by a state appellate court. The suit, in which the affiliate will file a friend-of-the-court brief, would test the constitutionality of the statute, which permits merchants to detain suspects on a “probable” suspicion of theft. A new Washington state law permits police to arrest a person without a warrant if the merchant has “reasonable cause” to believe shoplifting was attempted. The ACLU believes such laws violate guarantees of personal security.

POLICE REVIEW BOARD. Following the pioneer efforts of the Greater Philadelphia Branch of the ACLU, Union affiliates in Cincinnati, Detroit, Pittsburgh, Seattle, Los Angeles and Chicago are pressing for the creation of local citizens’ review boards to hear civilian complaints against policemen. Minneapolis and York, Pa. recently established such independent boards. After a slow start, the Philadelphia board now has municipal funds, and a permanent staff. Since its creation in 1958 it has heard 107 complaints, 30 of which were forwarded by the affiliate. The campaign by Union affiliates to create such boards, either by statutory authority or through municipal appointment, was one of the most significant due process developments on the local civil liberties scene. The drive was condemned by the National Conference of Police Associations and by the California Department of the American Legion, which labelled the Los Angeles campaign “subversive.” One answer to criticism that review boards have a harmful effect on police morale, was the Philadelphia police chief’s welcome of the review board.

COURT PROCEEDINGS

ILLEGALLY OBTAINED EVIDENCE. A landmark verdict in criminal law was handed down by the U.S. Supreme Court when it ruled that evidence seized by state officials in violation of the federal
constitution cannot be introduced in a federal trial. In overturning the so-called "silver platter" doctrine, the high court upheld the claim of the ACLU that admission of such evidence would violate the right of privacy guaranteed by the Fourth Amendment. The majority opinion, which extended the heart of the Fourth Amendment to state officers, said that to let federal courts use illegally obtained state evidence was "to encourage subterfuge by federal law enforcement officials." The historic decision was made in two cases, one of which was supported in a friend-of-the-court brief by the ACLU. This proceeding involved the conviction of Jose Torrones Rios for the illegal possession of narcotics in a federal court after a state court ordered a directed verdict of acquittal because the narcotics were illegally seized by Los Angeles police. The other appeal concerned two Oregon men convicted of wiretapping. The wiretap evidence was thrown out of a state court because it was discovered during a search for obscene pictures.

The principles laid down by the U.S. Supreme Court in the Rios decision were previously cited, on the state level, by the New York Civil Liberties Union, which appealed to the state's highest court to discard an ancient rule that certain evidence seized illegally may be introduced at a criminal trial to help convict a defendant. In another New York state case, the ACLU asked the U.S. Supreme Court for a writ of habeas corpus for Samuel Tito Williams, now serving a life sentence for murder. The Union petition said that Williams was convicted solely on the basis of an extorted confession obtained during an unlawful detention prior to arraignment, thus violating his due process rights under the Fourteenth Amendment. The ACLU move is the latest in a 12-year-long case. Another attempt by the Union to set aside a murder confession—this time on the ground that the defendant was about to plunge into a spasm of delirium tremens—was lost in the U.S. Court of Appeals in Washington, D.C. on the technicality that the argument was raised too late for consideration. A third U.S. Supreme Court decision set aside an Alabama robbery conviction because it was based on a confession made when the defendant was apparently insane.

On the state level, the ACLU of Oregon testified before a legislative committee in favor of a law making confessions obtained before arraignment inadmissible but the bill did not pass; the Kentucky Civil Liberties Union completed an exhaustive analysis of the state's century-old Criminal Code and recommended a number of reforms.

**CHESSMAN CASE.** Caryl Chessman's 12-year battle for a new trial stirred support around the world, inspiring heated controversy over the legality of Chessman's conviction on kidnapping and sex-offender charges and provoking equally fervent debate over the entire question of capital punishment. The ACLU of Southern California, which played a key role in Chessman's many appeals, maintained that Chessman's right to appeal was wrongfully denied because the original trial transcript filed with the appellate court was inaccurate and incomplete, thus denying the author-prisoner his constitutional due process rights. The final execution of Chessman in May, 1960 led to the start of a campaign by the ACLU affiliate to outlaw capital
punishment as cruel and unusual punishment in violation of the Eighth Amendment.

RIGHT TO A FAIR HEARING. A precedent-setting ruling by an Oregon Federal District Court judge supported a brief filed by the ACLU's Oregon affiliate on behalf of state penitentiary inmates who were trying to draw up appeal briefs on their own. The judge said officials cannot prevent prisoners from consulting attorneys, studying law in their cells, or buying law books. The Oregon verdict was cited by the Greater Philadelphia Branch of the ACLU in recommending similar rights to state prisoners. The whole question of determining the circumstances under which convicted indigent defendants may or may not appeal was put before the U.S. Supreme Court by the ACLU in the McGloin case which asked the tribunal to end the current multiplicity of standards applied by federal Circuit Court judges and set a single legal standard by which such appeals may be judged. In a 1958 ruling, the U.S. Supreme Court said that the “only statutory requirement for the allowance of an indigent's appeal is the applicant's good faith.” Many judges, however, have placed the added factor of the financial strain on the bench and bar by the indigent's appeal above his right to a fair hearing. The Supreme Court denied McGloin a hearing, so the question is still unsettled.

The ACLU of Southern California won two cases in the state courts when a new trial was ordered for 11 Pasadena Negroes convicted of gambling despite evidence that the municipal statute was invoked in a discriminatory manner, and when a Los Angeles municipal court judge upheld the refusal of eight men to testify before a state rackets investigation on the ground that they rightfully feared federal prosecution if they answered the committee's questions.

In other actions by ACLU affiliates, the newly-chartered Eastern Delaware County (Pa.) Chapter won the reversal of a disorderly conduct conviction by a judge who said “I had to charge him with something;” the Colorado Branch was sustained by the state Supreme Court in its charge that a robbery conviction of William Montoya was unfair because persons with Spanish names are “systematically excluded” from county jury lists; the Maryland Branch persuaded a judge to stop asking accused drunks to sign “guilty” statements so that arresting officers would not have to appear in court; and the Washington state Supreme Court agreed with the Union affiliate that a perjuring witness is deprived of due process when a judge immediately cites him for contempt on the spot instead of waiting for a full trial on the perjury charges which includes full legal protections.

RIGHT TO COUNSEL. A bill passed the Congress which would furnish paid counsel to indigent defendants indicted in criminal proceedings in the District of Columbia. The bills which received the strong support of the ACLU, would provide counsel for defendants appearing in the U.S. District Court, Municipal Court, the Juvenile Court and before the Mental Health Commission. The Pittsburgh Chapter of the ACLU of Pennsylvania intends to petition the U.S. Supreme Court for a writ of habeas corpus on behalf of John Simon.
who was given a 20-40 year prison term 18 years after conviction for criminal assault and robbery. Simon, contends the affiliate, was deprived of his legal rights by being forced to sign several confessions, although he could neither read nor write, and was not represented by counsel, even though his IQ is between 55 and 61. The California Supreme Court agreed to review a six-month jail sentence received by Lucy Turrieta, an unwed mother who was jailed for breaking a probation order to "cease having illicit sexual relations." When the case first arose, the ACLU of Northern California argued that the order violated rights and personal liberty and privacy guaranteed by the First, Fourth, Fifth and Ninth Amendments and the due process clause of the Fourteenth Amendment. The affiliate's further contention that Miss Turrieta was not advised of her right to counsel in another charge involving alleged fraud in receiving welfare payments was the issue before the state high court.

APALACHIN. The roundup and subsequent trial of 20 participants in a so-called gangland convention held in a private home near Apalachin, N.Y. in 1957 raised serious civil liberties issues, in the opinion of the ACLU and its New York affiliate. Both groups filed a brief with a U.S. Court of Appeals which contended that the convictions were based on evidence seized by police who threw up a road block near the home of convention host Joseph Barbara. Police violated rights of privacy merely for the purpose of an investigation, said the brief, thus invading protections against search and seizure written into the Fourth Amendment. The Federal District Court had ruled that the roadblocks were a proper exercise of the state's power to act when there are reasonable grounds for believing a crime has been committed. The ACLU answered that the stopping of the cars was coercive and did not meet the Fourth Amendment's requirement that probable cause to believe a crime has been committed exists before an arrest without a warrant can be made. Earlier, the ACLU and NYCLU questioned the validity of the government's use of a conspiracy charge in bringing the men to trial. The groups said the indictment really was aimed at alleged false swearing before a federal grand jury and should not have been returned as an alleged conspiracy just because prosecutors did not believe the witnesses' testimony. By this device, they declared, the government circumvented special protections provided in perjury cases. The statement noted the growing use of federal conspiracy indictments and warned that states might use this "legally loose" weapon to curb unpopular minorities, as some Southern states have done in the case of the NAACP.

GRAND JURY TESTIMONY. The New York Civil Liberties Union was active in a number of incidents involving the rights of grand juries and individuals who testify before them. The affiliate sponsored a bill in the legislature, which grew out of the disclosures of TV quiz rigging, which would have barred grand juries from making public presentments which criticize persons or policies but which do not charge the commission of a crime (except in cases
involving public officials). The bill also would apply to another grand jury investigation into Puerto Rican migration and public welfare policies, which the NYCLU sought to block through a taxpayer's suit.

**RIGHTS OF JUVENILES.** The Washington, D.C. representative of the ACLU urged several reforms in the district's procedures in juvenile law enforcement. Among the recommendations were that no confessions should be taken unless a child's parent or other adult representative is present and that every child or his parent should have the right to a jury trial. In general, said the Union, most juvenile legal procedures are so vague that they would be declared unconstitutional in an adult court. The Metropolitan Detroit Branch of the ACLU joined with a church organization in protesting the frequent practice of a circuit judge of sending juveniles to 45 days in solitary confinement on a diet of bread, water and vitamin pills. The affiliate said the punishment was cruel and unusual, in violation of the Eighth Amendment. The Arizona Civil Liberties Union scored a victory on behalf of a youth who was found guilty as a juvenile for petty theft but who subsequently was convicted again when he turned 18 and became subject to the jurisdiction of the Tucson City Court. The affiliate successfully won a dismissal of the second arrest on double jeopardy grounds.

**DRIVERS AND THE LAW.** The ACLU said that chemical tests for persons charged with drunken driving were "a reasonable exercise of the state's police power to impose conditions to guarantee safety on the public highways." The Union added, however, that a proposed "model law" should include the specific provision that a person be precisely informed that a refusal to take a chemical test will result in revocation of his license. The New York Civil Liberties Union is appealing to the state courts, the denial of a license to a man on the basis of a past criminal record. The state's discretion to refuse a driving license on grounds of political "fitness" was struck down in another state court ruling, which said that the Commissioner of Motor Vehicles had no authority to refuse a license to former Communist Party official Ben Davis, whose conviction under the Smith Act was the basis of the Commissioner's action. The Attorney General of Washington state has held that highway police cannot interfere with the right to travel by establishing spot-checks in order to check drivers' licenses. Union affiliates in Washington state and Northern California insisted that persons convicted of traffic offenses have a right to a jury trial. The Iowa Civil Liberties Union is appealing a new regulation which results in the immediate suspension of a driver's license upon an arrest for drunken driving and before the case is tried. The Greater Philadelphia Branch of the ACLU scored a major victory when the state Attorney General, in response to the affiliate's question, said that the police practice of establishing random roadblocks violates guarantees from unreasonable searches and seizures. (See last year's Annual Report, p. 94.)

**NEWS MEDIA AND THE COURTS.** U.S. Supreme Court Justice
William O. Douglas condemned the photographing or televising of trials as a “vulgarizing process” which undermines the fair administration of justice. Television, he said, increases the anxiety of a witness who knows that millions are watching him while still photographs may “inflame” public sentiment. A public trial, said Justice Douglas, upholding a long-held position of the ACLU, “is for the benefit of the accused, not the press.” A judicial committee of the Ohio Supreme Court found that the taping of traffic court proceedings for broadcast later from another location does not violate Canon 35 of the American Bar Association. Canon 35 bars live microphones and cameras from courtrooms. A Cleveland court supported the right of a prisoner to the press if he wants to, reversing a local prosecutor who denied a defendant the right to be interviewed in order to thwart pre-trial publicity. The Georgia Court of Appeals cleared both Atlanta newspapers of contempt on a technicality, but urged the legislature to prevent “trial by newspaper” in the publication of criminal records and other information before a verdict is reached.

INTERNATIONAL CIVIL LIBERTIES

Despite repeated assertions of the United States’ support of the “rule of law” in the world, no progress whatever has been made toward American participation in those judicial processes by which law is maintained. An effort was made in the Senate to get rid of the crippling amendment to United States adherence to the International Court of Justice by which the U.S. itself determines what cases allegedly affecting domestic jurisdiction the Court can hear—the first step toward the practical application of law between nations.

The proposal aroused a fury of opposition from isolationist groups, among them the American Legion and the DAR which had backed the earlier Bricker Amendment to quarantine the United States against any international jurisdiction over American law by extending the powers of Congress derived from treaties. Not only was the bill to repeal the so-called Connally amendment bottled up in committee, but the Senate also cut out of the few international treaties that came before it any reference to the International Court. The Union, along with the Administration and the American Bar Association, supported repeal of the Connally amendment, but could not overcome the opposition. A distinguished national committee has been formed to campaign for the repeal of the amendment in the next Congress.
At the United Nations, the U.S. continued to oppose any international treaty for civil rights, reflecting the Administration's deference to the Senate opposition. The human rights covenants remained bogged down in detailed drafting with little likelihood of completion for some years and with doubtful prospects of ratification by any substantial number of nations when completed because of their wide coverage. No limited treaties for human rights were added to the few now in effect. The United Nations remains confined, as it has been for some years, to promoting human rights, not by law, but by studies, conferences and resolutions—all of considerable educational value in impressing the principles on governments and influential sections of public opinion.

The Union continued its efforts at the United Nations through its contacts with the United States Mission, the organization of U.S. national agencies on the United Nations, and the International League for the Rights of Man, with which it is affiliated in company with some thirty national organizations throughout the world. The prospects for progress by international law are slight in an era of cold war and intense nationalism.

**U.S. TERRITORIES**

**PUERTO RICO.** Although Puerto Rico is not a territory, but an autonomous Commonwealth associated with the United States by a legal compact, federal laws of a general character apply to it. A bill to define more precisely the relation of federal to Commonwealth law was given extensive hearings, but so much opposition developed that it was not acted upon. The question of Puerto Rico's status continues to be hotly debated in the island between the advocates of statehood, strengthened by the admission of Hawaii and Alaska, the independence movement, now weakened, and the Commonwealth forces in office. Some of the recommendations of the island's Civil Rights Commission, appointed by the governor, were adopted by the legislature. These included elimination of racial discrimination and the strengthening of municipal government, including a provision for minority party representation in city councils.

**VIRGIN ISLANDS.** Virgin Islanders have long sought both representation in Washington through a resident commissioner like Puerto Rico's, and an elective governor. The Secretary of the Interior for the first time approved a bill in Congress for a resident commissioner elected by the people. It was favorably reported but not passed. The Union supported it. The proposal for an elective governor was deferred; the desire for one has been somewhat appeased by the appointment of a native son as governor.

Since the Virgin Islands are the only area in American jurisdiction without town governments, the islands' committee dealing with all aspects of local government accepted and introduced a bill for that purpose prepared by attorneys for the Union and put into draft form by Judge Albert B. Maris of the U.S. Court of Appeals. The bill was introduced too late in the session for action in 1960.
GUAM. Like the Virgin Islands, Guam wants a resident commissioner in Washington and an elective governor. A bill for a resident commissioner, approved by the Secretary of the Interior, was favorably reported but not passed. The Union supported it.

Despite a considerable degree of self-government, the Navy, which has a major base in Guam, controls all travel under an old executive order, which attorneys think now invalid. A law review article demonstrating its lack of present authority was published by attorneys in Guam and was used by the Union in an effort in Washington to abolish the arbitrary controls. No results have yet been secured. The Navy defends the practice on grounds of security, but avoids every challenge in the courts by issuing permits to the travelers who sue.

SAMOA. American Samoa, unlike the larger Western Samoa, a trust territory which becomes independent in 1961, evidently desires to remain under American control. But it also desires more self-government and the Department of the Interior moved to grant it. A constitution was drafted—the first Samoa has had—and went into effect in April. Although professing the principle of self-government, it leaves in the hands of the Secretary of the Interior a veto power over legislation and court decisions, and retains his power to appoint and remove the governor. The Union criticized the document as inadequate for the purpose of advancing the rights and liberties of the Samoan people, and was assured that experience with these restricted rights would determine what liberalizing changes might be made. Samoans are not American citizens; they are not governed by an act of Congress like other territories. The Secretary of the Interior has practically sole jurisdiction.

OKINAWA. The Ryuku islands, with a population of almost a million Japanese, are governed by an executive order placing almost unlimited power in the hands of a High Commissioner, the general in charge of this strategic U.S. military base.

Following Roger Baldwin's visit to Okinawa in 1959 at the invitation of the High Commissioner, a series of recommendations were made by the Union to the Defense Department and the High Commissioner dealing with greater self-government, civil rights and liberties, liberalization of travel with Japan and revision of the penal code. Both the Defense Department and General Booth, the High Commissioner, have received the Union's suggestions cordially, with expressions of a desire to accord the greatest possible liberties consistent with security.

Some reforms have been made; more are evidently under consideration. The Okinawans, however, are far less interested in reforms or their liberties under a military occupation than in regaining Japanese authority and unity with their own people. However, impractical in view of the international situation, the demand for reversion is ceaseless and universal. The Union has urged closer Japanese-American cooperation in dealing with the Ryukus, and some advances have been made—far too little to affect the passion for return to the motherland or the fears of modern weapons on their little islands.
ACLU AFFILIATES

Arizona: ARIZONA CIVIL LIBERTIES UNION—5849 East Baker Street, Tucson. Cornelius Steelink, Chairman (and Chairman, Southern Area, Tucson). Mrs. Alice Grailcourt, Vice-Chairman (and Chairman, Northern Area, Phoenix), 1114 East Orchid Lane, Phoenix.

California: ACLU OF NORTHERN CALIFORNIA*—503 Market Street, San Francisco 5. Rabbi Alvin I. Fine, Chairman. Ernest Besig, Executive Director, Chapters in Marin County, Mid Peninsula and University of California.


Connecticut: CONNECTICUT CIVIL LIBERTIES UNION†—Jerome E. Caplan, Chairman. Mrs. Norman Cohen, Secretary, 105 Kohary Drive, New Haven 15. Chapters in Fairfield County, Hartford and New Haven.


Illinois: ILLINOIS DIVISION, ACLU*—19 South LaSalle Street, Chicago 3. Tyler Thompson, Chairman. John L. McKnight, Executive Director.


Iowa: IOWA CIVIL LIBERTIES UNION—Kenneth Everhart, Chairman, 3111 S.E. Sixth, Des Moines. Henry Damiano, Secretary.

Kentucky: KENTUCKY CIVIL LIBERTIES UNION—Dr. J. E. Reeves, Chairman. Arthur S. Kling, Secretary, 1917 Maplewood Place, Louisville 5.

Louisiana: LOUISIANA CIVIL LIBERTIES UNION—George A. Dreyfous, President. Wade M. Mackie, Secretary, 1608 Government Street, Baton Rouge.

Maryland: MARYLAND BRANCH, ACLU†—Dr. H. Bentley Glass, President. Jack L. Levin, Chairman, Executive Board. Mrs. Fred E. Weisgal, Secretary, 5740 Cross Country Boulevard, Baltimore 9.


* Indicates a full-time office is maintained.
† Part-time office maintained.


Minnesota: MINNESOTA BRANCH, ACLU†—Midland Bank Building, Minneapolis 1. Robert G. Zumwinkle, President. Marshman Wattson, Executive Secretary.

Missouri: ST. LOUIS CIVIL LIBERTIES COMMITTEE—Harold Norman, President. Mrs. Carolyn Losos, Secretary, 818 South Brentwood Boulevard, Clayton 5.

New Jersey: ACLU OF NEW JERSEY—Emil Oxfeld, President. Robert Marks, Secretary, 140 Thomas Street, Newark.


NIAGARA FRONTIER (BUFFALO) BRANCH, ACLU—Robert North, Jr., Chairman, 16 St. James Place, Buffalo 22.


Oregon: ACLU OF OREGON—P.O. Box 774, Portland 7. Charles Davis, Chairman. George D. Leonard, Secretary.

Pennsylvania: ACLU OF PENNSYLVANIA*—260 South 15 Street, Philadelphia 2. Alexander H. Frey, President. Spencer Coxe, Executive Director. Chapters in Pittsburgh† (2602 Grant Bldg.), Harrisburg, Lancaster County, and York County.

GREATER PHILADELPHIA BRANCH, ACLU*—260 South 15 Street, Philadelphia 2. Henry W. Sawyer, III, President. Spencer Coxe, Executive Director. Chapter in Delaware County.

Rhode Island: RHODE ISLAND AFFILIATE, ACLU—Milton Stanzler, Chairman, 626 Industrial Bank Bldg., Providence.

Utah: ACLU OF UTAH—Adam M. Duncan, Chairman. Mrs. Pat Coontz, Executive Secretary, 2974 Morningside Drive, Salt Lake City.

Washington: ACLU OF WASHINGTON†—Prof. Arval A. Morris, Chairman. David J. Smith, Executive Secretary, 119 8th Avenue, Seattle 4.

Wisconsin: WISCONSIN CIVIL LIBERTIES UNION—408 West Gorham Street, Madison 3. Morris H. Rubin, Chairman. Mrs. Esther Kaplan, Executive Secretary.

* Indicates a full-time office is maintained.
† Part-time office maintained.
STATE CORRESPONDENTS

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

Alaska—James E. Fisher, 534 Second Avenue, Anchorage
Arkansas—Mrs. Ruth Arnold, Box 41, Little Rock
Delaware—William Prickett, 1310 King Street, Box 1329, Wilmington 99
Georgia—Morgan C. Stanford, 1431 Candler Building, Atlanta 3
Hawaii—Miss Mildred Towle, 431 Namahana Street, Honolulu
Idaho—Alvin Denman, Idaho Falls
Kansas—Raymond Briman, Columbian Building, Topeka
Maine—Prof. Warren B. Catlin, Bowdoin College, Brunswick
Mississippi—Jo Drake Arrington, 410-412 Hewes Building, Gulfport
Montana—Leo C. Graybill, 609 Third Avenue North, Great Falls
Nebraska—Prof. Frederick K. Beutel, University of Nebraska, Lincoln
New Hampshire—Winthrop Wadleigh, 45 Market Street, Manchester
New Mexico—Edward G. Parham, 124 Richmond Drive, S.E., Albuquerque
North Carolina—James Mattocks, Professional Building, High Point
North Dakota—Harold W. Bangert, 400 American Life Building, Fargo
Oklahoma—Rev. Frank O. Holmes, First Unitarian Church, Oklahoma City
South Carolina—John Bolt Culbertson, P.O. Box 1325, Greenville
South Dakota—Benjamin Margulies, 418 Syndicate Building, Sioux Falls
Tennessee—Leroy J. Ellis III, Commerce Union Bank Building, Nashville
Texas—Prof. Clarence E. Ayres, University of Texas, Austin 12
Vermont—Phillip H. Hoff, 178 Main Street, Burlington
Virginia—David H. Scull, Annandale
West Virginia—Horace S. Meldahl, P.O. Box 1, Charleston
Wyoming—Rev. John P. McConnell, 408 South 11th Street, Laramie

Puerto Rico—Prof. Santos Amadeo, University of Puerto Rico, Rio Piedras
Virgin Islands—George H. T. Dudley, Box 117, Charlotte Amalie, St. Thomas
MEMBERSHIP AND FINANCES

Fiscal Year February 1, 1959, through January 31, 1960

On February 1, 1959, the national ACLU and its 24 integrated affiliates had an enrollment of 41,700. By January 31, 1960, by which time there were 27 integrated affiliates, this figure had grown to 45,935, a net increase of 10%. About 7,300 new members were signed up during that period, but more than 3,000 were dropped for failure to renew their memberships. The ACLU of Northern California, which maintains separate membership and finances, had 4,000 members, some of whom also belonged to the national ACLU. Allowing for this overlap, the Union had a total membership of approximately 49,000 at the close of the fiscal year on January 31, 1960.

During the course of the year, membership dues and contributions totaled $478,600. Income of $8,100 from other sources brought the total to $486,700, an increase of 22% over the previous year. Expenditures were $19,000 less than income.

Bequests from the estates of former members totaling $44,300 added to the Union's reserve. Net worth rose from $66,300 at the beginning of the fiscal year to $139,204 at the end.

The average member contributed $10.58 during the year. About 15% gave less than $5, 50% between $5 and $9.99, 30% between $10 and $24, 3% between $25 and $49, 1% between $50 and $99, and 1% $100 or more. Those contributing more than $200 during the 1959-60 fiscal year were:

Rowland Allen, Indiana; William Prescott Allen, Texas; Mr. and Mrs. John P. Axtell, New York; Mrs. Helen D. Marston Beardsley, California; John Becker, Italy; Laird Bell, Illinois; William Benton, New York; Mr. and Mrs. Edgar Bernhard, Illinois; Daniel J. Bernstein, New York; Alfred H. Bills, Ohio; Dr. Nelson M. Blachman, New York; Mrs. Sylvia Braverman, California; Miss Julia C. Bryant, Connecticut; Mrs. Esther Smith Byrne, California; Mr. and Mrs. Roger S. Clapp, Massachusetts; Hon. Joseph Sill Clark, Jr., District of Columbia; Miss Fanny Travis Cochran, Pennsylvania; Edward T. Cone, New Jersey; Professor and Mrs. Albert Sprague Coolidge, Massachusetts; Rev. Stephen T. Crary, Rhode Island; Miss Connie Y. Cuadrez, California; Mr. and Mrs. A. Delacorte, New York; Mrs. Margaret DeSilver, New York; Robert T. Drake, Illinois; Edward J. Ennis, New York; W. R. Everett, Minnesota; Henry G. Ferguson, District of Columbia; Walter D. Fisher, Kansas; Walter T. Fisher, Illinois; Mrs. Stanton A. Friedberg, Illinois; Harvey Furgatch, California; Mr. and Mrs. J. W. Gitt, Pennsylvania; William Goffen, New York; Herbert G. Graetz, Massachusetts; Mr. and Mrs. Philip H. Gray, California; William Roger Greeley, Massachusetts; Richard Grumbacher, Maryland; Mr. and Mrs. Wilbur G. Hallauer, Washington; Mrs. Donald M. Harris, New York; Mr. and Mrs. Gilbert Harrison, District of Columbia; Hatfield Electric Co., Indiana; Henry Hirschberg, New York; Davis R. Hobbs, Pennsylvania; B. W. Huebsch, New York; International Ladies Garment Workers' Union, New York; Mrs. Sophia Yarnall Jacobs, New York; J. M. Kaplan, New York; Mr. and Mrs. Albert Kaufman, New Jersey; Dr. and Mrs. W. S. Kiskadden, California; Mrs. William Korn (for the Mayer Family), New York; Dr. Austin Lamont, Pennsylvania; Robert Maxwell Lauer,
Delaware; Carter Lee, District of Columbia; Hon. Herbert H. Lehman, New York; Alan Jay Lerner, New York; Mrs. V. G. List, Connecticut; Mrs. Sanford Lowengart, California; E. B. MacNaughton, Oregon; Mr. and Mrs. Patrick Murphy Malin, New York; Arnold H. Maremont, Illinois; H. Zacharias Marks, Florida; Merle H. Miller, Indiana; William W. Mullins, Pennsylvania; Richard Ottinger, New York; Mrs. Joan B. Overton, New York; Mrs. Gertrude Pascal, New York; Dr. Linus Pauling, Jr., Hawaii; Dr. and Mrs. Robert B. Pettingill, Florida; Frank C. Pierson, Pennsylvania; Dr. Dallas Pratt, New York; George D. Pratt, Jr., Connecticut; Mrs. Jane A. Pratt, Connecticut; Robert O. Preyer, Massachusetts; H. Oliver Rea, New York; Mr. and Mrs. Chester Rick, New York; Thatcher Robinson, Illinois; Miss Charlotte Rosenbaum, Illinois; Walter S. Rosenberry III, Colorado; Mrs. Alan Rosenthal, District of Columbia; Sidney M. Roth, Illinois; Mrs. Alice F. Schott, California; Mrs. Stephen Schott, Oregon; R. H. Scott, California; Mrs. Herbert Sieck, Illinois; Mrs. Eleanor Lloyd Smith, California; Lloyd Melvin Smith, California; Dr. and Mrs. John Spiegel, Massachusetts; Mr. and Mrs. Arthur I. Stephens, Illinois; J. David Stern, New York; Ann R. Stokes, Pennsylvania; Mr. and Mrs. James Struthers, New Mexico; Tim Taylor, Virginia; Mr. and Mrs. Lee Thomas, Kentucky; Willis Thornton, Ohio; Miss Anne L. Thorp, Massachusetts; John B. Turner, New York; Mr. and Mrs. Frank Untermoyer, Illinois; George Wallerstein, California; Mrs. George West, California; Mariquita West, California; Duane E. Wilder, Pennsylvania; Edward Bennett Williams, District of Columbia; Miss Mary C. Wing, New York.

Three anonymous contributions of $1,000, of $250 and of $200 were received.

In addition to its regular fiscal operations, the Union continued to supervise the Roger N. Baldwin-ACLU Escrow Account, administered by the Fiduciary Trust Company. During 1959-60 the Account's book-value Net Worth remained almost stationary at $35,500, but the market value of its securities declined from approximately $66,600 to $58,000.

### 1959-60 MEMBERSHIP ENROLLMENT

<table>
<thead>
<tr>
<th>Description</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>NUMBER OF MEMBERS FEBRUARY 1, 1959</td>
<td>41,700</td>
</tr>
<tr>
<td>New members enrolled during fiscal year</td>
<td>7,312</td>
</tr>
<tr>
<td>Dropped: deceased, resigned, delinquent, etc.</td>
<td>3,077</td>
</tr>
<tr>
<td>Net increase during fiscal year</td>
<td>4,235</td>
</tr>
<tr>
<td>NUMBER OF MEMBERS JANUARY 31, 1960</td>
<td>45,935</td>
</tr>
</tbody>
</table>
1959-60 FINANCIAL REPORT

INCOME

<table>
<thead>
<tr>
<th>Description</th>
<th>Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>New members' initial dues payment</td>
<td>7,312</td>
<td>$53,578.71</td>
</tr>
<tr>
<td>Membership renewals</td>
<td>32,149</td>
<td>350,420.95</td>
</tr>
<tr>
<td>Special Funds contributions</td>
<td>7,730</td>
<td>74,599.33</td>
</tr>
<tr>
<td><strong>TOTAL MEMBERSHIP INCOME</strong></td>
<td>47,191</td>
<td>$478,598.99</td>
</tr>
<tr>
<td>Executive Director's honorariums</td>
<td></td>
<td>1,420.64</td>
</tr>
<tr>
<td>Sale of pamphlets</td>
<td></td>
<td>849.31</td>
</tr>
<tr>
<td>From ACLU-Roger N. Baldwin Escrow Account</td>
<td></td>
<td>3,600.00</td>
</tr>
<tr>
<td><strong>TOTAL REGULAR INCOME</strong></td>
<td></td>
<td>$484,468.94</td>
</tr>
<tr>
<td>Extraordinary contributions earmarked for national office</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL CURRENT INCOME</strong></td>
<td></td>
<td>$486,694.44</td>
</tr>
<tr>
<td>Bequests from the estates of former members and friends:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adelaide Farrar</td>
<td></td>
<td>$19,057.33</td>
</tr>
<tr>
<td>Margaret G. Phoutrides</td>
<td></td>
<td>10,000.00</td>
</tr>
<tr>
<td>Ruth S. Tolman</td>
<td></td>
<td>9,000.00</td>
</tr>
<tr>
<td>Ruth F. Weinberg</td>
<td></td>
<td>2,500.00</td>
</tr>
<tr>
<td>Walter Verity</td>
<td></td>
<td>2,267.77</td>
</tr>
<tr>
<td>H. C. Turner</td>
<td></td>
<td>900.00</td>
</tr>
<tr>
<td>Arthur M. Hyde</td>
<td></td>
<td>500.00</td>
</tr>
<tr>
<td>William Norton</td>
<td></td>
<td>118.73</td>
</tr>
<tr>
<td><strong>TOTAL ALL INCOME</strong></td>
<td></td>
<td>$531,038.27</td>
</tr>
</tbody>
</table>

EXPENDITURES

Transfers to Integrated Affiliates from joint membership income, i.e., all contributions received from members in each affiliate's area, except those earmarked for specific national or local purpose.

<table>
<thead>
<tr>
<th>Affiliate's Net Worth 1/31/60</th>
<th>Affiliate's additional local income</th>
<th>Transferred from joint memb. income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southern California</td>
<td>$13,917.63</td>
<td>$13,979.94</td>
</tr>
<tr>
<td>N.Y.C.L.U.</td>
<td>20,200.00</td>
<td>7,500.00</td>
</tr>
<tr>
<td>Illinois Division</td>
<td>2,867.00</td>
<td>5,208.00</td>
</tr>
<tr>
<td>Penna. &amp; Phil. Brs.</td>
<td>2,522.00</td>
<td>1,415.00</td>
</tr>
<tr>
<td>C.L.U. of Massachusetts</td>
<td>4,921.54</td>
<td>50.00</td>
</tr>
<tr>
<td>Ohio C.L.U.</td>
<td>2,715.76</td>
<td>50.00</td>
</tr>
<tr>
<td>ACLU of Washington</td>
<td>897.56</td>
<td>681.99</td>
</tr>
<tr>
<td>Minnesota Branch</td>
<td>2,668.00</td>
<td>15.00</td>
</tr>
<tr>
<td>Indiana C.L.U.</td>
<td>(2,578.41)</td>
<td>202.15</td>
</tr>
<tr>
<td>Colorado Branch</td>
<td>75.46</td>
<td>770.19</td>
</tr>
<tr>
<td>Florida C.L.U.</td>
<td>2,422.61</td>
<td>958.00</td>
</tr>
<tr>
<td>Maryland Branch</td>
<td>252.03</td>
<td>none</td>
</tr>
<tr>
<td>Connecticut C.L.U.</td>
<td>2,014.66</td>
<td>718.50</td>
</tr>
<tr>
<td>Detroit Branch</td>
<td>880.00</td>
<td>587.50</td>
</tr>
<tr>
<td>St. Louis Committee</td>
<td>1,600.00</td>
<td>none</td>
</tr>
<tr>
<td>Kentucky C.L.U.</td>
<td>(417.00)</td>
<td>500.00</td>
</tr>
<tr>
<td>Wisconsin C.L.U.</td>
<td>2,100.00</td>
<td>none</td>
</tr>
<tr>
<td>ACLU of Oregon</td>
<td>1,141.86</td>
<td>2,242.50</td>
</tr>
<tr>
<td>Louisiana C.L.U.</td>
<td>910.37</td>
<td>none</td>
</tr>
<tr>
<td>Iowa C.L.U.</td>
<td>404.42</td>
<td>50.00</td>
</tr>
<tr>
<td>Arizona C.L.U.</td>
<td>152.21</td>
<td>574.89</td>
</tr>
<tr>
<td>Niagara Br. (Buffalo)</td>
<td>297.28</td>
<td>none</td>
</tr>
<tr>
<td>Rhode Island C.L.U.</td>
<td>147.82</td>
<td>none</td>
</tr>
<tr>
<td>C.L.U. of Utah</td>
<td>154.50</td>
<td>none</td>
</tr>
<tr>
<td>Lansing C.L.U.</td>
<td>324.13</td>
<td>none</td>
</tr>
</tbody>
</table>

* $1,500 went to Illinois Division.
**EXPENDITURES (continued)**

**MEMBERSHIP OPERATIONS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>$44,027.50</td>
</tr>
<tr>
<td>New promotion</td>
<td>$19,069.22</td>
</tr>
<tr>
<td>Annual renewal</td>
<td>$8,645.63</td>
</tr>
<tr>
<td>Semi-annual special appeals</td>
<td>$4,708.42</td>
</tr>
</tbody>
</table>

**FUNCTIONAL OPERATIONS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>$76,450.77</td>
</tr>
<tr>
<td>Legal work—cases, incl. A. G. Hays Memorial</td>
<td>$68,035.33</td>
</tr>
<tr>
<td>(See Litigation on opposite column)</td>
<td></td>
</tr>
<tr>
<td>Educational expenses</td>
<td>$24,478.22</td>
</tr>
<tr>
<td>(See Education on opposite column)</td>
<td></td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>$10,592.77</td>
</tr>
<tr>
<td>(See Functional Miscellaneous on page 80)</td>
<td></td>
</tr>
</tbody>
</table>

**EXECUTIVE OPERATIONS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>$38,103.55</td>
</tr>
<tr>
<td>Administrative</td>
<td>$1,073.71</td>
</tr>
<tr>
<td>Board of Directors and general committees</td>
<td>$759.28</td>
</tr>
<tr>
<td>Miscellaneous corporate and affiliate services</td>
<td>$2,248.70</td>
</tr>
</tbody>
</table>

| Total                                                | $111,720.28|

**JOINT MEMBERSHIP, FUNCTIONAL AND EXECUTIVE EXPENSES**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>(See Joint Expenses on page 80)</td>
<td></td>
</tr>
</tbody>
</table>

| OPERATING SURPLUS                                    | $18,958.36 |

| Total                                                | $486,694.44|

**LITIGATION***

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wilkinson Un-American Activities Committee test case</td>
<td>$1,256.67</td>
</tr>
</tbody>
</table>

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

**ARTHUR GARFIELD HAYS MEMORIAL FUND**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contribution</td>
<td>$6,935.19</td>
</tr>
<tr>
<td>Expenses incurred—fund-raising, etc.</td>
<td>$678.77</td>
</tr>
</tbody>
</table>

| Total                                                | $8,613.96  |

**EDUCATIONAL EXPENSES**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Liberties, printing costs</td>
<td>$11,104.75</td>
</tr>
<tr>
<td>Annual Report, printing costs</td>
<td>6,302.29</td>
</tr>
<tr>
<td>Feature Press Service</td>
<td>1,593.51</td>
</tr>
<tr>
<td>Pamphlets, reprints, literature purchased</td>
<td>1,133.49</td>
</tr>
<tr>
<td>Roper Research on ACLU questionnaire</td>
<td>1,058.49</td>
</tr>
<tr>
<td>National Civil Liberties Clearing House</td>
<td>1,000.00</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>2,285.69</td>
</tr>
</tbody>
</table>

| Total                                                | $24,478.22 |
FUNCTIONAL MISCELLANEOUS EXPENSES

Domestic Committees ........................................... $2,064.09
International Committee ..................................... 298.64
Travel, hospitality, meetings, contributions .......... 2,642.74
Postage, telephone, telegraph ............................. 1,662.69
Printing, stationery, supplies; lettershop mailing .... 963.55
Files, archives, library, clipping service ............... 877.19
Miscellaneous .................................................. 2,083.87

$10,592.77

JOINT MEMBERSHIP, FUNCTIONAL
AND EXECUTIVE EXPENSES

Rent and cleaning .............................................. $9,493.50
Postage ............................................................ 5,954.39
Telephone .......................................................... 3,166.66
Supplies ............................................................. 2,667.02
Stationery and printing ....................................... 1,234.71
Payroll taxes ..................................................... 3,985.59
Insurance ........................................................... 1,395.69
Audit ................................................................. 2,000.00
Equipment and repairs ....................................... 561.59
Library and archives ......................................... 533.77
Bank charges ...................................................... 692.61
Travel and hospitality ....................................... 506.09
Meetings ............................................................ 154.34
Telegraph ........................................................... 83.05
Lettershop and mailing ..................................... 15.30
Miscellaneous .................................................... 299.37

$32,743.68

BALANCE SHEET
as of January 31, 1960

ASSETS

Cash ................................................................ $97,106.13
Accounts receivable:
   Airline deposit ................................................. 425.00
   Bail deposit—Wilkinson case .............................. 1,000.00
   From affiliates .................................................. 8,219.81
   Pledge ................................................................ 1,000.00

Loans receivable:
   Illinois Division ............................................... 250.00
   Indiana Civil Liberties Union ............................. 826.23
   Ohio Civil Liberties Union ................................ 550.00
   Greater Philadelphia Branch ............................. 423.00

Prepaid expenses due in 1960-61 fiscal year:
   Fortieth Anniversary expenses ......................... 1,000.00
   Special Funds Appeal ....................................... 9,500.00
   Advance on 39th Annual Report and
   40th Anniversary edition of Civil Liberties .......... 11,000.00

Investments (book value) ..................................... 11,075.00

TOTAL ASSETS ............................................. $142,375.17

LIABILITIES

Payroll taxes payable ........................................ $2,442.98
Staff saving bond purchases ............................... 125.35
R. N. Baldwin drawing account .......................... 2.60
R. N. Baldwin salary account ............................. 600.00

TOTAL LIABILITIES ........................................ $3,170.93
NET WORTH, January 31, 1959 .................................. $66,327.05

NET WORTH
Bequest reserve ........................................... $83,848.89
Endowment reserve ...................................... 11,075.00
Working capital ......................................... 44,280.35

TOTAL NET WORTH ........................................ $139,204.24
TOTAL, LIABILITIES AND NET WORTH ............. $142,375.17

Roger N. Baldwin-ACLU Escrow Account

NET WORTH, February 1, 1959 ......................... $35,581.13
Income from investments ................................ 2,802.45
Paid to ACLU for Mr. Baldwin’s part-time services ... 3,600.00
Custodian fee ............................................ 150.00

EXCESS, expenditures over income .................. $947.55

NET WORTH, book value,* January 31, 1960 ........ $34,633.58


Certificate

In our opinion, the attached financial statements present fairly the financial position of American Civil Liberties Union, Inc., and the R. N. Baldwin Escrow Account at January 31, 1960, and the results of their respective operations for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

APPEL AND ENGLANDER
Certified Public Accountants

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

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

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Annual Report, 1959-60
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BEQUESTS TO THE ACLU

Between February 1, 1950 and January 31, 1960, the national American Civil Liberties Union has received by bequest a total of $152,000 from the estates of forty-two persons. (Some affiliates have also received bequests.) The legacies have ranged from $20 to $34,000.

The Union regards such gifts with special pride and special obligation, because they represent the legators' final dedication to the preservation of civil liberties in our democracy.

Anyone desiring to make such provision in his or her will may wish to use this language: "I give $.................. to the American Civil Liberties Union, Inc., a New York Corporation." If the testator is in an area where there is an ACLU affiliate, and wishes the affiliate to share directly in the bequest, there should be added to the foregoing, "of which $.................. shall be applied to the use of its .................... affiliate."

Price of this pamphlet: 75¢ postpaid.
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