“Testing Whether That Nation”

41st ANNUAL REPORT
July 1, 1960
To June 30, 1961

DEFENSE OF THE BILL OF RIGHTS

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"Testing Whether That Nation"

by Patrick Murphy Malin

"This conjunction of an immense military establishment and a large arms industry is new in the American experience. The total influence—economic, political, even spiritual—is felt in every city, every state house, every office of the federal government.

"We recognize the imperative need for this development. Yet we must not fail to comprehend its grave implications. Our toil, resources and livelihood are all involved; so is the very structure of our society.

"In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.

"We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together." (ex-President Eisenhower's farewell address, January 17, 1961)

"Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it." (Judge Learned Hand, January 27, 1872-August 18, 1961)

"Four score and seven years ago our fathers brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal. Now we are engaged in a great civil war, testing whether that nation, or any nation, so conceived and so dedicated, can long endure." (Lincoln would forgive the emphasis.)

That new nation was not immaculately conceived in liberty, or really dedicated to the proposition that all women and Negroes were created equal with men and whites! But, at its bringing forth, it was indeed closer to the ideal than any other nation brought forth before or since.

Good luck played a large part. Except for the Indians, the American continents were "undeveloped" until the Renaissance, the Reformation and the English Revolution had come to Europe. And the Declaration of Independence significantly came the same year as the publication of Adam Smith's "Inquiry into the Nature and Causes of the Wealth of Nations"—near the beginning of the Industrial Revolution. Space, newness, freedom, power.

But good management—and much else—played a large part, too. "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That
to secure these rights, governments are instituted among men, deriving their just powers \textit{from the consent of the governed} . . . And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor." (Jefferson might well have emphasized those very words.)

Now we are engaged in a great global struggle, again testing whether that nation—whose government was instituted to secure those rights and founded on the consent of the governed—can long endure. And, whatever else is uncertain, this is sure: it will not endure unless we in our generation once more mutually pledge to each other our lives, our fortunes, and our sacred honor.

Last Wednesday (except for a few corrections, this introduction was written on Labor Day), Premier Khrushchev announced that the Soviet Union would resume nuclear-weapon tests, and has already carried out several. The resumption, he has told visiting left-wing British parliamentarians, is meant to "shock" the western powers into "negotiations" on Berlin. There and elsewhere, he evidently plans to get as much as possible of what Russia wants by trading on the fears of all those people everywhere who can be pressured into accepting the Soviet position. But President Kennedy has now announced the resumption of American (non-fallout) tests. Dictators always underestimate those who—for various reasons and by various methods of resistance—would risk death rather than submission.

It is a sign of the times that the chief immediate political fallout has hit the Belgrade conference of the "nonaligned" countries. Whatever or wherever they are, none of them can wholly avoid the dangers of nuclear war—or even of less horrible kinds of conflict—between the two far-flung camps of "aligned" countries. In this year when men have begun to orbit the earth, there is "no hiding-place down here."

There never has been any \textit{moral} hiding-place for the man of "sense and sensibility" (if one may, at this late date, make more of Jane Austen's title than she intended). There has never been, for such a man, the need to "send to know for whom the bell tolls" (if one may, in dateless wisdom, dare to say once more exactly what John Donne and Ernest Hemingway—angels and ministers of grace defend both of them!—intended). The bell tolls now, most of all and more than ever before, for every American citizen, as a special guardian of civil liberties—for himself and all his fellow citizens in this free land where their lot is cast, and for all people everywhere else in lands of less good luck or less good management.

Our nation—that "new nation" of 1776, which in its worst-and-best moment of 1861-65 demanded "the last full measure of devotion" from 600,000 of its excellent young men—is now the leader of one of the world's two struggling coalitions. As such, it is creating what ex-President Eisenhower has authoritatively called "this conjunction of an immense military establishment and a large arms industry . . . new in the American experience." What will this do, in his words, to "the very structure of our society"? Can we, while working for the victory
of our coalition, also live so as to insure that it is in truth a victory for a nation—and a world—of liberty and justice and equality?

The growing pressure of "the garrison state" will be so omnipresent and so relentless that it will require, in the defense of civil liberties, much more sophistication and stamina than ever before. This is something which threatens far more people far more directly and far more deeply than the violation of the free speech of those who opposed the entry of the United States into World War I, or of those who sought to organize labor unions in the 1920's. It will be part of a purpose so high-minded, and in a world-wide contest with stakes so high and unimaginable destruction so near, that it will make the House Un-American Activities Committee and the Smith Act and the John Birch Society, by comparison, only childish tantrums.

Because what faces us is—plainly and simply, however necessary—the governmentalization and militarization (even where civilians are in command) of broad stretches of our life, from top to bottom. The citizen's control over elected and appointed officials (municipal and state, not just federal) will be cut back, the areas of private decision by individuals and groups of all sorts will be narrowed; business and labor, science and education, will be told what to do. By good luck or good management or both, we may be able to prevent the extremes of totalitarianism and tyranny; but, to do so, we can rely less than ever on good luck and must more than ever exercise good management.

In the field of free speech, good management will require those who defend free speech to understand that there are far more vital matters than the precise legal definition of obscenity. For example: helping President Kennedy and Secretary of Defense McNamara and Senator Fulbright to keep the military establishment from officially promoting any view—any view at all—about medical care for the aged! Or: helping newspaper publishers and editors and reporters to give as many citizens as possible every last bit of information about governmental operations (the C.I.A. in Cuba and the school board in New York) which can be published without rushing officials into ill-considered decisions or imperiling national security interests (realistically defined).

Those who defend educational freedom will need to understand that in addition to the precise wording of a loyalty oath there are other vital matters. For example: helping to see that the inevitable large governmental investment in the direly-needed expansion of public and private facilities and teaching staffs is accomplished with the minimum of regimentation—and without the irreparable tear in the national fabric which (as this year has graphically shown) would be caused if coercion and maneuver and compromise lead to governmental support of religion, in this country which has done wonders for its national unity (as well as the freedom of the human mind and spirit) by avoiding governmental restriction on religion.

To defend due process will require active attention to problems other than upholding the guarantees of the Fifth Amendment. For example: helping law-enforcement agencies, as they combat for all of us the hideous problems of local violence and interstate gangsterism, to avoid violating the rights of innocent citizens—especially among the
poor, in a world where our nation needs to win the war for all men's minds. Or: helping the military services to improve the code of military justice to make it more nearly consonant with a large non-professional army of citizens, serving a country committed to justice. Or: helping to develop a code of practice for administrative agencies which will provide the farmer or businessman or labor leader, increasingly controlled by their regulations, with fair hearing and adequate review.

Rapid elimination of racial discrimination (still the worst disfigurement on the face which we see in the mirror, and show to the new nations of today) will require more than Freedom Rides. In the South, the outstanding present needs are for the Negro citizens to make the most of every opening there is for voting, and for the white businessmen in all cities to emulate their fellows in Dallas and Atlanta in bringing about school desegregation. In the North, the outstanding need is for state and municipal action against discrimination in employment and housing. South and North, the foes of discrimination—while saddened by continuing failure in federal legislation (except for the extension of the Civil Rights Commission's life) and gladdened by the increasing efforts of the Department of Justice and the President's Committee on Equal Employment opportunity (and the protocol office of the State Department)—must not neglect what can be done nearby, privately as well as governmentally.

Because, in every field, the testing of our nation will in the last analysis take place, as Judge Hand said, "in the hearts of men and women"—where liberty must live if a free nation of free people is long to endure.

This report was written by Mitchel Levitas, a New York newspaperman, and supervised and edited by Alan Reitman, our associate director. Within space limitations, the report reviews the significant civil liberties actions taken during the July 1, 1960 - June 30, 1961 period—not only by the Union but other organizations as well as individuals.

Legal citations are not provided, only because of lack of space, but all information about a particular case available to the Union will be supplied on request.

On leaving the ACLU staff after twelve years, I want to express my deepest gratitude to all who have made the Union what it is, and my deepest confidence in its future work. My wife and I will do all we can to apply its principles in our new job in the president's office and home at the American Colleges in Istanbul.
FREEDOM OF BELIEF, EXPRESSION AND ASSOCIATION

THE GENERAL CENSORSHIP SCENE

1. Books and Magazines

THE COURTS. The U.S. Supreme Court criticized the indiscriminate seizure of 280 newsstand publications by Kansas City police, warning that warrants for the confiscation of obscene material must contain sufficient safeguards to protect non-obscene publications. Although a local judge found 100 of the magazines and books to be obscene the high court noted that 180 other publications had been suppressed and withheld from the market for more than two months. The procedure, said the unanimous opinion, lacked due process safeguards "to assure non-obscene material the constitutional protection to which it is entitled." The opinion, which reversed a judgment against a wholesale newsdealer and five retail stand operators, also pointed out that the warrants had been issued by a single policeman, "without any scrutiny by a judge of any materials considered to be obscene."

The high court also heard argument on the constitutionality of an Ohio law that brands mere possession of obscene literature or photographs as a crime. In a friend-of-the-court brief filed by the ACLU and its Ohio affiliate, the statute was challenged as a violation of the privacy of the individual, guaranteed by the Fourth and Fourteenth Amendments. In addition, said the Union, to make a crime out of the mere possession of material is beyond the scope of legislation. Legislators may properly attempt to prevent overt, anti-social behavior, but "it has never been demonstrated that there is any relationship, direct or remote, between the possession of obscene literature and depravity or overt anti-social conduct . . . The right to read, if it is to have any meaning at all, must include the right to possess literature as well." During argument on the appeal, brought by Mrs. Dollree Mapp of Cleveland, the justices indicated they were skeptical of the law's broad scope. Justice Frankfurter referred to the fact that the law does not exempt university libraries, scholars or bibliophiles with a predilection like Mark Twain's "who was one of the biggest collectors" of such literature in his day.

Despite the major attention given the mere possession point, the high court reversed Mrs. Mapp's conviction on the grounds that the search by police officers, acting without a warrant, violated her right of privacy under the Fourth Amendment. The significance of the opinion, which ruled out the admissibility of illegally seized evidence in state criminal trials, is fully discussed on p. 65.

The U.S. Supreme Court refused to hear an appeal from a lower court decision which held unconstitutional Maryland's anti-obscenity law (See last year's Annual Report, p. 7). The U.S. Fifth Circuit Court of Appeals, in an order similar to the high court verdict in the Kansas City case, ordered police to return 5,000 magazines seized by police from a New Orleans distributor. The order also did not deal with the
constitutionality of the state law permitting the raids, but suggested that another statute might be enacted which would not restrict the public to reading innocuous publications.

U.S. POST OFFICE CENSORSHIP. The ACLU congratulated President Kennedy on ending 21 years of censorship of foreign political material by the Post Office and Customs Bureau, a practice long fought by the Union in the courts, in the governmental agencies and in Congress. This belated recognition of the freedom guaranteed by the First Amendment, said the Union in a letter to the President, "demonstrates faith not only in our constitutional guarantees but in the people themselves to shape their own political judgments without the aid of government censors." In the announcement ending the program, under which annually 15 million pieces of mail from Communist countries were confiscated, President Kennedy said it served no useful intelligence purpose. He said that the State, Justice, Treasury and Post Office Departments had unanimously urged elimination of the practice, along with the planning board of the National Security Council under the Eisenhower administration. On the morning that the ban was lifted Justice Department lawyers were scheduled to reply to a court challenge of the program brought by the Illinois Division of the ACLU on behalf of a Chicago bookstore and a Chicago sociologist (See last year's Annual Report, pp. 8-9). The ACLU of Southern California also had a suit pending testing the constitutionality of intercepting foreign mail.

A suit challenging the censorship authority of the Customs Bureau was mooted when the Justice Department lifted a 30-year ban on the importation of Henry Miller's classic, Tropic of Cancer. Previously, the Post Office Department had dropped a complaint against a publisher who openly defied the Department by publishing an edition of the novel in the United States. Post Office officials made their move on advice of Justice Department attorneys who said the complaint probably would not stand up in court in view of last year's court ruling clearing Lady Chatterley's Lover of obscenity charges. Tropic of Cancer's alleged pornography was also an issue before a Massachusetts Superior Court in a suit brought by the Attorney General on recommendation of the state's Obscene Literature Control Commission. At a public hearing before the Commission, the Civil Liberties Union of Massachusetts opposed the attempt to ban the book, noting that the First Amendment protects not only unorthodox and controversial ideas, but also opinions offensive to prevailing trends. Tropic of Cancer was under attack in numerous communities and was banned in 57 cities and two states.

The "capricious and unintelligent"—as well as the secret and extra-legal—standards employed by the Customs Bureau in seizing books was scored by the Union in a letter to Secretary of the Treasury Douglas C. Dillon. The criticism was prompted by the Bureau's confiscation for three months of three volumes brought to the United States by a returning American tourist. Two of the three books held without cause were available and printed in the U.S.: Laurence Durrell's The Black Book and three Samuel Beckett short stories. The ACLU told Dillon that despite the legal requirement that seized literature must
be taken before a Federal District Court for formal proceedings “the
Bureau of Customs presumes to seize a large number of books which
have never been adjudicated to be obscene and . . . has arrogated to
itself the authority . . . to declare in some mysterious fashion that
they are or are not obscene. The time for clarifying instruction has
now come,” declared the ACLU. Two ACLU affiliates also aided
persons whose imports were confiscated by Customs officials. The
ACLU of Washington advised a man whose copy of Naked Lunch was
seized in Seattle and the Greater Philadelphia Branch obtained the
release of five nude photographs ordered by a medical student.

ACTION IN THE STATES. The Indiana and Missouri Supreme
Courts ruled their state obscene literature laws unconstitutional for
the reason laid down by the U.S. Supreme Court in the Smith case
last year in voiding a Los Angeles ordinance: the statute did not
require that the seller know the contents of the material. The Indiana
legislature revised the statute to meet the U.S. Supreme Court’s
objection. The Missouri decision declared that “by dispensing with
any requirement of knowledge of the contents of the book, the
ordinance tends to impose a severe limitation on the public’s access
to constitutionality protected matter”—matter that is not obscene. The
Minnesota Supreme Court in effect validated the state law by inter-
preting it as requiring the knowledge requirement. Following the New
York state Court of Appeal’s adoption of the knowledge test, an
appellate court in New York further restricted application of the state
obscenity law by ruling that not only must the seller of offending
material know its contents, but he also must be proven to know it
was obscene. The same reasoning was followed in another case decided
by the New Jersey Supreme Court. The New York verdict, appealed
to the state Court of Appeals, followed still another decision by that
court holding that only “hard-core pornography” fell within the state’s
anti-obscenity law. There is a steadily diminishing use of criminal
prosecutions on obscenity charges as New York authorities now rely
almost exclusively on civil proceedings in stripping newsstands of
“girlie” magazines and other material. The U.S. Supreme Court
verdict invaliding the Los Angeles ordinance was also cited by the
Connecticut Civil Liberties Union in challenging the state anti-
obscenity law in the Connecticut Supreme Court of Errors.

A Rhode Island Superior Court judge ruled that the activities of
the State Commission to Encourage Morality in Youth were uncon-
stitutional, a view long urged by the Rhode Island affiliate of the
ACLU. The jurist—who did not rule on the constitutionality of legis-
lation establishing the Commission—found that by sending lists of
“objectionable” publications to distributors, warning them that Chiefs
of Police had similar lists, and underlining the warning by stating
that the Attorney General would act “in cases of noncompliance,”
the Commission had “clearly intimidated” the distributors in violation
of the state constitution’s protections of a free press and the 14th
Amendment’s guarantees against deprivation of life, liberty or property
without due process of law. The decision reversed the convictions of
four New York publishers of paper-bound books. Trying to circum-
vent the ruling, the state legislature approved a new law giving the Commission legal authority to send its notices and making such notices *prima facie* evidence that the distributor had knowledge of the book’s content. But Governor John A. Notte Jr. vetoed the bill. "True obscenity," he said, "cannot and should not be countenanced in any form. But criminal statutes must be drawn in such a manner as to protect the innocent as well as punish the guilty."

Another legislative victory was won in Oregon when lawmakers repealed the state’s 96-year-old obscenity law and replaced it with a measure framed in language of the U.S. Supreme Court in the 1957 *Roth* case. That landmark ruling defined obscenity as "Whether to the average person, applying contemporary community standards, the dominant theme of the material, taken as a whole, appeals to prurient interest." The legislature acted even though the state Supreme Court had just upheld the state law which does not define "obscene" and "indecent" literature. While the ACLU of Oregon did not take any position on the new law, it successfully opposed two other anti-obscenity measures which threatened civil liberties.

Kansas passed a new law barring the publication and distribution of allegedly obscene literature and promptly opened a state-wide crackdown with the backing of Governor John R. Anderson Jr. The measure permits the seizure of questioned material on the filing of a verified complaint by the Attorney General or a county attorney and the issuance of a warrant by a court. Within 10 days of the seizure a hearing must be held and the literature either destroyed or returned. Kansas officials hoped that the specific procedure laid down for seizing allegedly pornographic material would stand up against recent U.S. Supreme Court verdicts (such as the one involving Kansas City police) that held sweeping purges of newsstands to be a violation of due process protections.

Laws aimed at protecting juveniles through so-called comic book statutes were debated in the Maryland legislature, under challenge in a Connecticut Common Pleas Court, and criticized by the ACLU of New Jersey. The forthcoming Connecticut test case has the aid of the ACLU affiliate.

**THE LOCAL SCENE.** An eight-hour police raid which virtually cleaned out the offices of a Fresno publisher accused of distributing obscene books was declared unconstitutional by the California Supreme Court. The court held that the 19 categories itemized on the warrant—ranging from check stubs to mailing lists—"were so sweeping" as to violate search and seizure provisions of the state constitution. A trio of ordinances aimed at indecent literature was proposed in San Francisco. They would rule out the possession of such material within 300 yards of any school, playground or public park; make possession of obscene publications a public nuisance; forbid distributors to force dealers to take material he does not want under tie-in sales. Elsewhere in the state, the San Diego chapter of the ACLU of Southern California moved to challenge a new ordinance said to impose "general censorship contrary to the First Amendment" protections of free speech. Moline, Ill. softened an anti-obscenity ordinance following protests by a local
ACLU member. At the request of the member, the Illinois Division prepared a legal opinion on the constitutionality of a measure pushed by local extremists which subsequently was defeated by the City Council. A similar moderating influence has been exercised by two ACLU members in Lansing, Mich. who are members of a Mayor's committee to combat obscene literature. The Colorado Branch, ACLU opposed a proposal to create a municipal censorship board in Denver, a move which followed a municipal judge's invalidation of a local anti-obscenity ordinance because of the U.S. Supreme Court's Smith decision. The Rhode Island affiliate, meanwhile, was assured by the Mayor of Pawtucket that a newly-formed Committee to Act on Obscenity will not infringe on First Amendment rights. One such invasion in New York was cited by the Niagara Frontier (Buffalo) Branch of the ACLU, which protested a Buffalo resolution giving police the right to determine whether newsstands on public property carry obscene books or magazines. The Branch said such power is "arbitrary" and "unwarranted."

PRIVATE PRESSURE GROUPS. Prodded by the local chapter of the nationally-active Citizens Committee for Decent Literature (See last year's Annual Report, p. 13), the South St. Paul City Council created a three-man censorship board to implement an ordinance banning the exhibition, sale or gift of obscene literature to minors. A similar group in Union County, N.J. claimed success in an economic boycott of stores and newsstands selling "smutty" material. Rather than face such a boycott, said the group, 100 outlets have joined in the policing effort. A CDL chapter was also formed in Pensacola, Fla., while a new branch in Arizona was warned by the Arizona Civil Liberties Union against "unwarranted censorship" operating on such vague standards that fearful vendors "might remove legitimate pieces of adult literature from their shelves." A venerable private pressure group, the Roman Catholic-sponsored National Office for Decent Literature, urged "prudent community action" to counter the trend of what the NODL called "extremely liberal" court decisions which have resulted in fewer anti-obscenity measures by states and municipalities. The NODL, eschewing direct economic pressure on newsdealers, began to emphasize what the ACLU and book publishers have long urged, the need for parents to develop in their children an appreciation of good literature. A new vigilante group calling itself MUD (Mothers United for Decency) made its appearance in a hired trailer parked opposite the Oklahoma legislature while the lawmakers debated state censorship of all reading material for newsstands, schools and libraries. The "smutmobile" featured Sons and Lovers, Lust for Life, and God's Little Acre as well as 43 magazines, including Mad.

School libraries, a perennial target for local pressure groups, were subjected to fresh attacks. Unsuccessful drives were launched to remove John Steinbeck's Of Mice and Men, J. D. Salinger's Catcher in the Rye and other modern classics from a high school in Marin County, Calif.; George Orwell's 1984 from school libraries in Shaker Heights, Ohio; and the writings of Plato from a Houston junior high school. A local Arizona group did succeed, however, in restricting sev-
eral volumes of Ernest Hemingway and Howard Fast to shelves where it is necessary for pupils to get written parental permission to read them.

Library censorship of a different type was reported from Tennessee, where a state textbook commission still meticulously screens texts to eliminate those which refer to Darwin's theories of evolution; and from Torrington, Conn., where the local school board decided to supplant gradually a high school text containing three short stories that use the word "nigger" instead of eliminating the book immediately as demanded by the NAACP. Schools in Dallas and other Texas cities which study Communism increasingly are using material obtained from such non-academic sources as the FBI and the U.S. Chamber of Commerce. The ACLU suggested to the National Education Association that there should be no "automatic exclusion of material, whether it comes from the U.S. Chamber of Commerce or organizations like our own," but there should be "careful study" of all such outside contributions to assure that the materials are evaluated by professionally-trained educators.

**HANDBILLS.** The 1960 political campaign prompted several attempts by state and local officials to muzzle the distribution of handbills, one of which involved the Illinois Division in a unique role. Miles M. Vondra Jr. was indicted under the Federal Corrupt Practices Act for an anonymous pamphlet which smeared the affiliate's board chairman, Tyler Thompson, then on leave, who was running for Congress. The affiliate decided to uphold Vondra's right to anonymity in line with last year's U.S. Supreme Court's Talley verdict, voiding a Los Angeles ordinance (*See last year's Annual Report, p. 15*).

Davenport, Iowa was the scene of two incidents involving the presidential campaign. A deputy sheriff ejected a man who had paraded at the airport with a sign urging voters to vote for neither candidate, while the Quad-City Federation of Labor defied a 49-year-old local ordinance by circulating pro-Kennedy handbills. The Iowa Civil Liberties Union was ready legally to support a constitutional test of the law, but none developed since police did not interfere. This also was the case in Boston, where a chapter of the Committee for a Sane Nuclear Policy passed out leaflets on the Common despite a regulation requiring a Park Department permit. The Greater Philadelphia Branch intervened with the Fairmount Park Commission to win an end to restrictions on leaflet distribution, but only after an organization had temporarily been banned from handing out throwaways. ACLU affiliates in Minnesota, Maryland and Michigan had to go to court to win their handbill cases while the Southern California affiliate brought a damage suit in a Federal District Court on behalf of an evangelist whose leaflets were destroyed by Los Angeles police when he sought to protest the arrival of Soviet Deputy Premier Anastas Mikoyan. On the whole, the trend of court decisions is to erase local ordinances barring handbill distribution as unconstitutional violations of free speech. The issue was simply put by a Chicago Municipal Court judge who said that "the welfare of a nation, a people" is more important than whether a public place is littered with paper.
OTHER CASES. ACLU executive director Patrick Murphy Malin protested the reported banning of Mad magazine from three military post exchanges in Georgia, California and West Germany in a letter to Defense Secretary Robert J. McNamara. Malin said that although servicemen cannot enjoy all freedoms accorded civilians, "such a vital freedom as the selection of reading material should not be one of the areas in which they are accorded differential treatment." The post in West Germany from which Mad had been banned was commanded at the time by Major General Edwin A. Walker, later officially rebuked primarily for supporting the John Birch Society's attack on prominent Americans' loyalty. Unfortunately, along with the rebuke came the removal from newsstands of the 24th Infantry Division of The Life of John Birch and American Opinion magazine, the Society's official organ. Criticizing the removals, Malin called it "improper government intrusion into the field of thought."

Administrative censorship by the U.S. Bureau of Prisons was deplored by the Union in the case of Benjamin V. Davis, a Communist Party official convicted of violating the Smith Act, whose autobiography—written in jail before his release—was confiscated. Replying to the ACLU, Prisons Director James V. Bennett said that although prisoners are permitted to write manuscripts during their spare time, their works cannot "exploit their own criminal career or that of others." The Union said the policy was not technically a violation of civil liberties, but should be changed nevertheless in the interests of First Amendment values "which reach their peak in the area of social and political comment," regardless of the unpopularity of the author's ideological views. Apart from the particular Davis case, the Union said the Bureau's policy affects other books of social comment as well. It noted that the manuscript on penal reform by Robert Stroud, the Birdman of Alcatraz, was not allowed to be published and only came to public attention when included in Stroud's legal brief to the U.S. Supreme Court; likewise, "world-recognized literary contributions, pointing out the need for social reforms, were written by such prisoners as Thomas Paine, Oscar Wilde, Alfred Dreyfus, Eugene Debs and Socrates."

2. Motion Pictures

THE COURTS. To the unpleasant surprise of the ACLU and other opponents of movie censorship, the U.S. Supreme Court reversed an apparent pattern of almost a decade and upheld the constitutionality of state and municipal boards of censorship. The 5-4 decision, termed by the ACLU "a serious blow to freedom of expression," was delivered in the case of the Times Film Corporation, which refused to submit the Austrian film, Don Juan, to Chicago police censors for pre-screening approval. When the permit was denied, the case went to lower federal courts, which rejected the appeal, and then to the high court on the grounds that Chicago's requirement violated the First Amendment's guarantee of free speech. A friend-of-the-court brief submitted by the ACLU and its Illinois affiliate declared that the key issue is whether the federal constitution permits states or cities to impose restraints on films which they cannot on other communication media.
The Union said that while the court had never passed directly on the constitutionality of film censorship, it had ruled in "closely related areas" that "no state or municipality may, consistent with the Fourteenth Amendment, interpose a censor between the public and those who would communicate with it." The Union had every hope that the court would agree with this view. In 1952 it had ruled in The Miracle case that movies are entitled to the same First Amendment protections as the press; since then the high court had reversed several bans on movies where such vague standards as "sacrilegious," "prejudicial to the best interests of the city," "immoral," "harmful," and "sexual immorality" had been used.

The majority opinion, therefore, was received with some astonishment. It argued that "liberty of speech is not absolute," and that Chicago has the legal right to "protect its people against the dangers of obscenity in the public exhibition of motion pictures. It is not for this Court," the opinion said, "to limit the state in its selection of the remedy it deems most effective to cope with such a problem, absent, of course, a showing of unreasonable stricture on individual liberty." Emphasizing its focus on the question of prior restraint, the opinion added that the decision did not mean that city officials could bar "any motion picture they deem unworthy of a license." The central question, declared the majority, was whether "the ambit of constitutional protection includes complete and absolute freedom to exhibit at least once, any and every kind of motion picture. . . ."

In one of two minority opinions, both hailed by the ACLU, Chief Justice Earl Warren warned that the verdict "presents a real danger of eventual censorship for every form of communication be it newspapers, journals, books, magazines, television, radio or public speeches. The Court purports to leave these questions to another day," Warren said, "but I am aware of no constitutional principle which permits us to hold that the communication of ideas through one medium may be censored while other media are immune." Pointing to the long delays in litigation which make it difficult to challenge local censors, Warren said that the exhibitor may well decide to surrender rather than initiate costly judicial relief. "In such cases," he said, "the liberty of speech and the press and the public, which benefits from the shielding of that liberty, are, in effect, at the mercy of the censor's whim."

A second dissent by Justice William O. Douglas agreed that "under the censor's regime the weights are cast against freedom." Outlining the long and dismal history of censorship since the era of Socrates, Douglas concluded that "whether—as here—city officials, or—as in Russia—a political party lays claim to the power of governmental censorship, whether the pressures are for a conformist moral code or for a conformist political ideology, no such regime is permitted under the First Amendment."

Following the U.S. Supreme Court verdict, the Union urged state legislatures and city councils "not to stampede enactment of new legislation" as a response to the ruling. The ACLU pledged that it would continue to oppose "all forms of censorship in the courts, in the legislatures, and the forum of public opinion." Cities and states
who had thoughts of rushing through new film censorship were given pause, however, by several significant court rulings. The U.S. Supreme Court declined to review a Pennsylvania Supreme Court decision striking down a 1959 movie censorship code because the standards laid down for disapproval were so vague and indefinite that they violated the due process clause of the Fourteenth Amendment. In addition, said the state high court, in endorsing an appeal originally backed by the Greater Philadelphia Branch of the ACLU, the code's requirement of a fee to register films "is a plain attempt to tax the exercise of free speech." A second important court decision, though on a local level, held unconstitutional the local censorship ordinance in Atlanta, Ga., which had barred from the city's screens such movies as Room at the Top and Never on Sunday. Finding that the ordinance violated freedom of speech, Judge Luther Alverson of the Fulton County Superior Court said: "If censorship were an effective means of preventing obscenity, many of its critics would be silenced. The plain fact . . . is that . . . it drives it underground, encourages illicit trade and whets prurient curiosity, leaving only works of art and ideas to be censored. One of the worst evils of censorship is that it reverses our system of judicial process. Instead of the accused being innocent until proven guilty, the censor pronounces him guilty and he must prove himself innocent."

Although the Georgia Supreme Court reversed Judge Alverson's decision on a technicality, his stinging opinion lent support to movie industry spokesmen who proposed that every case of every film-banning should be fought through the courts, perhaps through an industry-wide watchdog unit established by the Motion Picture Association of America.

The Lovers figured in Chicago, where a verdict by the U.S. Court of Appeals may go far towards reforming local censorship practices that have been among the worst in the nation. The court held unconstitutional a new procedure whereby the city Police Commissioner allegedly delegated his power of censorship to a film review board composed of educators, lawyers and clergymen. Declaring that "the essence of justice is largely procedural," the court said that the review board has "no standards of appointment, nor formal procedures for determination, no opportunity for public hearing." The distributors of the film, the court added, had no opportunity to show that The Lovers, viewed in its entirety, did not offend contemporary community standards. The verdict, emphasizing a crucial question left unanswered in the U.S. Supreme Court decision in the Don Juan case, said that "Chicago's administration of its power of prior restraint . . . falls far short of the procedural guarantees . . . ."

Other court tests of local and state censorship laws under which The Lovers was barred are underway in Dayton and Cleveland, where the Union affiliate submitted a friend-of-the-court brief, and Portland, Oregon.

A challenge of the Customs Bureau's power over entry of foreign films in the U.S. was mooted when the Bureau released a French film, The Games of Love, that was held up for a month. The test in the Federal District Court in Washington argued that since films had won
entrance in one port and been banned in another the lack of specific standards in the law permits officials to act without specifying any definition of obscenity which all must observe. The statute thus violated the First Amendment's protections of free expression.

STATE AND LOCAL ACTIONS. In Virginia, one of four states practicing pre-censorship (New York, Kansas and Maryland are the others), an appeal has gone to the state's highest court on the ban against showing The Respectful Prostitute. The license was denied for the French movie on the grounds that a public showing would incite to riot. Abilene, Texas passed an ordinance that makes both parents and exhibitors liable for fines up to $200 for allowing minors to see films rated “objectionable” if the youngsters are not accompanied by a parent or guardian. Abilene’s classification system is symptomatic of the most confusing issue facing the motion picture industry. A substantial minority within the industry are in favor of classification and would issue films with their own “For ADULTS ONLY” labels in order to pacify the protests of local pressure groups and lawmakers. Most Hollywood producers, however, are opposed to classification since it rarely accomplishes its objective. In Abilene, for instance, self-regulation by local exhibitors did not prevent passage of the new ordinance. Classifications bills failed to pass the Illinois and New York legislatures. In Maryland the State Board of Censors branded two films on nudity as obscene and forbade exhibiting them at all—the first time a movie was banned in its entirety in six years. In San Francisco, the local District Attorney dropped charges against a movie which explored homosexuality.

BLACKLISTING. Eight Hollywood writers and four actors lost the first round of a $7,500,000 suit which claims they were blacklisted by the industry since 1947. The denial of a preliminary injunction by a Federal District Court judge in Washington will be appealed. In countering the suit, brought under the federal anti-trust law, the studios argued that there was no conspiracy to deny employment to the 12, merely that “each acted in its own separate economic interest, motivated by identical stimuli, under similar conditions. . . .” The studios were charged with agreeing among themselves not to employ persons who invoked the Fifth Amendment’s bar against self-incrimination or refused to give information to congressional committees. The American Legion continued its campaign against movies worked on by once-blacklisted persons by urging its posts to use “all legal and proper means” to ask local theatre owners not to show Exodus, Spartacus, Inherit the Wind, and Chance Meeting.

3. Radio and TV

DIVERSITY OF PROGRAMMING. Although a House subcommittee killed a proposal to increase the administrative powers of Federal Communication Commission Chairman Newton Minow, Minow's own use of the public rostrum proved to be a powerful weapon in awakening many broadcasters to their public responsibilities. A forthright speech by the FCC chairman condemning TV programming as “a vast
"wasteland" did more to agitate the industry towards increasing public service shows than years of previous effort by TV's critics. And the fact that the new president of the National Association of Broadcasters, Leroy Collins, agreed more than disagreed with Minow made broadcasting executives realize that even their own official spokesman had come to share the public's misgivings over the quality of commercial television. Minow, adding bite to his bark, used a new law endorsed last year by the ACLU to warn local stations that their promises must live up to their programming. Renewing the license of KORD in Pasco, Washington for only one year instead of the usual three, the FCC said that the station's 1,631 commercial spots per week were more than double the number it proposed airing when it was originally licensed in 1957. Accompanying its rebuke to KORD, the FCC mailed out a policy statement to all broadcast licensees. It said: "It is one thing for a licensee to decide that its community has a greater need for religious or educational programs than particular agricultural programs or entertainment programs. But it is quite another thing for the applicant to drastically curtail his proposed public service programming and increase his advertising content without an appropriate and adequate finding of a change in the programming needs of his area . . . . The applicant must conscientiously . . . serve the public interest needs of his community."

In another move backed by the ACLU, the FCC announced it would seek congressional legislation to shift gradually the nation's television system to Ultra High Frequency transmission which would make 70 channels available to the public instead of the 12 now open under Very High Frequency signals. As a first step an FCC-sponsored bill was introduced in the Senate requiring that sets shipped interstate be equipped with all-channel receivers. The FCC also initiated a $2,000,000 experimental project in New York City, with the cooperation of WNYC, directed toward the technical evaluation and improvement of UHF broadcasting.

**JUVENILES.** Renewing his criticism of the television industry, Minow called most children's programs "indefensibly wasteful," in testifying before a Senate subcommittee investigating possible links between juvenile crime shows and juvenile delinquency. NAB president Collins, while not defending the frequently condemned species of children's programs, declared that the weight of sociological opinion "does not justify a conclusion supporting a causal relationship" between television crime and violence and "criminal tendencies." In this, Collins was backed by Donald E. J. MacNamara, dean of the New York Institute of Criminology. The ACLU believes that in view of the divergence of opinions among social scientists and psychologists as to whether objectional visual (or printed) material really is a cause of delinquency, no such material should be censored unless direct proof is offered that exposure to a book or film or TV program caused the commission of an illegal act. At the same time the Union believes there should be greater diversity and a better balancing in programs for juveniles as well as adults.
EQUAL TIME AND OPTION TIME. Following the "great debate" of the 1960 presidential campaign made possible by congressional suspension of the "equal time" provision of Section 315 of the federal communications law, CBS president Frank Stanton urged Congress to suspend the requirement for elections at all levels through 1963. Stanton pledged that "responsible third candidates" would be treated equally with the nominees of the two major parties. During the 1960 campaign—as the ACLU had predicted would happen under the suspension of Section 315—the Socialist Labor and Socialist Workers parties and other minority groups with certified presidential candidates, were given either a minimum of free time, or none at all, depending upon network policy. From the public in general the FCC received some 200 complaints. One reported the refusal of many ABC radio network stations to accept a paid political program produced by a labor union on behalf of John F. Kennedy. A bill to repeal permanently the equal time requirement for presidential and gubernatorial campaigns was introduced in the Senate, but no action taken.

OTHER ISSUES. The Union criticized as "attempted official censorship" a vain attempt by Edward R. Murrow, Director of the U.S. Information Agency, to persuade the BBC from showing a documentary on migrant labor conditions in the United States which was produced by Murrow for CBS before he became a government official. Murrow himself conceded his move was "foolish and futile" but said he still thought the TV documentary was for "domestic consumption."

A Riverside County, Calif. judge quashed an indictment of conspiracy to commit criminal slander inspired by a telecast detailing anti-Semitism in the town of Elsinore. A friend-of-the-court brief submitted by the ACLU of Southern California argued that the state law under which the indictment was returned against a newscaster and eight others was a modern equivalent of libel and sedition laws discredited as violations of free speech rights under the First Amendment.


THE FEDERAL SCENE. A House subcommittee on government information policies concluded that the change of administrations in Washington had somewhat eased the flow of news, but not enough. Noting that government employees still stamped secret a vast range of information ranging from the amount of water pumped into hams to data on missile tracking, the subcommittee concluded that "the problem of secrecy in government is not a partisan one, but stems from the nature of bureaucracy as well as from the ever-present influence of military secrecy." The professional journalism fraternity, Sigma Delta Chi, came to the same conclusion, adding with impartiality that Democrats who loudly criticized the Eisenhower information policies now were behaving more gently while Republicans who previously were silent are now vociferously demanding that the lid be taken off classified information. At least some classified information will be released under a new system designed to downgrade certain defense documents at regular intervals. The fastest a document normally may
be made public under the new rules is three years unless officials decide sooner that the information is no longer sensitive.

Crisis in United States policy on Cuba and Berlin stirred renewed debate on the problem of the role of a free press in a free society. Publication by newspapers of many details of the U.S.-backed invasion of Cuba prompted President Kennedy to ask publishers to consider the national security by working out a system of voluntary censorship on highly sensitive issues. Newsmen responded by pointing to the impracticality of such an arrangement. The report by a weekly news magazine of military plans to defend Berlin moved the President to order an FBI investigation, but the results were once again inconclusive. The Defense Department was praised for a policy statement that promised to tell the public good news as well as bad, but the Department was criticized by some in Congress for restricting foreign policy pronouncements by high-ranking military officials. As always, a few instances of government secrecy defy rational explanation. One such case involved Dr. Bentley Glass, Johns Hopkins University biology professor and president of the Maryland Civil Liberties Union, who in 1951 wrote a secret report for the State Department on the status of science and scientists in West Germany and who, a decade later, was refused permission to read it over again because he lacks clearance.

STATE AND LOCAL ISSUES. The Connecticut Senate approved a bill requiring public officials who refuse to allow inspection of public records to give a written explanation of their refusal within 15 days. The measure also granted privileged status to any suits arising from the exercise of the right-to-know law. Police records in Louisville, Ky. were opened to two newspapers and a broadcaster after the media agreed that police officers would not be made party to any lawsuits arising from disclosure of arrest and conviction records. Two Louisville newspapers, the Courier-Journal and the Times, were refused review by the U.S. Supreme Court in an appeal which sought to force a local Criminal Court judge to reveal the contents of a murder confession heard in the judge’s chambers. The newspapers argued that the secrecy violated the right to a public trial and the freedom of the press guaranteed by the First and Fourteenth Amendments.

ACADEMIC FREEDOM

1. Federal, State and Local Issues

THE NATIONAL SCENE. The ACLU vigorously supported an Administration-supported bill eliminating the disclaimer oath from the National Defense Education Act. The oath, requiring persons receiving federal grants or loans to sign an affidavit disclaiming membership in any organization advocating the violent overthrow of the government, is a “direct attack on the First Amendment’s guarantee of freedom of political thought,” said the Union in testimony before a Senate subcommittee. Pointing out that 105 colleges and universities have protested the oath, the Union said it “runs counter to this country’s long-established legal tradition of assuming the innocence of the individual
until he is proved guilty.” In addition, said the statement, “we are further convinced that such a requirement defeats its objective since it cannot be assumed that the signing of such an affidavit would be a serious obstacle to any persons who might wish to harm our nation.” The Union also argued that since other recipients of federal aid, such as persons on social security, have never been required to sign disclaimer oaths, “this leaves students and teachers as the only group to which suspicion is directed by such a requirement.”

An even greater threat to academic freedom was singled out by the Union in opposing a House measure which would have required stiffer loyalty requirements, including full security investigations, of fellowship applicants to the National Science Foundation. ACLU executive director Patrick Murphy Malin warned that “if the final evaluation of applicants were to be delegated to government agents, rather than to the panel of scientists who serve the NSF, a dangerous step would have been taken toward government policing and control of the graduate programs of the institutions of higher education.” Subsequently a differently phrased bill was substituted for the first one proposed, and reported out by the House Science and Astronautics Committee but not voted on by the House. This bill would require award applicants to furnish information under oath about past convictions (after the age of 16, excepting for minor traffic violations), rather than about arrests, as required by the first bill, an important distinction which the ACLU had stressed. The pending bill would also make it a crime for any person to apply for or use an NSF fellowship if he were a member of any Communist organization (as so defined in the Internal Security Act of 1950) which had registered or finally had been ordered to register with the Subversive Activities Control Board, provided the applicant knew that the organization had registered or had been ordered to do so. Believing the Internal Security Act of 1950 to be a denial of the rights of free speech and association (for details, see page 41), the Union also opposed the second bill.

The Union’s comment on a tightening of the NSF Act were made at the same time that it asked the NSF to cancel its revocation of a $3,000 grant to Edward Y. Yellin, a University of Illinois graduate student whose conviction in 1960 of contempt of Congress for refusing to answer questions of the House Un-American Activities Committee on First Amendment grounds was later upheld by the U.S. Court of Appeals. Yellin, whose case the U.S. Supreme Court has since agreed to review, had been given a grant solely on the basis of his ability, as the NSF Act, passed in 1950 stipulates, and had signed the Act’s required disclaimer oath. When a congressional row developed, the fellowship was rescinded because the student’s one-year prison sentence raised the possibility, the NSF informed him, “that you may not be able to pursue your studies without interruption.” The Union’s statement criticized the formal reasoning as a pre-judgement of the high court’s decision as to whether it would hear his case on appeal. The ACLU also urged the NSF to honor the difference between cases of individuals found in contempt of Congress because they relied “on what they believed to be their rights under the First Amendment and have refused
to answer questions about their beliefs and associations” and persons convicted of “for example—perjury.”

The Academic Freedom Committee of the ACLU, in a definitive study of the Fulbright award program, praised revised selection procedures of Fulbright scholars which eliminated evaluations of applicants' loyalty or disloyalty but also warned that vague language used to describe a desirable candidate may still be used to reject an applicant without sufficient explanation. The reforms instituted by the Board of Foreign Scholarships followed its rejection of Sarah Lawrence professor Bert J. Lowenberg in 1959 after a Conference Board of scholars had approved him (See 1958-1959 Annual Report, p. 30). Even though the Board insisted that it had not ruled out Lowenberg for security reasons, its actions had provoked widespread criticism by the academic community and by the ACLU. Lowenberg was finally given a Fulbright fellowship for the year 1960-1961.

Professor Louis M. Hacker, chairman of the Academic Freedom Committee, and ACLU executive director Patrick Murphy Malin jointly issued a statement signed by 250 leading U.S. professors calling for abolition of the House Un-American Activities Committee for “repeatedly undermining the freedoms essential for national well-being.” During the 24-year history of HUAC, said the professors, it has “grilled teachers about their political associations, past and present. It has inquired into the textbooks they use. In these ways the Committee has created fearfulness within the academic world—and, perhaps even more dangerous, public distrust of teachers and the institutions in which they serve.” Conceding that the Committee “has latterly improved its hearing manners,” the professors pointed out that “it continues to be careless or unscrupulous in vilifying its critics,” and stressed that “democracy cannot flourish when a legally unaccountable body intimidates dissenting citizens.”

LOYALTY AND SECURITY. Following a third appeal to the New Jersey Supreme Court, Newark public school teacher Robert Lowenstein was finally reinstated to his job—six years after he was fired for invoking the Fifth Amendment's protection against self-incrimination before the HUAC. The local school board refused to reinstate Lowenstein because he refused to answer all questions put to him that dealt with the period prior to 1953, but the majority court opinion held that since the board itself conceded there was not “a shred of fact” to suggest that Lowenstein had been a member of the Communist Party since then, it was wrong in conducting its own inquiry. The only determining factor, said the court, is the teacher's present membership in the party and his belief in democratic principles. Fired along with Lowenstein were two colleagues: Mrs. Estelle Laba, since reinstated, and Perry Zimmerman, not rehired because he lacked tenure at the time he was dismissed. The ACLU of New Jersey, which filed a friend-of-the-court brief on behalf of Lowenstein, will do the same for Zimmerman in his continuing effort to win back his job.

Another long legal struggle—but one not yet over—involves University of Washington Professors Howard Nostrand and Max Savelle,
whose six-year battle against the state’s loyalty oath for public employees has been supported by the ACLU of Washington. In the latest installment, the state Supreme Court decided that the state anti-subversive law does not require a hearing for employees dismissed for refusing to take the oath. However, because of their tenure rights, professors are exempt and entitled to a hearing. The verdict will once again be taken to the U.S. Supreme Court, which previously had sent the case back for trial before the state court on the issue of whether an employee who refused to take the oath had a right to a hearing (See last year’s Annual Report, p. 24, 1958-1959 Report, pp. 86-87).

Loyalty oaths for teachers were also an issue in California, where the ACLU affiliate in Northern California provided counsel for Rita and William Mack, whose teaching credentials were revoked by the state Board of Education because they said they never joined an organization advocating the violent overthrow of the government (they had quit the Communist Party in 1957); and in Florida, where the U.S. Supreme Court agreed to review a test case involving Florida’s loyalty oath for state employees in a suit supported by the FloridaCLU. Schoolteacher David Walton Cramp, Jr. refused to take the oath on the grounds that it violated his rights of free speech and expression under the First Amendment and his due process rights under the Fourteenth Amendment. But he swore in court that he was not a Communist, would not support its cause, was a loyal American, and would support the Constitution. The FCLU’s brief argued that the oath, in the case of teachers, “emphasizes the need for conformity and so tends to make a mockery of academic freedom.” In New York City the Board of Education took no action in the cases of five teachers who, after five years, remain suspended without pay on grounds that they falsified their application forms. They appealed to the state Commissioner of Education for relief (See last year’s Annual Report, p. 25).

A University of Pittsburgh fact-finding committee—following four months of testimony which covered thousands of pages—vindicated history professor Robert Colodny after a local uproar touched off by a newspaper interview resulted in demands by a state legislator that “state supported institutions should be investigated to discover the opinions of professors.” Colodny had told the Pittsburgh Press that Castro’s Cuba is “just another case of agrarian reform,” and conceded his service with the Abraham Lincoln Brigade during the Spanish Civil War. The committee, completely clearing Colodny of any trace of subversion, said that while he did join Communist-front organizations, he did so to promote idealistic causes such as world peace out of a “highly developed social sense.” The committee noted that Colodny presently regards Marxist doctrines as “fallacious” and that he believes that the Castro government “now has slipped into the Soviet orbit; . . . a calamity . . . for the Western Hemisphere.” The Greater Pittsburgh chapter of the ACLU of Pennsylvania also defended Colodny, censuring the Press for “an injudicious inference of guilt by association.”

The ACLU of Northern California won the return of teaching credentials to San Francisco City College teacher John W. Mass who had refused to answer questions of the HUAC. The San Jose, Calif.
school board voted tenure to Ned Hanchett after studying the minutes of his 1957 appearance before the HUAC. Seven years after the Greater Philadelphia Branch of the ACLU protested the firing by Temple University of professor Barrows Dunham because he pleaded the Fifth Amendment before the HUAC, Temple revised its policy. The action removed the university from the censure list of the American Association of University Professors. The ACLU protested to the Nebraska State Normal Board after it rescinded the contract of a young English teacher who, while studying for his Ph.D. and teaching at Ohio State, had provided a forum in his backyard for a HUAC critic, William Mandel, who had been denied a platform on the campus. Subsequently the graduate student was given another year's teaching contract at Ohio State. The American Association of University Professors began an investigation after the Nebraska board acted.

Intrusion into the private beliefs and associations of teachers led to the firing of an assistant professor of botany and associate professor of dairy science at the University of Arizona, and a warning to other faculty members who had engaged in off-campus pacifist activities; dismissal of two elementary teachers in Phoenix, Arizona, one the former chairman of the Arizona ACLU, Northern Area, and the other a member of the board; ousting of a Glenbrook, Ill., high school social science teacher who believed in promoting controversy in his classroom; and the recall of an unpaid Southern California school district trustee because he conducted ACLU meetings in his home. Union affiliates are conducting investigations in the Illinois and Arizona incidents. The Minnesota Civil Liberties Union successfully helped the Minnesota Education Association defy private pressure groups who tried to cancel an MEA speaking invitation to author and professor Max Lerner, an ACLU national committeeman. The St. Paul City Council also refused to bar a municipal auditorium for the event.

NON-POLITICAL ISSUES. The Illinois Division filed a notice of appeal on behalf of Leo Koch, dismissed University of Illinois assistant professor of biology, who in the university newspaper's discussion on sexual ethics publicly advocated premarital relations for college students "sufficiently mature to engage in them without social consequences and without violating their moral codes." The Division had brought suit in the state courts against the university's board of trustees charging that the university had committed a "serious breach of academic freedom" by interfering with a faculty member's right of expression. It noted that Koch's views were expressed without "vulgarity or sensationalism" and were a serious contribution on a matter of "genuine concern." In Michigan, the Metropolitan Detroit Branch of the ACLU defended Richard Waring, a former Dexter high school teacher suspended for attacking the local school board while speaking as a parent at a PTA meeting. The affiliate said Waring's rights to free speech are protected under the First and Fourteenth Amendments. Also in Michigan, the ACLU sharply attacked the State Police and an Upper Michigan school board for violating the civil rights of Franklyn C. Olson, an elementary public school teacher arrested on obscenity
STUDENT RIGHTS. Restrictions over the right to select and hear campus speakers involved ACLU affiliates in Michigan, Illinois and Northern California. The policy of Wayne State University that permits certain off-campus groups to use university facilities while denying the right to others was condemned by the Metropolitan Detroit Branch, which pointed out that this policy would bar such groups as the ACLU, NAACP, League of Women Voters and representatives of the Republican and Democratic Parties. The university policy grew out of a controversy last year in which the administration lifted a ban on Communist speakers in order to allow a visiting Soviet scientist to speak, then tried to bar Harvey O'Connor from speaking on the grounds that the author had refused to answer questions on alleged Communist affiliations before congressional investigators. A Circuit Court judge, in ordering O'Connor's ban lifted, criticized the university as "arbitrary and discriminatory." The new policy, still unsatisfactory to the affiliate, was promulgated soon after. In other cases, the Illinois Division criticized Northern Illinois University for refusing campus Young Democrats a chance to hear an invited representative of the Communist Party, and the ACLU of Northern California joined 161 faculty members of the University of California at Berkeley in protesting the cancellation of a talk before the NAACP chapter of Malcolm X, leader of the extremist Black Muslim organization. The action, supposedly based on the sectarian character of the movement, was a "subterfuge to bar dangerous ideas" said the affiliate, since rabbis and ministers had previously addressed student groups. Also at the University of California, the affiliate objected to a failing grade in ROTC given to a student because he picketed compulsory drill while wearing his cadet uniform. A faculty committee is investigating the incident.

The expression of political views by students was met by varied reactions on three campuses. The Florida Civil Liberties Union assailed the University of Miami for stopping circulation of a petition calling for the abolition of the HUAC; the Fairfield County Chapter of the Connecticut Civil Liberties Union praised the University of Bridgeport for defending student journalists who made the same demand in an editorial; and the University of New Hampshire won ACLU commendation when it refused a demand by Governor Wesley Powell that it summarily expel 16 students convicted of violating the state's civil defense law during a test alert.
2. Pressures Arising from the Integration Conflict

A Federal District Court judge in Macon, Georgia upheld a suit brought by the ACLU on behalf of three white children of the integrated pacifist Koinonia Farm community who had been refused admission to the Americus, Ga. public school. The Union charged that the exclusion discriminated against the children as a class because of their creed, in violation of the equal protection of the laws clause of the Fourteenth Amendment. The school board’s argument—that the presence of children who believe in religious and racial equality might lead to violence—was scornfully rejected by the federal court. In addition, the opinion noted that at the same time the school board rejected the three Koinonia pupils it accepted 27 non-Koinonia white students. “This will not do,” said Judge W. A. Bottle. The case was but the latest example of local pressures to which the community has been subjected in recent years, including economic reprisals and shootings. Another southern school which has been the target for extremist attacks because of its interracial practices unsuccessfully carried its case to the U.S. Supreme Court. The Highlander Folk School of Monteagle, Tenn., an integrated school for adults, was ordered closed by the state Supreme Court on the ground that it was run for the private gain of its director and that it sold intoxicating beverages on school property without a license. The ACLU, however, agreed with the school’s appeal to the U.S. Supreme Court, which said the case “presents an unmistakable picture of discriminatory application of the state law by state action in order to forbid the exercise of constitutionally protected rights.” The Tennessee Supreme Court chose not to rule on a third holding of a lower court that Highlander had violated a state law against allowing Negroes and whites to attend the same classes. The U.S. Supreme Court declined to review the case, but the school’s backers plan to carry out its basic function under a new charter.

Negro teachers won a victory in Arkansas when the U.S. Supreme Court declared unconstitutional a law requiring teachers to sign affidavits listing all their organizational affiliations. The opinion held that “organizational relationships could have no possible bearing upon a teacher’s occupational competence.” Waldo F. McNeir, past chairman of the Louisiana Civil Liberties Union and for 11 years a professor of English at Louisiana State University, resigned from the University rather than contest “frivolous charges” that he showed “disrespect for the Legislature” by “teaching integration in my classes.” Two years ago McNeir and 65 other LSU professors signed a LCLU petition opposing anti-integration bills under consideration by the state legislature. The Kentucky Civil Liberties Union concluded that Kentucky State College violated academic freedom by firing two faculty leaders of the local CORE chapter by not giving them 10 days’ notice in writing and a hearing as required by state law. The Illinois Division of the ACLU is supporting a federal damage suit by two Mound City high school teachers who charged that they were integrated out of their jobs when two previously segregated schools were merged. All the white teachers were kept on the job, all the Negro teachers fired. A student pamphlet discussing the pros and cons of racial segregation finally was
permitted to circulate at the University of California at Los Angeles, but only after the ACLU of Southern California began a court test of a campus regulation, later modified, barring the distribution of literature “without permission obtained in advance” from university officials.

RELIGION

1. Church and State: Education

CONGRESS. In the course of long and complex legislative maneuvering over the Administration’s school aid bill, the ACLU on several occasions pointed to the necessity of maintaining the constitutional separation between church and state. The Union drew a line, however, between church-related institutions of higher education which satisfy specified educational criteria and church-controlled elementary and secondary schools. Opposing loans to the latter, the ACLU Board of Directors declared that since they are “created for the precise purpose of communicating a body of religious teaching (and) are meant to nurture and fortify the faith of children already linked with the religious group” federal building loans or grants would violate the “no establishment” of religion clause of the First Amendment. The Board found no constitutional bar, however, in federal aid to church-related colleges and universities provided (a) students and faculty members are not required to be members of the religious faith with which the school is linked; (b) religious indoctrination is not a required part of the curriculum; and (c) the curriculum is determined by those charged with educational, rather than religious, responsibilities. “An institution that unconditionally meets these minimal standards may properly be characterized as educational, whether or not it was founded by or is now governed or financed (in whole or in part) by a religious group,” the statement declared. Automatically excluded would be schools of theology, divinity, or religious seminaries.

The ACLU position, delivered in testimony before the Senate Committee on Labor and Public Welfare, also backed federal college scholarships to students without regard to the type of institution on the ground that under the free exercise of religion clause of the First Amendment, students receiving funds under the G.I. Bill of Rights or any other federal source should have a free choice of college. The sole exceptions, said the Union, would be religious seminaries and schools of theology. The ACLU also urged the Committee at the very least to provide for a prompt judicial review of a taxpayer’s suit challenging the constitutionality of building loans granted to church-sponsored colleges without distinction as to the nature of the educational program. As currently interpreted, a clause in the proposal permits only a contracting academic institution or its housing agency to sue the U.S. Commissioner of Education. Recognizing that dormitory loans have been granted to all types of church-sponsored colleges since the Housing Act of 1950 was passed, the Union declared that “a provision which is of questionable constitutionality should not be extended indefinitely.”

Earlier in the congressional debate, the Union strongly endorsed the Administration’s exclusion of federal loans or grants to church-
controlled elementary and secondary schools. Lowering such a bar, the ACLU Board of Directors told Congress, would mean "supporting not one, but various establishments of religion—not only Catholic, but Lutheran, Episcopalian, Quaker, Jewish, etc." While church schools have a right to conduct religious instruction and indoctrination under the "free exercise" of religion clause of the First Amendment, the Union said, for Congress financially to aid such schools would be unconstitutional. Answering arguments that denial of federal support to parochial lower schools is discriminatory and unfair, the ACLU pointed out that as long as "every American is free to send his children to public schools" if he wants to, there can be no accurate accusation of second-class citizenship for such parents.

A Senate amendment to the Administration's public school aid bill was criticized by the Union as unfair to parents of parochial school children, in that it made the total number of school-age children in the state—rather than the smaller number of public school pupils—the multiplier in calculating the amount-per-child figured for the state under a federal school aid formula which adjusts allocations to equalize the difference between richer and poorer states.

The Union opposed expansion of the National Defense Education Act which would have provided for long-term, low-interest federal loans to non-public elementary and secondary schools for the construction of science, mathematics and modern language classrooms. It said that such loans, no different in principle from outright grants, "would put the government in partnership with a religious institution." On the same ground the Union said the provision in the 1958 NDEA for loans to non-public schools for the purchase of teaching equipment in the three areas indicated should be repealed. Added sections in the proposed NDEA legislation to which the Union objected on separation grounds were: a partial forgiveness of loans to college students who go on to teach in non-public as well as public schools; the payment of stipends to teachers from non-public schools for attending summer institutes in modern languages or guidance; and the subsidization of guidance and counseling services in non-public schools. Since, except in the vocational area, guidance counselors are concerned with students' attitudes and philosophies of life and those in church-controlled schools naturally give a religious orientation to their counselling, such services, the Union held, should not be government subsidized. However, the Union saw no constitutional objection to the psychometric testing of non-public school children by public personnel.

**BIBLE READING AND RELIGIOUS TEACHING.** Rulings on three key aspects of a multi-barrelled assault on religious practices in Dade County, Fla., public schools were hailed by the ACLU and the American Jewish Congress which brought the test suit. The verdict prohibited sectarian holiday observances such as those recreating scenes of the Nativity, the showing of religious movies, and the use of school facilities for after-school religious classes by church groups. Two other issues raised in the suit—the constitutionality of Bible reading and recitations of the Lord's Prayer—will be appealed to higher courts. The Union entered the case through its Florida affiliate, which sup-
ported Harlow Chamberlain, one of the plaintiffs. A side issue to the suit involved the FCLU when the court test was used by a candidate to the local school board to claim he was campaigning "to preserve Bible reading in the schools." His opponent, a member of the Union, was attacked in a campaign leaflet issued by a group of Protestant ministers on the ground that the ACLU was labelled by the American Legion in 1959 as a defender of "Communists and Communist causes." This charge was promptly denied by the FCLU and the ACLU member won his seat on the school board.

Bible-reading in the public schools also aroused controversy in Michigan, where the Union's Metropolitan Detroit Branch praised the state Attorney General's ruling that Bible-instruction violated the state and federal constitution; and in Maryland where the state Attorney General held that pupils may be excused from Bible reading on the written request of a parent, after a mother had sought and received aid from the Maryland CLU.

In Philadelphia, the four-year-old Schempp case was expected to be heard in the fall by the Federal District Court as to whether the Pennsylvania legislature's amendment to the compulsory Bible-reading law moots Mr. and Mrs. Schempp's original complaint. The amendment, permitting children to be excused from Bible-reading on a parent's written request, was passed in 1959 after a three-judge federal court had ruled the compulsory law unconstitutional. The Schempp family's lawyers, who took the case at ACLU's request, contend that the amended law, like the old law, constitutes state aid to religion and is thus still unconstitutional. The distribution of Bibles was struck down as illegal by a Florida District Court of Appeals and by the New York state Department of Education, which acted on a complaint by the Niagara Frontier (Buffalo) Branch of the ACLU. The affiliate also persuaded a local school board to drop its sectarian baccalaureate rites and raised the same question about state university exercises in Buffalo.

Bible distribution in Edmonds, Wash. was opposed by the ACLU of Washington.

The New York Court of Appeals, the state's highest judicial body, upheld the legality of opening each public school day with a nonsectarian prayer recommended by the state Board of Regents. Denying the argument of the NYCLU, which supported the suit brought by five Nassau County parents, the majority opinion said that to prohibit the non-compulsory prayer would "stretch the so-called separation of church and state doctrine beyond reason." The prayer states: "Almighty God, we acknowledge our dependence upon Thee and we beg Thy blessing upon us, our parents, our teachers and our country." The Illinois Division of the ACLU, responding to what it reported were an increasing number of parental complaints, adopted a policy statement reminding Cook County school officials that "the law requires and good judgment dictates" that Christmas observances be as nonreligious as Valentine's Day. A copy of the statement was mailed to 1,500 educational officials. The Minnesota Rabbinical Association surprised some Twin City school administrators by requesting principals not to stage Chanukah observances. The rabbis said that any religious
ceremony in the public schools was a violation of constitutional separation of church and state.

**AID TO PAROCHIAL SCHOOLS.** The U.S. Supreme Court refused to hear an appeal of a Connecticut law giving towns the local option of paying for non-profit school bus transportation entirely out of local taxes. The court thus, in effect, stood by its 1947 decision in the *Everson* case (See last year's Annual Report, p. 29). The Alaska Supreme Court, however, declined to be bound by the *Everson* verdict in striking down a law that would have extended free school transportation to private and sectarian schools. In ruling that such transportation was "direct" assistance and therefore prohibited by the Alaska state constitution, the court rejected the "child benefit" theory which argues that such aid benefits the child rather than the school and so does not violate the constitutional wall between church and state. The Attorney General of North Dakota came to the same conclusion in ordering the town of Lisbon to cease paying public money to transport parochial students to school. In Oregon the Union's affiliate successfully reversed in the state Supreme Court a Circuit Court decision holding constitutional a state law mandating the provision of textbooks to nonpublic elementary schools.

**TUITION GRANTS.** The New York Civil Liberties Union and the Niagara Frontier (Buffalo) Branch opposed a bill approved by the state legislature which indirectly evaded constitutional guarantees by awarding so-called "incentive" scholarships to students of church-sponsored as well as other private institutions of higher learning. Since the students would pass along these funds to the colleges, said the NYCLU, the bill violates the state constitution's ban against the use of "public money, directly or indirectly, in maintenance of any school of any religious denomination." The direct payment of public tax funds as tuition to a school district in Vermont was outlawed by the state Supreme Court in a verdict which affirmed a lower court decision. The U.S. Supreme Court refused to review.

**RELEASED TIME.** School boards in Plymouth, Ohio and Dunkirk, N.Y. resolved controversies over released time very simply: the former stopped giving religious instruction during school hours and the latter took such classes out of the public school where they had been held. The Maryland Civil Liberties Union opposed a move by a Governor's committee studying juvenile delinquency to approve a released time ordinance. The Metropolitan Detroit Branch of the ACLU decided that allowing parochial school students to attend speech correction classes held in public schools does not violate the separation of church and state. The Greater Philadelphia Branch supported state legislation which would permit the state Health Department to reimburse parochial schools for money spent on nursing services, on the theory that such aid was given to the child not the school.

In Ohio the state affiliate objected to the wearing of religious garb by Catholic nuns who teach in several counties. The state Attorney General disagreed, rejecting the affiliate's constitutional argument as
well as its suggestion that nuns follow the practice of their sisters in New York and North Dakota, who received dispensation to wear lay clothing while teaching in public schools.

Controversies over religion also erupted on several college campuses. The Ohio CLU objected to interviews of prospective teachers by Bowling Green State University at which applicants were asked their religion. The ACLU declared that charges of racial or religious bias in promotions or appointments at public institutions of higher learning should be investigated by specially elected faculty committees whose decisions would be subject to judicial review. To avoid disruption, said the Union, anti-discrimination commissions should not investigate this area of bias. The recommendation was prompted by two years of dissension at Queens College in New York City which arose over charges of anti-Catholic bias. The New Jersey Supreme Court allowed Amherst College to eliminate religious restrictions from a $50,000 scholarship fund willed to the school. The court left standing restrictions against applicants who smoke, drink or gamble.

2. Church and State: The General Public

"BLUE LAWS." The U.S. Supreme Court upheld the constitutionality of Sunday closing laws in Maryland, Massachusetts and Pennsylvania and subsequently rejected appeals to review similar legislation from plaintiffs in South Carolina and Ohio. The verdicts marked a temporary end to the prolonged court battles over the "blue laws," shifting the debate to the legislatures. Pressure in Illinois and Indiana quickly developed to pass such measures, but the bills were defeated. Although Chief Justice Warren said that the "blue laws" could be held unconstitutional in the future if it were shown that states used them "to aid religion," he found in the current cases no such issue. He accepted their purpose and effect as "not to aid religion but to set aside a day of rest and recreation." Warren denied that the laws were an infringement of free exercise of religion because the appellants alleged only economic injury and he answered the equal protection question by declaring: "A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it. . . . The record is barren of any indication that this apparently reasonable basis does not exist." Dissenting opinions supported a friend-of-the-court brief submitted by the ACLU which said the "blue laws" violate prohibitions of the First Amendment and, by interpretation, the Fourteenth Amendment against state establishment of religion and state interference with religious liberties. One dissent said the majority "seems to say . . . that any substantial state interest will justify an encroachment on religious practice, at least if those encroachments are cloaked in the guise of some non-religious public purpose," and another dissenter argued: "I do not see how a state can make protesting citizens refrain from doing innocent acts on Sunday because the doing of those acts offends sentiments of their Christian neighbors. The Court balances. . . . There is in this realm no room for balancing."

The ACLU brief declared that while the state, under its police power to act for the public welfare, may restrict persons to a six-day work
weck, designation of a particular day of rest restricts unnecessarily "the right of all men to choose their form and the time of rest and worship." The Union pointed out that so-called "one day of rest in seven" laws which leave the day of recreation up to the individual are in force in Arizona, California, Nevada, Oregon, Wisconsin and Wyoming. Such legislation, said the ACLU, achieves the same purpose as Sunday closing laws, but infringes to a lesser degree upon personal liberty.

**PLANNED PARENTHOOD.** In a suit supported by the Connecticut Civil Liberties Union, the U.S. Supreme Court refused to rule on the constitutionality of that state's birth control laws, which forbid doctors to prescribe contraceptive measures and the sale or use of birth control devices, declaring that although the laws have been on the books for more than 75 years, no one has been injured by them and a prosecution was begun in only one case. The "dead words" of the law, as the court characterized them, may soon be put to a live test, however. The Planned Parenthood League announced the opening of a counseling clinic in New Haven. The Arizona CLU is backing an appeal to the state Supreme Court testing the constitutionality of a law banning the dissemination of birth control information. The affiliate contends the ban infringes on protections of free speech and due process.

**RELIGIOUS OATHS.** In an unanimous opinion, the U.S. Supreme Court found unconstitutional a requirement that a sworn belief in God be a prerequisite for holding public office. The case, backed by the ACLU and the American Jewish Congress, involved Roy R. Torcaso, a Maryland notary public whose commission had been denied when he refused to take such an oath (See last year's Annual Report, p. 31). The opinion held that the provision infringed on the individual's right to religious freedom, and that neither the state nor the federal government "can aid those religions based on a belief in the existence of God, as against those religions founded on different beliefs."

**USE OF PUBLIC FUNDS.** The Georgia Attorney General ruled that prison labor may not constitutionally be used to maintain or improve church property; the St. Louis Civil Liberties Committee opposed a tax-paid trip, later cancelled, by a member of the City Council to attend a Catholic ceremony in Rome; the ACLU of Southern California endorsed a ruling by the state Attorney General forbidding the use of Los Angeles County tax funds to support a religious drama; and the ACLU of Oregon opposed the display of Nativity scenes on public grounds in Portland and Salem. Reviewing such displays, the National Council of Churches declared: "Christians need ask themselves whether this is an appropriate purpose for tax funds paid by citizens of all faiths and none. Even more important, Christians should ask whether this is an effective use of the sacred symbol of the incarnation."

**OTHER ISSUES.** ACLU affiliates in Washington state and Illinois attacked the practice of making church attendance a condition of juvenile rehabilitation. The ACLU urged a stronger wording for inclusion in the Senate's foreign aid bill which would make clear the repugnance of the United States towards discrimination by foreign
nations, especially Arab countries, against American citizens because of their racial or religious background. The U.S. Court of Appeals reversed a lower court judgment and ordered a hearing on whether three convicts who were converted to the Black Muslim sect while in prison were sent into solitary confinement because of their new-found religious beliefs.

3. Problems of Conscience and Religious Freedom

The U.S. Supreme Court refused to review a Washington state Supreme Court decision holding that the state Bar Association had not been "arbitrary or capricious" when it refused permission to Robert Boland Brooks to take the bar examination because of a felony conviction arising from his conscientious objector status during World War II. The conviction, said the state court, marked him as a man "not of good moral character." A dissenting opinion declared there is "no rational connection" between Brooks' beliefs and his competence to practice law, pointing to other men who "preferred jail, rather than do what (their) consciences said (they) should not do." The Greater Philadelphia Branch urged legislation amending the Social Security Act to exempt any individual who is a member or adherent of any recognized church or religious sect whose teachings forbid its members from accepting social insurance benefits. This action came after an Amish believer refused to pay social security taxes. The affiliate did not intervene in this case because it was not practical or suitable under the present law, but backed a change of the law itself. Michigan State University was added to the growing list of colleges which replaced compulsory ROTC programs with voluntary programs.

GENERAL FREEDOM OF SPEECH AND ASSOCIATION

1. Right of Movement

The State Department added Cuba to the list of countries U.S. citizens cannot visit without specific permission by the government, a restriction criticized by the ACLU as conflicting with the individual's right to travel, protected by the First and Fifth Amendments. The Union's position is that a passport can be denied only in time of war or if the individual is involved in a court action which requires him to remain in the country. In a letter to Secretary of State Dean Rusk, the ACLU conceded that while "freedom of movement is not an absolute right," mere changes in foreign policy should not "restrict the exercise of constitutional rights." Since "we are not at war," the letter declared, "such travelers should be permitted expressly to waive their right to protection if so they choose." A State Department reply disagreed that its action violated that right. and said that individuals have "no right to insist on or disavow" their government's protection. In a move liberalizing scientists' right to travel, the State Department
said that henceforth scientists generally will be permitted to attend international meetings at which Communist China is represented.

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

REAPPORTIONMENT. A policy statement by the Board of Directors of the ACLU urged a change in the apportionment of state legislative districts to give all voters equal representation. State electoral districts should be based only on population, said the Union, since the "equal protection of the law" clause of the Fourteenth Amendment "would appear to require that there be no classification between voters." The Board of Directors' statement modified a 1959 stand which drew a distinction between those state legislative districts distributed according to popular representation—whose need for reapportionment was backed by the Union—and those established on the basis of geographical area. The new position makes no such distinction. The Union cited these typical figures to support its claim that present reapportionment denied equal protection by diluting the individual's right of franchise: 12 percent of the California population controls the state senate; 10 percent of Connecticut's population controls the lower house; before the recent court-ordered reapportionment in New Jersey, 20 percent of the population chose 62 percent of the state Senate. "These figures," said the statement, "illustrate that the Fourteenth Amendment's equal protection clause is not being respected in the vital area of electoral representation. The meaning of franchise—representation in the decision of government—is seriously weakened by the present arrangement."

Implementing its statement, the ACLU announced its support of two malapportionment cases now before the U.S. Supreme Court. A Tennessee suit, accepted for review, focuses on the failure to observe a state constitutional requirement for a decennial apportionment on the basis of population. A Michigan case, for which review is pending, challenges a 1952 amendment to the state constitution which, in effect, freezes the senatorial districts which had last been redistributed on the basis of population in 1925 (See last year's Annual Report, pp. 33-34). A significant case upon which the U.S. Supreme Court did rule involved the 1957 gerrymandering of Tuskegee, Alabama's boundaries by the state legislature which eliminated all but four or five of the city's Negro voters. The high court invalidated the statute as a violation of the Fifteenth Amendment which forbids denial of the vote because of race or color. The same point was made in a friend-of-the-court brief submitted by the Union, which said that "a state's recognized jurisdiction over its cities does not permit it to take actions which deprive citizens of rights guaranteed by the federal Constitution."

In the states, suits contesting unequal representation are before courts in Georgia, where the method of counting votes by "county units" is under attack; Indiana, where the ACLU asked a Federal District Court to force reapportionment of the legislature ("a self-perpetuating oligarchy") after state officials shrugged off as unenforceable a state Superior Court opinion which called the 40-year-old reapportionment laws "a degree of anarchy within our
government'' and ruled them unconstitutional; New York, where a federal judge ordered a three-judge federal court test of the apportionment statute; and in Mississippi, where a taxpayers suit argued that since the last reapportionment in 1890 some voters now have 18 times more representation than others. The New Jersey legislature, under threat of action by the state Supreme Court to take matters into its own hands, finally approved a bill that reapportions 60 seats of the state's 21 counties for the first time since 1941.

MINORITY PARTIES. The ACLU argued vainly before two New York state courts against throwing out the nominating petition of the Socialist Labor Party candidates for President and Vice-President. The Union asked the courts to be guided by "proper legislative intent" to prevent fraud rather than the letter of the state election law in a challenge brought by the Democratic and Liberal parties. The parties objected to 48 out of 97 SLP signatures from one county because signers had designated a wrong election district although the SLP petition more than fulfilled the law's requirement for 50 signatures from every other county. The Union also asked the Governor of Alaska to liberalize the state's election code to permit the Socialist Workers Party a place on the ballot. Under an opinion by the state Attorney General, the SWP was refused a place on the ballot because it did not poll 10 percent of the total vote. The ACLU pointed out that under New York state law, a group that wins less than one percent of the vote is entitled to a line on the ballot. The ACLU of New Jersey came to the aid of the SWP when, at the affiliate's request, the state Attorney General ruled that the party's candidate for Governor did not have to sign a loyalty oath to run for office. Also protesting restriction on access to the ballot by third parties were ACLU affiliates in Detroit, Maryland and Ohio.

LITERACY TESTS. The New York Civil Liberties Union is challenging the constitutional requirement of literacy in the English language as a qualification for voting in the state. Supporting the case of Jose Camacho in the Federal District Court, the NYCLU declared that the requirement, applicable to about 100,000 New York residents who are literate in Spanish but not in English, violates the Fourteenth Amendment's protection of equal rights under the law. The NYCLU pointed out that with the rise of foreign language newspapers and radio programs, Spanish-speaking voters have access to information on political issues. "By preventing these people from voting," said the NYCLU, "we are depriving them of a basic democratic right: participation in the political process by which they can become citizens of the community in the true sense, and not merely residents." The Colorado Branch, ACLU complained that a natural-born citizen and a resident of the state for 15 years was denied the right to register because she did not speak English.

The Florida Civil Liberties Union won its appeal to the state Supreme Court testing the right of a voting register to drop a voter from the rolls without giving him a hearing; the Illinois Division objected to Governor William G. Stratton's request of all state employees
to reveal the parties for which they voted in the 1960 election; and
the District of Columbia, for the first time in more than 160 years,
will be able to vote for the next President and Vice-President with the
ratification of the 23d Amendment. The battle for complete home rule
in the nation's capital continues.

3. Right of Assembly in Public Facilities

ROCKWELL CASE. New York state's high judicial body, the
Court of Appeals, unanimously affirmed without an opinion a lower
court decision upholding the right of American Nazi Party leader
George Lincoln Rockwell to speak at a public rally in a public square
in New York City. The issue ended there when the U.S. Supreme Court
decided not to review the case. The New York Civil Liberties Union pro-
vided counsel for Rockwell in the belief that the vital civil liberties issue
involved in the case—his right to speak without governmental pre-
censorship—demanded a court test despite the "hateful character"
of Rockwell's views (See last year's Annual Report, pp. 35-36). The
lower court agreed with this contention. Said the majority opinion of
the lower court: "If the speaker incites others to immediate unlawful
action, he may be punished . . . but this is not to be confused with
unlawful action from others who seek unlawfully to suppress or punish
the speaker. The unpopularity of views, their shocking quality . . .
and even their alarming impact is not enough. Otherwise the preacher
of any strange doctrine could be stopped." Meanwhile, the much-
traveled Rockwell continued to make news—and involve ACLU affili-
ates—in other cities. In each case the Union said that despite Rock-
well's obnoxious ideology, the First Amendment guaranteed him the
right to express his opinion. The LouisianaCLU defended Rockwell's
right to picket a New Orleans movie house showing Exodus and filed
an appeal on his conviction for conspiring to breach the peace. The
Greater Philadelphia Branch succeeded in persuading city police to
destroy the arrest records of 23 persons, members of a milling crowd
of 75 who picketed and counterpicketed Rockwell's demonstration
before a theatre showing Exodus and who were falsely arrested on
charges of inciting to riot. And the CLU of Massachusetts deplored
mob violence that prevented Rockwell from picketing the same film
in Boston. The affiliate also opposed a move, later dropped, by the
state Subversive Activities Commission, to subpoena members of the
American Nazi Party for investigation.

USE OF PUBLIC SCHOOLS. A California law that required or-
ganizations seeking to use public school facilities to sign loyalty oaths
was declared unconstitutional by the state Supreme Court. The U.S.
Supreme Court refused to review the case. The verdict ended prolonged
litigation between the ACLU of Southern California and the cities
of Los Angeles and San Diego, and substantiated the affiliate's belief
that the oath abridges both federal and state constitutional guarantees
of free speech and assembly. The opinion said that the demand for a
"statement of information" assuring officials that the facilities would
not be used to further a forcible overthrow of the government was
“a prior restraint on the rights of free speech. While the state is under no duty to make school buildings available for public meetings,” added the opinion, “if it elects to do so it cannot arbitrarily prevent any member of the public from holding such meetings . . . or make the privilege of holding them dependent on conditions that would deprive (them) of their constitutional rights.” Citing the decision as precedent, the City Council of Berkeley repealed its loyalty oath requirement for the use of public parks.

The Houston school board formally voted to require a non-Communist loyalty oath from groups seeking to use its facilities after it had denied a school auditorium to the Greater Houston ACLU. Houston’s distinction—it is the only city in the country where the Union has been similarly denied—was promptly assailed by the Houston Chronicle as “deplorable,” and by a local pastor who stamped it as “the first terrible step toward the loss of our freedom.” The ACLU affiliate said the oath was “contrary to the concept that free men in a free society are assumed loyal until proved otherwise by due process of law.” The controversy arose when a local school board member dredged up criticism of the ACLU made by the American Legion in advance of an address by Patrick Murphy Malin to the Greater Houston Affiliate. The speech was later heard in the union hall of the Communications Workers of America.

**PUBLIC MEETINGS.** The Fair Play for Cuba Committee, a group which supports the Fidel Castro regime, was involved in several incidents when it sought to bring its case before the public. In Los Angeles, a Superior Court judge handed down an important decision when he prevented the owner of a private hall from cancelling a lease with the Committee for a public hearing. It was the first time in many years that a judge had upheld the right of a politically unpopular group to hold such a gathering. The ACLU of Washington charged that Seattle police failed to protect the constitutional rights of Committee pickets, who finally were forced to disperse their line before the Federal Office Building. And in Rhode Island, the ACLU affiliate promised to back student members of the Committee if they chose to demonstrate a second time. Police broke up the first protest before the pickets got underway. An open meeting of the Urban League in Buffalo at which the pros and cons of the Cuban revolution were argued was diligently attended by the police Anti-Subversive Squad, who stood by to hear themselves denounced. The Niagara Frontier (Buffalo) Branch has compiled its own dossier of civil liberties violations by the Squad, including their practice of recording the license numbers of cars belonging to persons attending liberal meetings.

Washington Square in Manhattan’s Greenwich Village was enlivened on successive Sundays by rioting, the result of a Park Department ban on folk singers who, weather permitting, traditionally entertain themselves and hundreds of passing tourists. The crowds, and alleged damage to grass, led the Department to prohibit the troubadours by refusing them a permit although a permit had never been required before. A lower court affirmed the ban but, defended by the New York Civil Liberties Union, the folk singers took their case to the Appellate
Division of the state Supreme Court and won. In Portland, Ore., the City Council repealed an unconstitutional section of the police code which forbade religious and political meetings in city-owned parks and recreation areas. For the first time in three years, "peace walkers" in Minneapolis were able to use a public park. The ACLU of Northern California protested the refusal of Oakland authorities to grant the use of a public hall for an address by physicist Linus Pauling, and the Florida Civil Liberties Union is appealing in court the refusal of Miami officials to allow a political organization to use a public park.

4. State and Local Controls

RIGHT TO LICENSE. For a full decade, the case of George Anastaplo has shuttled between the Committee on Character and Fitness of the Illinois Bar and the state Supreme Court. It finally went to the U.S. Supreme Court, where it was lost. Anastaplo's contention, supported by the Illinois Division in a friend-of-the-court brief, that he had a right—on principle—to refuse to answer any questions concerning Communist or other political affiliations, and even the right to disobey the high court itself if it "so perverted the Constitution" as to destroy it. The tribunal rejected this reasoning on the grounds that the state has a prevailing interest "in having lawyers who are devoted to the law in its broadest sense." Anastaplo's refusals were made on the grounds of principle alone. No one had ever questioned his fitness—or accused him of belonging to the Communist Party or the Ku Klux Klan. Another unusual issue involving a lawyer was raised by Trayton L. Lathrop, a Wisconsin attorney, who fought compulsory membership in the state Bar Association as a violation of the First Amendment's freedom of association—or non-association. The U.S. Supreme Court turned down his appeal.

In California, which narrowly defeated a bill to disbar attorneys on the grounds of mere membership in "subversive" organizations, lawyer Raphael Konigsberg lost an appeal to the U.S. Supreme Court in a narrowly split decision assailed in a minority opinion as "cutting the heart out of First Amendment freedoms." Konigsberg, backed by the ACLU of Southern California for seven years, had challenged the right of the Bar Association to question him on his alleged membership in the Communist Party. The majority opinion of the high court rejected "the view that freedom of speech and association as protected by the First and Fourteenth Amendments are 'absolutes.'" On appeal to the California Supreme Court is another test case, brought by the affiliate's counsel, A. L. Wirin, challenging a loyalty oath for public officials, including notaries (See last year's Annual Report, p. 37). The Pittsburgh Chapter of the Pennsylvania ACLU backed an attorney who won his appeal in the state Supreme Court on a lower court's disbarment order—on the grounds of Communist Party membership.

SOCIAL WELFARE. The Louisiana legislature sought to end relief payments to mothers of children born out of wedlock—a bill aimed at eliminating 23,000 children, mostly Negroes—from welfare rolls
and it took an order from the federal Commissioner of Social Security to stop it. The ACLU sharply assailed the legislation as “part of the state’s militant opposition to any attempt at desegregation” and condemned it on constitutional grounds as a violation of equal protection and due process provisions of the Fourteenth Amendment by “invidiously” discriminating against children born out of wedlock.

The Iowa Civil Liberties Union won a first-round legal victory when a county district judge ruled unconstitutional a state law providing for the deportation of one year non-residents who have gone on relief. If an alien has the right to enter and live in any state in the Union, said the judge, “it is difficult, if not impossible, to answer the argument here advanced that a citizen of the United States should have the same privilege.” In two instances, a 300-year-old Connecticut law similar to the Iowa statute was mooted in court tests endorsed by the CCLU when state welfare officials decided that the individuals were entitled to federally-subsidized relief benefits.

OTHER CASES. An ultra-right wing political group in Portland, Ore. was refused the right by the City Council to solicit public funds. The ACLU of Oregon, while not defending the political views of the organization, “Freedom Center, Inc.,” questioned the legality of an ordinance requiring a permit for financial solicitations. The ACLU of Pennsylvania opposed an amendment to the state solicitation law that granted administrative discretion to refuse a permit to a charity deemed “improper” or “inimical to the public welfare.” The Utah Civil Liberties Union sought a court challenge of the state’s anti-miscegenation law, but the case was mooted when the Nisei boy and white girl were married out of the state. Wyoming and Arizona also bar such marriages; Colorado, Idaho, Nevada do not.

5. Congressional Action

THE COURTS. The ACLU expressed “deep disappointment” over two 5-4 decisions by the U.S. Supreme Court which upheld the broad investigating powers of the House Un-American Activities Committee by affirming the contempt of Congress convictions of Frank Wilkinson, for whom it provided the legal defense, and Carl Braden (See last year’s Annual Report, p. 39). Both had refused to answer charges that they were members of the Communist Party, claiming freedom of speech and association protections guaranteed by the First Amendment. The court’s majority opinion held, however, that just because a person was a critic of the HUAC, this did not immunize him from investigation if the committee had reason to believe he had Communist affiliations.

The Union declared that the court’s verdict “once again has assigned the constitutional rights of the individual to a secondary position.” The reference was to the 1959 Barenblatt case, for which the Union provided legal defense, in which the court decided that the compelling need for national security outweighed First Amendment protections, and that HUAC investigations in this area have wide and persuasive mandate. Thus, said the Union, “the wheel turns full circle, from validating the authority of a congressional committee to investigate ‘un-American
propaganda' to compelling political disclosure by persons who dare use their First Amendment guarantees of free speech to criticize such investigation. This gross attack on the First Amendment is sharply illustrated by the fact that Wilkinson was not subpoenaed until after the HUAC had learned he had arrived in Atlanta to 'develop a hostile sentiment to the Committee for the purpose of undertaking to bring pressure upon the United States Congress to preclude these particular hearings.' . . . The practical effect of the majority's statement is to silence all critics not prepared to testify about their motivations,” said the ACLU. The high court minority went even further. They charged that the majority had paved the way for the HUAC to intimidate its critics by investigating them. “The clear thrust of this sweeping abdication of judicial power,” wrote Justices Black and Douglas, “is that the Committee may continue to harass its opponents with absolute impunity as long as the 'protections' of Barenblatt are observed.” In a petition for a re-hearing, also denied by the court, the ACLU asked for a clear definition of permissible lobbying, else “no person, be he a Communist or not, can publicly petition in opposition to any committee of Congress without fear of being subpoenaed to account for his motives.”

Faced by such slender restraints upon the HUAC, the Union called on the general public, through newspapers, civic groups, and personal messages to Congressmen, to “recognize their responsibilities to maintain the freedoms of the Bill of Rights” by opposing the continued depredations of the HUAC. Said the Union: “Those who are not Communists or Communist dupes and fully understand the evil of all totalitarianism, are simply concerned that freedom prevail in our country, especially at this time of history when our principles are being tested in the fires of international conflict.”

The high court split on two other contempt of Congress convictions. It reversed the conviction of scientist Bernard Deutsch, on the ground that questions put to him by the HUAC during a 1954 hearing were not pertinent. It was the first time since 1958 that the court had reversed a contempt of Congress conviction. The tribunal affirmed the sentence, however, of Arthur M. McPhaul, who refused to comply with an HUAC subpoena to appear with the records of the Civil Rights Congress in 1952. The U.S. Supreme Court, on technical grounds, also upheld the contempt convictions of three persons who had defied the questions of the Ohio Un-American Activities Committee while it reversed the convictions of two others. That the high court will continue to examine the individual cases of many persons convicted of contempt of Congress convictions was indicated by its acceptance for review of six such cases arising out of refusals to testify before Senate and House committees. The six are: Alden Whitman and Robert Shelton, copy readers for The New York Times; Norton Anthony Russell, an Ohio engineer; Herman Liveright, a former New Orleans TV employe; William A. Price, former New York Daily News reporter; and Robert T. Gojack, Ohio trade unionist.

In lower federal courts, folk singer Pete Seeger planned to appeal a one-year prison term for refusing to tell the HUAC about possible
Communist affiliations; the ACLU of Southern California appealed for review to the U.S. Supreme Court the case of Los Angeles newsman Donald Wheeldin; Buffalo, N.Y. machine operator Sidney Turoff, who testified about himself before the HUAC but refused to name names of past Communist Party members, was ordered to receive a new trial by the Court of Appeals for the Second Circuit on the technicality that the prosecution had read irrelevant portions of his HUAC testimony before the trial court; California broadcaster Louis Hartman's contempt conviction is on appeal to the high court.

HOUSE UN-AMERICAN ACTIVITIES COMMITTEE. In view of the U.S. Supreme Court decisions in the *Barenblutt* and *Wilkinson* cases, the ACLU opened a long-range campaign to awaken the public to the violations of civil liberties committed by the HUAC. The final aim was to seek elimination of the Committee through legislative means, now that judicial avenues appear all but closed. Towards this end, the Union opened a massive educational drive, including the placement of magazine articles, distribution of hundreds of thousands of copies of newspaper articles, editorials, testimony, and public statements; purchase of a film of a TV debate between HUAC and anti-HUAC spokesmen as well as a tape recording of a similar exchange; personal letters to Congressmen. This wide assortment of materials stresses not only the Union's major constitutional opposition to the HUAC—that the First Amendment bars the Congress from probing an individual's beliefs and associations—but the HUAC's waste of public funds, its duplication of the work of other committees, and its lamentable legislative record (since the HUAC's origin in 1938 only two laws have been passed on its recommendation: the 1950 Internal Security Act and the 1954 Communist-Control Act). Unintentionally, the HUAC itself gave new impetus to the campaign by sponsoring the film, *Operation Abolition*, a myopic view of the demonstration led by students at San Francisco committee hearings last year. At every opportunity, ACLU affiliates sought publicly to refute the film's distortions without attempting to prevent the showings. Following its traditional anti-censorship stand, the Union urged that in the spirit of free discussion, local groups sponsoring a showing of the film should provide time to critics of the movie so that a true picture of the demonstration and the opposition to the HUAC could be presented (see below). One typical HUAC investigation criticized by the ACLU was its probe of the Fund for Social Analysis, which makes grants-in-aid for research "into questions of Marxist theory and its application." The Union warned that if the government moved "against any research and publication—as such—in the economic and political area, the whole atmosphere of free speech and free press will be poisoned."

In a footnote to the anti-HUAC San Francisco demonstration (*See last year's Annual Report, pp. 40-41*), the only arrested student whose case was remanded for trial was acquitted by a Superior Court jury in less than three hours of deliberation. The youth, Robert Meisenbach, was among 68 students arrested in the melee. A young lady among those arrested later lost her job with a private foundation, an action condemned by the ACLU of Northern California. The affiliate also
attacked police for the release of "mug shots" of the pickets, which were reproduced on a circular defending the HUAC.

The ACLU of New Jersey strongly protested the firing of an assistant manager in a Princeton hotel whose name appeared in a newspaper ad as a signer of an anti-HUAC petition. The Niagara Frontier (Buffalo) Branch of the Union submitted a friend-of-the-court brief for three Westinghouse employees who won their fight for reinstatement on appeal to a higher state court after refusing to answer the HUAC's questions. The Branch also ridiculed the Anti-Subversive Squad of the Buffalo police, which began an investigation of "mysterious" handbills at the University of Buffalo only to discover they were reprints of a newspaper ad calling for the abolition of the HUAC. The Illinois Division, in another anti-HUAC handbill case, protested the arrest of four persons who distributed Congressman James Roosevelt's attack on the committee. The charges were dismissed by Chicago's Corporation Counsel.

"OPERATION ABOLITION." The film Operation Abolition was produced by a Washington, D.C. commercial film studio from newsreel clips of the San Francisco riots subpoenaed by the HUAC, whose members provide commentary for the "documentary." The narrative, as well as the filmed selections, attempts to portray the HUAC as a fearless crusader against Communist infiltration and its opponents, particularly in San Francisco, as Communists or Communist dupes. Since it was issued in July, 1960, Operation Abolition has been shown thousands of times, most often by members of the American Legion and the John Birch Society, but also by school boards, police units, and other municipal agencies. An earlier—and equally distorted view of history—is the film Communism on the Map, prepared by the far right Harding College of Searcy, Ark. This film implies that former Presidents Roosevelt, Truman and Eisenhower did virtually nothing to stop the spread of Communism. One of the most celebrated incidents involving an exhibition of these films occurred when Michigan Governor John B. Swainson ordered the state police to stop showing the movies to civic, school and professional groups. Expressing a view shared by the ACLU, Governor Swainson declared that as "commercial representations (they) have drawn criticism from many quarters... contain inaccuracies and distortions as well as conclusions not warranted by the facts (and) harm rather than advance the purpose of an intelligent anti-Communist program. If private organizations wish to show the film," he said, that is their "prerogative in a free society. But to allow organizations such as the state police to become involved in needless controversy is unthinkable." The Metropolitan Detroit Branch of the ACLU and the Union's executive director, Patrick Murphy Malin, praised Governor Swainson's action and comment. Declaring that the film is being used to undermine the "basic American principle of dissent," Malin said that "we are especially concerned with its use by state agencies without accompanying material" to expose its inaccuracies. Malin emphasized the Union's opposition to censorship or suppression of the film, but added that public analysis was essential to a proper understanding of the film's distortions.
The Niagara Frontier (Buffalo) Branch was one of several ACLU affiliates that provided such ammunition by drawing up a fact sheet and making available speakers for showings of the movie. The Maryland Civil Liberties Union persuaded the American Legion to a public debate on the film after the Legion originally declined. In Louisville, where the Courier-Journal called Operation Abolition "quite cynically dishonest," the Kentucky Civil Liberties Union won agreement from the school boards in Louisville and Jefferson County not to show the film without an explanation that it is controversial. The Miami school board filed away the Florida Civil Liberties Union's suggestion that the film not be shown to school children without a pro-and-con discussion giving them "the whole picture." Police in Upper Darby, Pa., ceased exhibiting the movie after the ACLU of Pennsylvania protested that two uniformed members of the force ran the projectors at a Kiwanis Club meeting. And in Connecticut, the CCLU trained a special corps of speakers that scored considerable success in presenting the civil liberties position at public gatherings. To counterbalance the hostile community reaction towards constitutional freedom that showings of the film often engendered, the ACLU counseled with numerous national and local organizations.

SMITH ACT. After hearing argument for the third time, the U.S. Supreme Court upheld the constitutionality of the membership clause of the Smith Act which makes it a crime knowingly to belong to a party that advocates the forcible overthrow of the government. It also upheld the legality of the 1953 order by the Subversive Activities Control Board—issued under the 1950 Internal Security Act—that the Communist Party must publicly register. Both verdicts were deplored by the ACLU as eroding the First Amendment guarantees of freedom of speech and association. In support of a re-hearing on the registration provision of the Internal Security Act, (which was denied) the Union made public a detailed analysis and summary of both decisions.

The membership clause of the Smith Act was upheld in the case of Junius Scales, former Carolinas chairman of the Communist Party, who is no longer a member. In a companion case, that of John Francis Noto, ex-secretary of the Party in New York State, the court reversed a conviction for lack of evidence that he had actual knowledge of the group's purportedly unlawful objectives. The ACLU welcomed the distinction as a warning that the Court "will not tolerate wholesale prosecution of members of the Communist Party," but it added that no matter how the government proceeds, the Scales verdict "strikes at the heart of the First Amendment guarantee that freedom of association, unrelated to the performance of an illegal act, is inviolate. This decision," argued the Union, "vitiates the First Amendment by placing every individual on notice that he joins organizations under peril of future criminal prosecution. It puts a premium on an ignorant, not an enlightened citizenry. It requires that a person who considers joining any organization must do so either without regard for its stated purposes or, to protect himself, attempt from the outside, to look behind such purposes to find the 'real' motives of the organization. Either procedure places extra burdens on the right of free association."
While "deeply regretting" the high court's decision upholding the registration provision of the Internal Security Act, the ACLU noted that "for the first time in American history, the requirement that an organization register because of the content of its political program has been given constitutional sanction." While applauding the court's statement that its verdict does not validate congressional power to "impose similar requirements upon any group which pursues unpopular objectives or which expresses an unpopular political ideology," the Union said that taken in context with other recent opinions that "relegated the First Amendment (rights) to a secondary position," the latest verdict "seriously weakens" the basic principles of freedom from which the nation draws its strength. In addition to the First Amendment issue, the Union objected to the registration provision as a violation of the Fifth Amendment right against self-incrimination because of the Smith Act's application to Communist Party officers. "Despite the Court's statement that it was deciding only the constitutionality of the registration provisions and not the penalties flowing from such registration, the self-incrimination issue is a thorny problem which cannot be brushed aside," said the statement. "The registration provision cannot be isolated, and we agree with the minority view that the decision directly violates the self-incrimination privilege."

Former Illinois Communist Party chairman Gilbert Green was indicted under the membership clause of the Smith Act but the ACLU, in a letter to the U.S. Attorney General, asked that the prosecution not be pushed. Further prosecutions of Green, or other Communist Party officials, said the Union, are restraints of free speech and association "which have no practical necessity," and which, in addition, appear to be "vindictive harassment of anyone already penalized for preaching even what is loathsome to you or me and almost everybody else." The ACLU pointed out that it has been opposed to the "anti-advocacy" provisions of the Smith Act "long before the Communists came to oppose it and, indeed, in cases where they favored its application! Our opposition is grounded solely on the free speech principle that there should be no governmental restriction on advocacy of any sort unless it causes 'a clear and present danger' of illegal action." Green has already served two prison terms: for conspiring to teach or advocate the violent overthrow of the government; for contempt of court for trying to escape his sentence by fleeing.

JOHN BIRCH SOCIETY. The ACLU defended the right of the John Birch Society to express its views, even though it may harm civil liberties by making people afraid to speak out, "lest they, too, be called 'part of the Communist apparatus.'" The Union position was made clear in a letter to HUAC chairman Francis E. Walter, who issued instructions for a preliminary investigation of the Birchers. The action was never followed up. In opposing governmental investigation of political opinion, the Union said that the best way to combat the Society's assault upon the First Amendment "is for the people themselves, in public meetings, . . . to refute the Society's scurrilous attacks. . . . This method of counteracting speech, rather than govern-
ment coercion, is the way to deal with all forces which seek to weaken our free society.” Also in Congress, 18 lawmakers who themselves strongly disagree with the Society took a public stand against a legislative investigation of it. On the state level, the ACLU of Washington state opposed moves to investigate the group while the ACLU of Southern California did the same. The Attorney General of California, while likening the monolithic, dictatorial organization of the Society to that of the Communist Party, ridiculed the group as “pathetic” in also opposing any investigation of it.

The rapid emergence of the John Birch Society was evidence of a boom currently enjoyed by similar right-wing organizations. This rise has been marked by the growth of organized anti-Communist “Americanism schools” which spawn crusades that frequently threaten the full exercise of civil liberties. The St. Louis Civil Liberties Committee urged its members to attend one such local school in order to get an authentic picture of how such groups operate. The recently-formed ACLU of Utah received a firsthand learning experience at the hands of a local Americanism school which smeared the affiliate along with other organizations. Rapidly launching a counterattack, the ACLU of Utah banded together Young Democrats, Young Republicans, church organizations, educational groups and other civil liberties organizations into a new unit, Citizens for Freedom, which obtained widespread support. Endorsement also came from a local Chamber of Commerce, which originally had sponsored the super-patriotic crusade. As a result of such action when the affiliate sponsored an anti-HUAC meeting featuring a showing of Operation Abolition, 300 people attended instead of the 50 to 100 who were expected.

Another example of the resurgence in far-right wing activity was the active participation by some members of the military in such extreme movements, lending a tone of government sponsorship or— at the least—government endorsement. The Illinois Division, ACLU first brought this problem to public attention when it protested the use of Glenview Naval Air Station and Navy personnel for an “Education for American Security” program which attacked (in the name of anti-Communism) the Ford Foundation, the Fund for the Republic and the Book Review sections of The New York Times and Herald Tribune. The protest and ensuing publicity led to Senatorial action and a Department of Defense directive curbing military participation in such educational endeavors.

When Major General Edwin A. Walker, commander of the 24th Infantry Division in Germany, was officially rebuked for speeches impugning the loyalty of such prominent Americans as former President Truman, Eleanor Roosevelt and Dean Acheson, the ACLU said no civil liberties issue was present, adding, “In our democratic society a clear division must be made between a military figure speaking on military subjects and not publicly commenting on matters reserved for civilian debate.” As the issue continued to strike public attention, the Union began a study of the general problem of freedom of expression for military personnel.
LABOR

POLITICAL ACTION. The U.S. Supreme Court declared that union members who disagreed with the political stand taken by their union should get a refund of their dues in proportion to the amount spent on politics. The majority did not rule on the constitutional issues raised in the appeal by the International Association of Machinists from a Georgia Supreme Court ruling. Dissenters on the high court said there was nothing unconstitutional in letting a majority speak for the political views of the entire group. In a statement issued by the ACLU Board of Directors last year, the Union accepted this view, noting that so long as dissenting union 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 ACLU of Southern California, meanwhile, appealed to the U.S. Supreme Court to reverse the dismissal of a public employee who publicly criticized superiors for not granting workers a cost-of-living increase. The affiliate declared that public employees have a right to express critical opinions on economic and political subjects without fear of reprisal.

WORKERS' RIGHTS. In the first major test of the "Bill of Rights" provisions of the federal Labor-Management Reporting and Disclosure Act two Chicago tool-and-die makers sued in the Federal District Court for damages and reinstatement in their union, the International Association of Machinists. The two men, Irwin Rappaport and Marion Ciepley, were expelled by the IAM after they led a successful drive to oust a corrupt local administration. Their case, which since then has drawn considerable attention (See Annual Report, 1958-1959, p. 62), from outside labor's ranks, was based on charges that they were deprived of rights of freedom of speech, association and petition and that they were denied a hearing on their expulsion. In another case involving the IAM, the ACLU of Southern California won in the state District Court of Appeals the cases of two union members expelled because they publicly campaigned in favor of a state right-to-work law. The IAM strongly opposed such laws. The affiliate's friend-of-the-court brief declared that the threat to union strength posed by freely expressed political differences is not so "awesome" as to justify restricting basic rights. "In today's industrial society," said the brief, "fealty to the trade union cannot be so all-embracing that outspoken opposition can be equated with 'disloyalty' and be made grounds for exclusion." In a similar case derived from the delicate problem of intra-union discipline, the Wisconsin Supreme Court reversed a ruling by a state board and declared that unions may fine members who cross its picket lines. The New York Civil Liberties Union urged revision of the state's Condon-Wadlin Act, which bars strikes by public employees and provides for automatic dismissal for such workers who do walk off the job. The NYCLU said that the prohibition against strikes should be limited to stoppages causing "irreparable harm" to the community—but only if such limits are coupled with effective grievance procedure.
LOYALTY AND SECURITY. The U.S. Supreme Court refused to consider the appeal of seven persons in Cleveland, including four union members, all of whom were convicted of conspiracy in falsifying the non-Communist affidavits of two of the defendants. It was the government's contention that in order to bypass the affidavit requirement, Communist Party policy dictated to members falsely to quit the party. The Ohio Civil Liberties Union, in a report issued by the Cleveland Branch, said such reasoning "damned the defendants from the beginning" without any proof of conspiratorial connections. A second questionable conspiracy prosecution under the non-Communist oath provision of the Taft-Hartley Act is aimed at 11 leaders of the Mine, Mill and Smelter Workers. Their case will be heard by a U.S. Court of Appeals.

BIAS. The National Association for the Advancement of Colored People continued to express impatience over the pace of AFL-CIO efforts to move against discrimination in its own house. Many unions—especially craft and construction trade unions—in the North still bar Negroes from apprenticeship program, send their few Negro members to menial jobs, and segregate them in all-black locals. A kinder view of AFL-CIO progress was taken by the Jewish Labor Committee, which said the federation "had made deep inroads" in wiping out internal discrimination. One such inroad was the hiring of the first Negro electrician on a government job in Washington, D.C. The all-white Local 26 of the International Brotherhood of Electrical Workers had resisted the pressure of government, its own international officers, and the AFL-CIO for years until it finally was confronted with the threat of a government court suit which would force the contractor to put a Negro on the job without the local's approval. This would have jeopardized the local's hiring hall arrangements—through which it controls job assignments—and so it finally surrendered on this specific case. On the more encouraging side, but also requiring the threat of legal action, the plumbers union in New York state accepted its first Negro applicant for apprenticeship training. The NAACP promised to carry its protest to the state Attorney General. The U.S. Labor Department supported the United Auto Workers in the UAW's year-long imposition of a trusteeship of a Memphis local that refused to desegregate washrooms and drinking fountains in its meeting hall. The local had appealed the trusteeship under the Labor-Management Reporting and Disclosure Act.
EQUALITY BEFORE THE LAW
THE FEDERAL SCENE

JOB DISCRIMINATION. Choosing to exercise his executive authority rather than attempting to push reforms through a narrowly divided Congress, President Kennedy established a Committee on Equal Employment Opportunity to enforce non-discriminatory hiring by government contractors. The Committee, headed by Vice-President Johnson, pledged itself to cancel contracts with any employer who does not comply. One of the group's first tests was raised by the NAACP regarding conditions at the Marietta, Ga. plant of the Lockheed Corporation which has a ten-year $1 billion contract to produce jet transport planes for the Air Force. The NAACP charged "overt discrimination" at the huge plant, including exclusion of Negroes from plant apprenticeship programs, restriction to unskilled and semi-skilled jobs, even punching in at segregated time-clocks—all of which made a "shameful mockery" of the President's Executive Order. The charges, investigated by the Air Force and the Committee, were largely substantiated. Lockheed then promised to review its over-all practices and signed an agreement with the Committee to improve Negroes' opportunity for jobs and promotions. The pact, the first of several signed by such leading contractors as General Electric and RCA, guarantees non-discriminatory hiring, dismissals, lay-offs and transfers. The companies also pledged to recruit actively qualified Negro employees through Negro colleges, civic groups, and newspapers.

Within the government, a survey by the President's Committee on Equal Job Opportunity found an 87 percent increase within the last four years in the number of Negroes holding upper grade white collar jobs with federal agencies. Most of the total increase—from 5,000 to 9,300—occurred on lower rungs of the ladder. A broad survey of Negro servicemen and veterans by a 40-man research team of the American Veterans Committee disclosed several areas of continuing discrimination: Negro veterans unable to use GI-on-the-job training because of the lack of job opportunities; "abysmal" discouragement in seeking business and farm loans because almost none are given; "nearly-non-existent" employment of Negro veterans in southern federal agencies. The study concluded that in the National Guard unequal treatment is standard in 16 states as well as at local levels. In the National Guard Bureau at the Pentagon, said the report, there is not a single Jewish or Negro officer, not a single Negro civilian in the higher grades. The AVC urged the federal government to withhold funds to such National Guard units, but a Pentagon reply denied the feasibility of such action, pointing out that when a National Guard unit is called up, it is subject to integration policies already in effect in the armed forces.

THE COURTS. The U.S. Supreme Court ruled that the Interstate Commerce Act forbids discrimination at eating facilities used by interstate buses but did not pass upon two constitutional issues raised by the NAACP: that the arrest of former Howard University law
student Bruce Boynton and his $10 fine for trespass was an unreasonable burden on interstate commerce and, second, that it denied him equal protection of the law. The verdict did not prevent violence and bloodshed in Alabama several months later when Freedom Riders tried to break down racial barriers at Birmingham and Montgomery bus terminals (see below). In direct consequence of the melee, however, the Justice Department urged the Interstate Commerce Commission to forbid such segregation by its own edict. Following hearings, the ICC did just that. It barred interstate carriers from using segregated terminal facilities, and ordered buses holding common carrier permits to display signs announcing that seating aboard the bus is "without regard to race, color, creed or national origin."

The U.S. Supreme Court agreed to review the convictions of three "sit-in" demonstrators arrested in a Greyhound Bus Terminal in Baton Rouge, La. Earlier the tribunal had refused to review an appeal by a dozen persons, supported by the Florida Civil Liberties Union, who were arrested while requesting service at a Woolworth's store in Tallahassee. Though the court gave no reason for either decision, it appears that review of the latter case was refused on technical procedural grounds. The ACLU sought the release of Freedom Rider Elizabeth Wykoff from a Mississippi jail on an original writ of habeas corpus asked of the U.S. Supreme Court. The high court, which has not issued such an original writ for more than 60 years, did not break precedent.

VOTING. The stiffest order yet issued by a federal judge to end ballot discrimination against Negroes was issued by Judge Frank M. Johnson, Jr., who ordered the names of 64 Alabama Negroes put on the voting lists within 10 days and who told registrars that in the future they are prohibited from administering qualifying tests to Negroes "in any way different" from those given to white applicants. The yardstick for qualifying Negroes, Judge Johnson declared, was the performance of "the least qualified white applicant." Other suits brought by the Justice Department to end ballot box discrimination against Negroes took place in Louisiana, and Mississippi. The Civil Rights Commission reported that varying degrees of voting discrimination were in force in 100 counties of eight states. Since 1947, the Commission said, the number of registered Negroes in twelve southern states had more than doubled. But the latest figure of 1,361,944 is still only twenty percent of the number of Negroes of voting age in the area.

CIVIL RIGHTS COMMISSION. The Civil Rights Commission urged President Kennedy to issue an executive order banning racial discrimination in federally-aided housing or by government supervised mortgage lenders, a policy long endorsed by the ACLU. The far-reaching request by the six-man Commission was based on the need to correct a situation whereby "federal resources are utilized to accentuate" discrimination while the government itself "has done virtually nothing" to stop it. In other recommendations, the Commission called on Congress to require every segregated school district to submit plans to the government for a first step towards desegregation; and proposed that the federal government withhold aid from public colleges
and universities that excluded or discriminated against Negro applicants. The Congress extended the life of the Commission for two more years.

STATE AND LOCAL ACTION

Against the rising tempo of Negro impatience with social and legal roadblocks obstructing desegregation, the South rapidly moved towards its year of decision. Lunch counter sit-ins, followed by bus terminal “Freedom Riders,” church “kneel-ins,” beach “wade-ins” library “read-ins” left hardly a custom that was not under direct challenge from a new generation of highly sophisticated, highly determined, highly courageous young Negroes. Perhaps the most optimistic report of the effect of the broad attack on segregated institutions came from the most qualified individual to make it: Rev. Martin Luther King, who began the new era of Negro militancy by leading the successful Montgomery bus boycott of 1956. The Rev. King said: “We are seeing the last days of massive resistance to integration. It is moving towards its last days in the few states, such as Mississippi, Alabama and South Carolina, where it still exists. In 10 years all major urban centers in the U.S. will be desegregated. By the end of the century we will have a truly desegregated society.”

FREEDOM RIDES. If the Rev. King is right, among the most significant milestones on the way to equality will prove to be the Freedom Rides of 1961. The first sign of trouble occurred in Anniston, Ala., where a bus carrying Negro and white members of the Committee on Racial Equality was forced off the highway and burned, and some of its occupants beaten by a gang of 10 whites. A second bus, arriving in Birmingham, was quickly surrounded by a mob of whites. Though only two months earlier a three-judge federal court had ordered all segregation in Birmingham’s terminal station “obliterated,” when integrationists headed for the lunch counters they were seized, stomped, and pounded with clubs and fists. The ACLU immediately demanded “swift action” by the federal government to protect the rights to peaceful expression guaranteed by the First Amendment. A telegram to the U.S. Attorney General charged that “the failure of local police to come to the aid of the persons assaulted . . . is tantamount to acquiescing in the attack itself and thus comes under the federal Civil Rights Act prohibition against any public official ‘acting under color of law’ denying another person his civil rights . . . Personal security, particularly where it is directly connected with First Amendment rights of peaceful expression, as in the case of the traveling CORE group, must be vigorously defended.”

The need for swift action came faster than anyone expected. Moving on to Montgomery, another CORE troupe was attacked by howling mobs who also threatened a Negro church. Without hesitation, the Justice Department rushed more than 500 federal marshals to the capital city to maintain order. “This is an ugly situation,” said Alabama’s Director of Public Safety. It was. But a sullen peace was kept. Freedom Riders rejected a Justice Department plea for a cooling-off period, while CORE and other groups continued their journey to the
next stop: Jackson, Miss. Here, with elaborate courtesy, local officials quickly and quietly hustled the Freedom Riders off to the county jail for breaching the peace by violating the state’s segregation laws. Before they stopped coming, 307 had been arrested from all parts of the nation and their appeals, backed by a cooperating ACLU attorney, were scheduled to be heard in pairs for five months. The basis of appeal was twofold: the U.S. Supreme Court verdict in the Boynton case and the challenge of the state’s breach-of-the-peace law as enacted chiefly to preserve segregation. Previously, the ACLU filed a habeas corpus petition with a federal judge, but it was denied on the grounds that state remedies had not yet been completely exhausted. While the legal outcome of the Freedom Riders’ cases was not clear, one postscript was already written: The Greyhound Bus Lines Terminal in Montgomery took down its signs for colored and white intrastate passenger waiting rooms.

SIT-INS. Fresh sit-in prosecutions and old sit-in appeals continued to make their appearance in courtrooms throughout the South. A Virginia anti-trespass law upheld by the state Supreme Court of Appeals was challenged by the ACLU, which asked a three-man federal court to accept jurisdiction under the terms of the U.S. Code. The federal court turned down the ACLU appeal. The convictions for disorderly conduct of two white university professors and seven Negroes who were arrested for dining together in a Negro restaurant in Montgomery were set aside by the Alabama Supreme Court. The court ruled that the city had failed to prove that the nine—backed by the ACLU—had committed any offense (See last year’s Annual Report, p. 48). The Florida Civil Liberties Union is supporting the appeals in various courts of sit-ins arrested in Miami, Tallahassee and Shell City. Appeals from disorderly conduct charges arising out of mass sit-in demonstrations in Louisville, Ky. were backed by the KCLU, which also urged the state Commission on Human Rights to seek early desegregation of all places of public accommodation. The affiliate urged the Commission to work with local groups of white and Negro community leaders such as one in Louisville which has succeeded in integrating many restaurants, stores and theatres in the city. Peaceful progress towards desegregation was also recorded in Dallas, where an all-white group of civic leaders paved the way for Negroes to dine at 36 previously all-white restaurants. Dallas took the step in preparation for the integration of first grade schools. The next major offensive to be launched by southern Negroes, Martin Luther King announced, was a series of polling place “stand-ins” intended to double the number of 1,300,000 Negroes now eligible to vote in the South within the next two years.

In the North, too, southern sit-in demonstrations cast their shadow. The Illinois Division defended two college students arrested on charges of loitering and littering a subway entrance outside a Woolworth store; the California Attorney General intervened to upset a secret agreement among state college presidents to refuse admission to sit-in demonstrators expelled from southern universities.
NAACP HARASSMENT. The U.S. Supreme Court ruled that Louisiana could not compel the NAACP to disclose names of its members and contributors. The tribunal also found against another law, purportedly aimed at subversive organizations, which would have required the Louisiana chapter of any national organization, such as the ACLU, to attest that the officers of other affiliates are not members of Communist-front organizations. The NAACP asked the court, in another case, to void an order blocking its activities in Alabama. A federal Circuit Court of Appeals had sent the litigation back to a state court for re-trial. The Florida Supreme Court ended the long legal harassment of Miami Negro leader Rev. Edward T. Graham, who had refused to tell a state legislative committee whether he was a member of the NAACP or to answer any other questions concerning the NAACP. The high court opinion accepted the argument of the Florida CLU that before a person can be forced to disclose his political associations and beliefs, the state must demonstrate a compelling public need which subordinates his First Amendment rights. At no time, said the court, had the state offered any testimony on the public need for the information it sought. At the same time, in a companion case, the Florida high court upheld the contempt conviction of Rev. Theodore R. Gibson, current head of the Miami NAACP, who also relied on First Amendment rights in refusing to name 14 alleged Communists who were also said to be NAACP members. The court held that since Gibson was not asked to produce the entire membership list, it was a reasonable request.

OTHER ACTIONS. The ACLU filed a complaint with the Justice Department charging that Shreveport, La. police officials had beaten a Congregationalist-ordained minister who publicly proclaimed his anti-segregation beliefs. The beating, said the Union, violated the Civil Rights Act. The complaint alleged that the Rev. Ashton Jones, who had been touring the South by car preaching brotherhood, and who had been arrested previously in Shreveport as a vagrant, was beaten by police when he returned to appeal his conviction. An affidavit by Jones said police beat him with a rubber mallet, kicked him, rolled him off a steel bunk, permitted other prisoners to beat him, taunted him, and threw food in his face. Jones is 64. Four Jackson, Miss. taxpayers filed a suit to bar the state from paying public funds to White Citizens Councils. The New York Times won a significant free press victory when a federal court threw out a number of libel suits filed by Alabama Governor John Patterson and public officials in Birmingham and Montgomery. The court exempted the Times from suit in the state on the ground the newspaper didn't conduct business in the state.

GENERAL DEVELOPMENTS

EDUCATION. With the first desegregation of public schools in Atlanta and the abandonment of "massive resistance" by the Georgia legislature, only three states remained with completely segregated publicly-financed schools: Alabama, Mississippi and South Carolina. The sharp break with Georgia tradition came with the admission of
two Negro students to the University of Georgia, provoking brief riots which subsided with the refusal by the U.S. Supreme Court to hear a plea that would have shut the school. Reluctantly keeping pace with the slowly changing scene, legislators repealed compulsory segregation laws, permitted local option by communities, and clarified pupil assignment regulations. The admission of nine Negroes to Atlanta public schools took place in 31 school districts in which desegregation took place for the first time. Seven years after the U.S. Supreme Court decision outlawing segregation in public schools, the percentage of Negro children attending school with whites was 6.9—a total of 213,545—according to the authoritative Southern Education Reporting Service. Out of 6,663 school districts in the 17 southern and border states, 2,813 were biracial and 829 were desegregated.

Backed by the ACLU, children of a group of South Carolinians known locally as “Turks” attended modern, white elementary schools in Sumter County for the first time. But a federal court suit was dismissed that would have been a major challenge to the state’s pupil placement laws. The “Turks,” classified by the U.S. census as white, are probably racial mixtures of early Caucasians of Arab descent, scattered Indian strains, and perhaps runaway slaves, whose descendants fought in the Confederate Army. In the city of Sumter they attend white schools, but in rural areas they have been restricted to ill-equipped segregated schools. The lower court suit was mooted after the school board voted to close the previously segregated school. However, to prevent a possible repetition of the discrimination, the ACLU pressed for and won a judicial decision ending the discrimination.

In Virginia, once the bulwark of massive resistance, six more communities voluntarily desegregated, bringing to 400 the number of Negroes attending schools with whites in the state. In Virginia’s most obstinate county—Prince Edward—a Federal District Court judge banned further financial assistance by the state or county to a private foundation which operates a network of private, all-white schools which meet in churches and clubs. These institutions, financed mainly through state “scholarships” to pupils of $250 a year, have served 1,450 white youngsters since 1959, when the county closed its seven white schools and 13 Negro schools rather than comply with the U.S. Supreme Court verdict on desegregation. Since 1959, 1,700 Negro children have been without an education. The court’s order, which deferred a NAACP petition to re-open the public schools until the Virginia Supreme Court of Appeals acts, held that in the absence of a public school system that provided freedom of choice for students obtaining the grants, tax money could not be used to support the private foundation. The order also barred tax credits for individuals making donations for the all-white, privately run makeshift school system. In New Orleans, a U.S. Court of Appeals struck down Louisiana’s school closing law, which permitted citizens of local school districts to vote to shut schools faced with desegregation orders. Said the court: “This is not the moment in history for a state to experiment with ignorance.”

New Orleans, the scene of racial outbreaks and school boycotts last year when four first-grade Negro girls attended two previously
all-white schools, peacefully accepted the enrollment of eight more Negro students. They attended four schools desegregated for the first time. A new citizens group, Save Our Schools (SOS), the concern of many businessmen and the determination of school and city officials to maintain law and order allowed New Orleans to take another small step forward towards desegregation.

In other cities, Little Rock, Ark. desegregated five more schools; Miami did the same in six more, increasing from 28 to about 250 the number of Negroes in biracial schools; three districts in Tennessee became the first in the state to voluntarily desegregate using grade-a-year plans; while Memphis quietly admitted 13 Negro first-graders; Galveston and Dallas joined Houston in lowering racial bars at public schools in large cities in Texas. In Dallas 18 Negro girls and boys went to their first day of classes in eight schools without provoking incidents. Throughout the South, desegregation inched forward peace-fully, in contrast to the violence of previous years, but compliance was still on a token basis.

Although only a little more than one-fourth of the South's biracial school districts have desegregated, more than half the South's public colleges have done so. The latest is Georgia Tech, which voluntarily accepted three Negro freshmen from Atlanta. Four private or church-sponsored institutions where Negroes were admitted for the first time include Duke University, Mars Hill College and Davidson College—all in North Carolina—and Oklahoma Christian College.

UP NORTH. A display of stubbornness that would make Mississippi proud was staged in New Rochelle, N.Y. where the school board voted against permitting out-of-neighborhood school transfers and fought court orders to desegregate a single school all the way up to the U.S. Court of Appeals—where it lost again. The case probably will have to go to the U.S. Supreme Court before New Rochelle permits a policy instituted by the New York City Board of Education last year (See last year's Annual Report, p. 51) and which appears to be working quite well. "The children are happy, behavior is better, and there is more interest in school work," a report declared. The New York Civil Liberties Union urged the open enrollment plan for the Westchester city, which could eventually become the pattern for the entire county.

HOUSING. Observing the effect of fair housing legislation, the National Committee Against Discrimination in Housing noted that relatively rapid progress in recent years has provided "the essential framework within which a community can move towards equal oppor-tunity in housing. Experience has also disproved the charge," said the report, "that fair housing laws would be instruments of revolutionary social change, bringing in their wake neighborhood inundation, increased inter-group tensions and economic loss." Legislatures moving forward were New Jersey and New Hampshire, which passed laws forbidding discrimination in private housing, becoming the eighth and ninth to do so. Pennsylvania, New York and Minnesota earlier also took the same step. Massachusetts, Connecticut, Colorado and Oregon passed
such laws in 1959, and the first two of these states strengthened their statutes, Massachusetts becoming the first state or local government to provide for injunctive relief against persons accused of unlawful discrimination. Indiana forbade discrimination in public housing.

Court tests of fair housing laws governing private property were conducted in Colorado, where the ACLU affiliate submitted a friend-of-the-court brief to the state Supreme Court appealing a ruling which struck down the right of a state commission to enforce its orders by requiring a realtor to sell a house to a Negro; Connecticut, where a Superior Court ruled the law constitutional but said it did not apply to empty lots on which buildings are to be built in the future; and in Washington, where the state Supreme Court ruled the state anti-bias law was invalid on *ex post facto* grounds. In other court actions, a suit in Ohio challenged for the first time the right of a builder using FHA or VA mortgage insurance to refuse to sell to Negroes.

Other instances in which Union affiliates came to the aid of minorities who sought protection of fair housing laws included San Francisco, where a Negro couple was refused the right to buy a home; Orange County, Calif., where a Mexican couple filed suit after they were refused the right to buy a house; and in Council Bluffs, Iowa, where two representatives of the Sudanese government were refused hotel rooms. In a reversal of the usual suburban pattern, Great Neck, L.I. and Teaneck, N.J. moved to break up racial ghettos—the first by inviting Negro homeowners to settle in Great Neck, and the second by affirming publicly that Negroes are free to buy land anywhere in town. A recent study of off-campus housing by the New York State Commission Against Discrimination revealed that only 19 of 100 colleges and universities surveyed in the nation have regulations forbidding such discrimination. The study did not cover New York or Colorado, where many institutions have such anti-bias rules.

**EMPLOYMENT.** Twenty states now have fully enforceable fair employment practices laws. Latest additions to the roster are Kansas, Missouri and Illinois. In addition, Nevada and West Virginia took important first steps by creating human relations commissions with authority to investigate discriminatory practices. Indiana strengthened its law by adding subpoena powers. The Indiana CLU obtained the intervention of Governor Matthew Welch in winning the right of a Negro to enter the training school of the state police. Among the cases of job discrimination in which ACLU affiliates took an active role were the dismissal of a Louisville, Kentucky municipal employee who interceded on behalf of a Negro fellow-worker who was refused restaurant service; investigation of complaints that Baltimore Negro policemen are restricted to foot patrols and are accepted in only five of 24 departments; correction of applications for vocational recreation benefits in Minnesota, which required information on race, religion and nationality; defense of a Santa Fe RR coach cleaner before the state FEP commission, one of four cases in which the commission failed to accomplish an amicable settlement in 23 months of activity during which it received 1,100 complaints.
The Washington State Board Against Discrimination ordered Seattle General Hospital to halt discrimination in hiring and in Chicago, 10 Negro physicians filed an anti-trust action in the Federal District Court charging that 56 hospitals and five medical associations engaged in a conspiracy to deny them staff positions. Baltimore's Equal Opportunity Commission law was changed to permit court enforcement of its cease-and-desist orders.

PUBLIC ACCOMMODATIONS. Idaho, New Hampshire, North Dakota and Wyoming passed laws forbidding discrimination in places of public accommodation, resort or amusement, bring the total of states with such legislation to 28. The Rhode Island Affiliate, ACLU opposed a bill to transfer the powers of the State Commission Against Discrimination to the Attorney General's Department because the latter lacks a specialized staff to conduct hearings; the ACLU of Oregon supported a measure to broaden the state law barring bias in public accommodations; and the St. Louis Civil Liberties Committee backed a local bill prohibiting discrimination in restaurants, hotels, theaters, or other public places. A case supported by the Minnesota CLU was won in the state Supreme Court with a verdict that rejected the claim of a Minneapolis cemetery that it could refuse burial of a non-Caucasian. The opinion affirmed a lower court decision that Sunset Park Memorial Association had violated public policy when it told Mrs. Ramona Erickson, a Sioux Indian, that it would not bury her when she died. The suit was brought by Mrs. Erickson's husband, an American of Scandinavian descent.

Although municipal libraries were integrated without incident in Memphis and Savannah, reading rooms in Greeneville, S.C. and Petersburg, Va. were briefly closed before they were reopened to Negroes. The main library of Jackson, Miss. remains closed to Negroes, nine of whom were arrested when they tried to use its facilities. The Danville, Va. library solved its dilemma by reopening after four months with all its chairs and tables removed.

In the North, an amusement park in Cincinnati finally permitted Negro admissions after the ACLU intervened; a similar ban was broken in Glen Echo, Md. after pickets protested. The executive committee of the Professional Golfers Association cancelled plans to hold its 1962 championship tournament in Los Angeles because the local club has a white-only membership clause. The New York City Health Department received a few hate letters after it decided to drop information on color or race from birth certificates issued to parents. The information will be listed in the Department's files, however, for statistical purposes. Actors' Equity and the League of New York Theatres agreed in principle not to play to segregated audiences.
DUE PROCESS UNDER LAW
FEDERAL EXECUTIVE DEPARTMENTS

1. Citizenship, Naturalization, Deportation

CITIZENSHIP. With the ACLU's backing, a suit was filed in the Washington, D.C. Federal District Court challenging whether American citizenship can be withdrawn from a dual national who lived 10 years in a foreign country and served in that nation's army. The government is seeking to cancel the citizenship of Antonio Cafiero of Jersey City, N.J. under the "conclusive presumption" clause of the Immigration and Nationality Act which says that such residence and military service is presumed to be voluntary. But the Union argued that the clause is unconstitutional and in violation of the due process protections of the Fifth Amendment. Cafiero, born in Italy in 1932 of an American father, thus acquired dual nationality. He lived there for nine years and three months before the "conclusive presumption" amendment to the immigration law was passed in 1952. His wartime service in the Italian Army came as a result of his being drafted, not his enlistment, said the Union, and thus he had no "free choice." Cafiero returned to the U.S. in 1956 as a seaman and deportation proceedings were begun against him the following year. In another dual nationality case, the Union backed the appeal in the U.S. Supreme Court of Fransisco Mendoza-Martinez, who lost his American citizenship for allegedly leaving the country to evade military service.

The Union is providing legal assistance to Herman Marks, a native-born American and former captain in the army of Fidel Castro. The Immigration and Naturalization Service ruled that Marks is a "stateless person" deportable under an amendment to the immigration law providing for the automatic revocation of citizenship for persons entering or serving in the armed forces of a foreign country unless they have specific United States government authorization. The U.S. Supreme Court, while never having ruled on the constitutionality of expatriation because of service in a foreign army, has said in previous cases that the government must prove its right to expatriate by "clear, convincing and unequivocal evidence" that the act was voluntary. Marks testified at his deportation hearing that he never renounced his American citizenship or took an oath of allegiance to Cuba. In the absence of such a voluntary act, the Union said, Marks is not deportable. The Union said the immigration statute violates the due process protection of the Fifth Amendment and the guarantee of the Fourteenth Amendment that all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the states in which they reside.

In two cases that reversed lower federal courts, the U.S. Court of Appeals ruled that a person cannot be denied citizenship because they ignored 23 parking tickets or lived together as man and wife without being formally married. The first offense is not proof of being poorly disposed "to the good order and happiness of the United States," nor the second proof of "bad moral character," the court said.
DEPORTATION. Carlos Marcello, a New Orleans underworld figure, was ruled an undesirable alien and ordered deported a second time. His first deportation was denounced as "totalitarian" by the ACLU after the racketeer was handcuffed, held incommunicado, sped to the airport, and flown to Guatemala in an Immigration Service plane after "false representations" were made to Guatemala that he was born there. The Union charged that although Marcello was not given three days notice of his proposed deportation—as ordered in 1955 by Supreme Court Justice Hugo L. Black—New Orleans TV crews and newspapermen had been tipped off to be at the airport for the story. At the airport itself, Marcello's lawyer was prevented by a Justice Department ruse from consulting with his client. Whatever danger may have existed by reason of Marcello's continued presence in this country," said the Union in a protest to the Justice Department, "it is infinitesimal compared to the danger posed by the adoption of totalitarian tactics."

The ACLU of Washington state is testing the right of the Attorney General to deport an alien to a country in which she has never lived. In a friend-of-the-court brief filed with a Federal District Court, the affiliate argued that deportation was being used as a punishment in violation of the due process clause of the Fifth Amendment in the case of Hazel Anna Wolf, 63, who lost her status as a naturalized American for alleged membership in the Communist Party during 1938 and 1939. Mrs. Wolf has lived in the U.S. and Canada, but never in England, where the Justice Department seeks to deport her under a clause in the 1952 immigration law permitting deportations to any country which will accept the alien if his native country and countries in which the alien has lived refuse to do so.

In an Illinois case, the ACLU affiliate helped untangle the red tape that had ensnared Walter Perez Valderama, a respected Peruvian businessman and teacher, who was accused of working while on a visitor's visa and arrested without cause before the Union obtained his release. The ACLU of Oregon protested the deportation of William Mackie and Hamish Scott McKay, long-time United States residents accused of Communist Party membership during the 1930's. Both men said they were members only of organizations they thought would help ease unemployment during the Depression. A special government inquiry officer ruled that the Immigration Service had failed to prove its case that an admitted homosexual, defended by the ACLU of Northern California, was a homosexual at the time of his 1958 entry to the United States. The United States National Student Association and the Student Civil Liberties Union of the University of California at Berkeley asked the Immigration Service clearly to define what political activities foreign students may engage in without having their visas "capriciously" lifted. Their demand came after a British scientist who picketed the HUAC was first ordered to leave the country, then permitted to complete his studies. The visas of two other British students who took part in the demonstration were not renewed.

ALIEN RIGHTS. The ACLU, in testimony before a Senate Judiciary Subcommittee, filed sharp objections on due process grounds to
a pair of bills that would unconstitutionally restrict the present method of judicial review of orders of deportation and exclusion. One proposed change would limit filing a petition for review within six months from the date of the final deportation order. Currently, an alien can request such review any time up to the execution of the final order, giving him ample time to seek various administrative avenues of appeal. The second proposal would eliminate the District of Columbia Circuit Court of Appeals as an appellate tribunal and shift the venue of any petition for review from a Federal District Court directly to a Circuit Court of Appeals. The Union protested that since immigration law specialists are found chiefly in Washington, equally qualified counsel may be hard to find in other communities. The ACLU also objected skipping one court to go to another which is already overburdened. Despite strong opposition in the Senate, the bill was approved by Congress as a rider to another immigration bill liberalizing the admission of alien orphans.

2. Confinement of Mentally Ill

For the first time since 1954, the U.S. Supreme Court agreed to review a federal case involving insanity, offering the possibility that the tribunal will suggest a standard to which the nation's 11 federal judicial circuits could adhere. The appeal, brought by the ACLU, concerns Frederick C. Lynch, who contends that his right to plead guilty to bad check charges in the District of Columbia was refused by a judge, who then found him not guilty by reason of insanity and automatically committed him to St. Elizabeth's Hospital.

Both the Lynch case and the automatic commitment law were assailed by the ACLU in two appearances before the Senate Subcommittee on Constitutional Rights, which is conducting an investigation of the rights of the mentally ill. Lynch's counsel, Richard Arens, pointed out that automatic commitment in criminal cases is possible even though "no hearing is called for to determine whether the defendant is presently ill or dangerous. The loss of human liberty takes place under these circumstances in defiance of the most elemental conceptions of due process of law as they have been understood through the years. There is no clear-cut statutory or judicial requirement which exacts the adequate and humane treatment of those who are committed to a mental hospital," he declared.

In testifying a second time before the subcommittee, the ACLU, through its Washington director, again scored the due process violation of the automatic commitment law. It emphasized that the defendant is denied a chance to be heard even if he can show he is no longer mentally ill, not dangerous to himself or others, and would not be helped by confinement in a hospital even if he needed psychiatric aid. "Moreover," added the Union, "(he) cannot secure such a hearing by petitioning for a writ of habeas corpus."

To reform the situation in Washington, D.C. and elsewhere, the Union suggested adoption of a post-acquittal statute similar to one now in force in 18 states. Under this law, any person acquitted on grounds of insanity may be ordered to a mental hospital for observation
for 10 days; if he is found mentally ill, a threat to himself and others and in need of institutional care, the court can refer him to a state commission on mental health for formal commitment proceedings. If, however, after hospital examination discovers no mental illness, the court may discharge the defendant. The Union also suggested federal legislation which would, among other things, declare the right of a mental patient to challenge his confinement by habeas corpus petition at least twice a year; guarantee independent psychiatric confirmation of mental illness claims, including the right to challenge judicial commitment within five days; assure frequent inspection of public mental health facilities by federal inspectors.

In the states, several ACLU affiliates were active in safeguarding the rights of persons alleged to be mentally ill. The Cleveland Civil Liberties Union and the Ohio CLU objected to a provision of the state law under which a person may be committed to a mental hospital by the simple expedient of an affidavit which costs nothing to file, frequently is not investigated and whose author can remain anonymous. Thus, "spite incarcerations" have resulted in the commitment of feuding neighbors or families. The Illinois Division freed two men from mental hospitals: Howard Liquia, a tubercular patient committed by a judge in contradiction of psychiatric reports; and Eli Eliezer, an Orthodox Jew committed after he peacefully distributed handbills in front of a Reformed Jewish synagogue. In New York, the U.S. Court of Appeals upheld an ACLU plea to bar the transfer of a mental patient from one state hospital to another restricted to the criminally insane. The switch, made on the basis of a 15-year-old felony conviction, came after John J. Carroll allegedly attacked an attendant. The ACLU said the transfer, without a hearing, violated Carroll's due process rights under the Fourteenth Amendment.

3. Loyalty and Security

THE FEDERAL COURTS. A narrowly divided U.S. Supreme Court upheld the government's dismissal as a security risk of Rachel Brawner, a cook in a Washington naval gun factory. Mrs. Brawner, mother of eight, had been deprived of her security badge without an explanation and without a hearing. Supporting her case, the ACLU argued that her dismissal was unconstitutional in light of the Supreme Court's 1959 decision in the Greene case in which the security firing of a government engineer was reversed because he had not received a full due process hearing. But the high court held in the Brawner case that "The Fifth Amendment does not require a trial-type hearing in every conceivable case of government impairment of private interest." Where private interest is subject to executive "plenary power," said the majority, "it has been traditionally held that notice and hearing are not constitutionally required." The U.S. Supreme Court rejected New York state's claim that under the 1954 federal Communist Control Act it had a right to exclude the Communist Party from the state unemployment insurance program. The act contained "vague terminology" the court declared, substantiating one of the arguments made originally
by the New York Civil Liberties Union, which raised the issue in the state courts (See last year's Annual Report, pp. 60-61).

A loyalty oath demanded by the FCC was affirmed by the U.S. Court of Appeals in the ACLU-supported case of William C. Cronan of San Francisco, who refused to sign the oath in applying for renewal of licenses as a radio telephone and telegraph operator. The U.S. Supreme Court refused to review the case, as it did in the appeal from a state loyalty oath of an Oakland, Calif. librarian, Rebecca Wolstenholme.

The U.S. Court of Claims, righting a six-year-old wrong, restored the back pay of Roberta I. Thomas, former civilian clerk-stenographer for the U.S. Army in Germany, who was fired on a charge of making a false statement on an official document. In filling out her security forms, she did not note that she once had attended two class sessions of two schools on the Attorney General's list of subversive organizations. At her hearing she said she did not think this constituted "association, membership in or affiliation with" those institutions and that, in fact, she had listed them on earlier Army records that asked her to name schools she had attended. In strong language, the court scolded the Army for making an accusation that "does not rise to the dignity of a charge, but sinks to the level of a suspicion." Five-year-old sedition charges against John W. Powell, his wife, Sylvia, and Julian Schuman were dropped by the government after a federal judge in San Francisco ruled that the Sedition Act was limited to actions in the United States and its maritime jurisdictions. He also had refused to permit testimony by former prisoners of war in Korea. The three were publishers of the China Monthly Review, which accused the United States of using germ warfare in Korea. After the government dropped its case, the Customs Bureau released Powell's personal library, seized in 1953. The ACLU and its Northern California affiliate had opposed the sedition indictment as an inhibition of free expression.

STATE AND LOCAL ACTIONS. Arizona's new law outlawing the Communist Party, defining sedition, and requiring loyalty oaths from all public employees is under court test. Among the organizations opposing the statute, solely on free speech and academic freedom grounds, is the Arizona CLU. A similar anti-sedition statute outlawing the Communist Party was passed in Nebraska. The Metropolitan Detroit Branch of the ACLU filed a friend-of-the-court brief before the Michigan Supreme Court testing the Wayne County loyalty oath. The Colorado Branch, ACLU investigated the case of a guard at the Denver mint who was denied his pension by the Civil Service Appeals Board because he was a former Communist Party member.

4. Military Justice

The U.S. Supreme Court decided that three U.S. prisoners of war who refused repatriation after the Korean war, changed their minds after 18 months about remaining in Communist China, and returned home in 1955 are entitled to back pay for the time they spent as POW's. The Court pointed out that "Congress may some day provide
that members of the Army who fail to live up to a specified code of conduct as prisoners of war shall forfeit their pay and allowances. Today we hold only that the Army did not lawfully impose that sanction in this case."

The Rhode Island Affiliate, ACLU obtained counsel for a man released from the armed services under honorable conditions, placed in the reserve, and then called up for court-martial because he failed to reveal ties with allegedly subversive organizations at the time of his induction. The Illinois Division represented John Harvey on his claim that he cannot be given a less than honorable discharge from the inactive reserve because of his political affiliations. The Ohio Civil Liberties Union is investigating the case of Leo Gallagher—a severely wounded Korean veteran who received an honorable discharge, later re-enlisted despite severe attacks of melancholia and depression, went AWOL, and was dishonorably discharged with forfeiture of medical aid for service-incurred injuries.

**WIRETAPPING**

**U.S. SUPREME COURT.** The U.S. Supreme Court affirmed a U.S. Court of Appeals decision upholding the right of state officials to use wiretap evidence in state trials. The ACLU and its New York affiliate had filed a friend-of-the-court brief in the case, which involved the prosecution of Bronx attorney Burton N. Pugach (See last year's Annual Report, p. 62). The majority opinion held that "where a state has carefully legislated so as not to render inadmissible evidence obtained and sought to be divulged in violation of the laws of the United States, this Court will not extend by implication the statute of the United States so as to invalidate the language of the state statute." In another decision, the high court unanimously held unconstitutional a device for eavesdropping used by District of Columbia police to obtain evidence against suspected gamblers. The police got their evidence by attaching earphones to a foot-long, pencil-thin metal spike driven into the wall of the building. The court said: "The Fourth Amendment and the personal rights it secures have a long history. At the very core stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion."

**CONGRESS.** In testimony before the Senate Subcommittee on Constitutional Rights, the ACLU demanded a complete ban on wiretapping and urged Congress to tighten the present federal laws barring such practices. To make wiretapping lawful, said the Union, "is to move closer towards a police state where constant government intrusion and surveillance inhibit and constrict a free people." Underscoring its belief that all forms of electronic eavesdropping violate the Fourth Amendment's right to privacy, the ACLU said that the only difference between an illegal general warrant permitting physical entry and wiretapping was that "invasion by a telephone tap is more treacherous because there is a greater sense of security when using the phone." The testimony also noted that 33 states have completely outlawed wiretapping.
while state commissions in New Jersey and California have found that the practice does not outweigh the damage to individual liberty.

Illustrating the broad sweep of wiretapping, the ACLU pointed to the high proportion of taps on public telephones. Of 3,558 telephones tapped by New York City police in 1953-54, 1,617, almost half, were public phones. "It is inevitable in these cases," said the Union, "only an infinitesimal number of the intercepted calls are even made by the suspect or by anyone remotely connected with him; yet, the privacy of numerous other callers is invaded, many of whom have resorted to a public telephone precisely in order to obtain privacy not obtainable in their homes or businesses." The ACLU also pointed to the abuse of wiretapping through doctored recordings and opportunities for shakedowns of gamblers by unscrupulous police officers.

In opposing specific legislation to broaden the use of wiretaps, the ACLU objected to proposals that would give each state the right to adopt any system of wiretaps it pleases as long as there is a judicial finding of "reasonable grounds" to uncover a crime or evidence of a crime. "This would permit as many as 51 varying systems with respect to a basically federal right and concern—interstate telephone communications," the Union declared. Other objections raised by the Union were that the proposed legislation permitted wiretapping for any crime, no matter how petty; illegally obtained wiretap evidence would be admissible in all proceedings; organized crime is interstate and is most effectively fought by federal officials following federal rules of procedure.

STATE AND LOCAL ACTIONS. The ACLU of Washington is supporting the appeal of William Cory to the state Supreme Court on the grounds that before his trial, sheriff's deputies wiretapped and recorded a conference with his attorney in violation of the Sixth Amendment. The city budget of Livonia, Mich. actually included an appropriation for wiretapping devices in rooms occupied by prisoners. The Metropolitan Detroit Branch protested. The ACLU of Oregon opposed a bill, approved by the legislature, permitting the use of listening devices to overhear suspected narcotics offenders.

ILLEGAL POLICE PRACTICES

BRUTALITY. In a case supported by the Illinois Division, the U.S. Supreme Court ruled that policemen and other local officials who violate a citizen's rights "under color of law"—while acting under the guise of official authority—could be sued for damages in the federal courts. The landmark ruling was handed down in the case of James Monroe, a Chicago Negro handyman whose apartment police invaded shortly before dawn one morning in 1958. They ransacked the place, stood the family naked at gun point, and beat them. Monroe was finally taken to a police station for questioning on a murder charge, never brought before a magistrate, and finally released. He sued the police and the City of Chicago for $200,000 under the federal Civil Rights Act, but the decision, which could significantly redress civil rights injustices by local officials, held that he could only sue the individual
officers. Another high court decision involving Illinois justice freed Emil Reck after 25 years of imprisonment. The Illinois Division's plea for a writ of *habeas corpus* was based on the charge that Reck's murder confession at the age of 19 was beaten out of him. The Supreme Court ordered a new trial but Illinois dropped the case. Following the U.S. Supreme Court decision in the Monroe case, the ACLU of Southern California brought a $40,000 damage suit on behalf of Mrs. Irene Lucero of Los Angeles, who charged she was beaten by two policemen who raided her apartment without a warrant in search of narcotics. The affiliate also appeared as a friend of the court on behalf of Robert Dahlgren, who was awarded $500 damages in a suit charging Ventura police with using illegal force in extracting a blood sample while he was a drunken driving suspect. The Greater Philadelphia Branch of the ACLU protested that a proposed bill providing for the emasculation of sex offenders was "vague, sweeping, and unconstitutional." The affiliate also protested undenied beatings administered to convicts at the Philadelphia state prison after a riot was subdued. The Wisconsin Civil Liberties Union investigated complaints of brutality at the Waupun state prison.

**ILLEGAL SEARCH AND SEIZURE.** A Superior Court Judge in Anchorage, Alaska ruled out the admissibility of illegally seized evidence in the case of a woman whose room was searched without a warrant. "The purpose of the Constitution is not to allow criminals to escape," said the judge, "but to prevent all of us from being invaded by a rap on the door late at night." Members of the Civil Liberties Union of Massachusetts defended two Smith College faculty members accused of possessing obscene literature, seized by police without a warrant. The Minnesota Civil Liberties Union urged adoption of a Minneapolis ordinance that would bar housing inspectors from entering homes without a warrant. The same issue arose in Arizona, protested by the Union affiliate, when inspectors gained entrance to homes slated for urban renewal. In a trio of cases involving automobiles, the ACLU defended a person arrested for making speeches about municipal corruption from a loudspeaker perched on his car; the Illinois Division protested the firing of revolvers by policemen while chasing a car that passed through a red light; two St. Louis judges objected to police searches of autos driven by alleged traffic violators. The ACLU of New Jersey attacked as "Gestapo-like tactics" the extreme methods used by East Orange, N.J. authorities to recover overdue library books: delinquents were roused from bed late at night and many held in jail until morning. FBI director J. Edgar Hoover assured the ACLU, in an exchange of correspondence, that fingerprint records and mug shots of persons arrested but not convicted or prosecuted are returned to local authorities for destruction at their request while the FBI does the same with its copies. Also on the federal scene, the Union asked for a change in the application for federal employment which currently requires divulgence of past arrest or police investigation. The objection, based on a violation of "the spirit of due process rights of fair evaluation and judgment," was raised in a letter to the chairman of the U.S. Civil Service Commission which pointed out that an arrest record
does not necessarily imply “criminal behavior in the sense of harm to society.” In addition, the letter said, police officers “eager to flaunt their personal power . . . frequently are quick to make arrests and press charges” where individuals are merely exercising their constitutional rights. Illustrating its complaint that mere arrest should not be prejudicial to an applicant, the Union said that “persons holding meetings or handing out literature for such causes as the right of labor unions to organize, opposition to racial discrimination, or an end to nuclear testing have been ‘arrested, taken in custody,’ etc., despite the fact that such activity is a perfectly proper exercise of the First Amendment and in many circles is considered beneficial to society.” The ACLU pointed especially to arrest of the Freedom Riders despite the peaceful character of their protest, noting that over 300 arrests have taken place in Jackson, Miss. alone. “The fact that Freedom Riders are mainly of college age who will soon be seeking employment highlights the significance of their arrest record.”

**ILLEGAL DETENTIONS.** The California legislature passed bills requiring police to file a written explanation if an arrested person is not taken before a magistrate within two days; and permitted to call a bail bondsman within three hours of arrest. Such reasonable limits were far exceeded in several cases in which ACLU affiliates intervened. The Greater Philadelphia Branch won the release after seven weeks of an itinerant pipe-line worker, who spent 15 seconds before a magistrate who refused him permission to speak and sentenced him to six months in jail. The Colorado affiliate moved for the release of three youths jailed for more than a month without a court hearing. Two days later they were charged with robbery. A protest by the affiliate also speeded formal charges against Joseph Corbett Jr. who was held for a week before formally accused of the murder and kidnapping of Denver attorney Adolph Coors III.

**ROUNDUPS AND CRACKDOWNS.** The Connecticut Civil Liberties Union opposed a proposed law requiring police registration of all narcotics violators on the ground of self-incrimination and stigmatization of past offenders who had no subsequent narcotics difficulties. At the same time the ACLU of Northern California protested that the San Francisco narcotics squad, in its zeal, is arresting persons on narcotics charges even though they have valid medical prescriptions. A city-wide crackdown against criminal elements in New Orleans produced the usual quota of civil liberties violations for such spur-of-the-moment effort: roadblocks, mass arrests, roundups of “undesirables.” A similar sweep was conducted in Detroit, inspired by the worst crime wave in 30 years, but the Metropolitan Detroit Branch of the ACLU, along with the NAACP, protested that most of the victims of the dragnet were Negroes who were indiscriminately arrested and harassed. The roundup brought new demands for independent public review of police practices. The erection of roadblocks in Arizona to discover whether drivers had licenses was criticized by the Arizona CLU. Police also moved against juvenile crime in the same way in several cities. The ACLU of Pennsylvania persuaded the Norristown
school board to stop police from frisking high school pupils; the Colorado affiliate said that such frisking and auto searches are routine by police; the Illinois Division attacked such searches as illegal. The New York state Court of Appeals struck down New York City’s so-called “knife act” which prohibits any person under 21 from carrying a sharp instrument in a public place. The NYCLU filed a friend-of-the-court brief, supported by the verdict, which said that merely carrying such objects cannot be considered criminal conduct.

**VAGRANCY AND DISORDERLY CONDUCT.** California repealed its vague and often abused vagrancy law, which had been on the books almost without change since 1872. In San Francisco alone, more than 1,700 vagrancy charges were dismissed annually but the persons arrested still had indelible police records. The new bill punishes disorderly conduct. The Arizona Civil Liberties Union condemned Tucson’s stated pledge of scaring-off “not-so-well-heeled tourists” by enforcing its vagrancy and loitering ordinances beyond reason. The affiliate pointed out that pleading not guilty to such charges can bring the defendant more time in jail awaiting trial than if he pleaded guilty and left town.

**SHOPLIFTING.** Over the strenuous objections of the Iowa Civil Liberties Union, Governor Norman E. Erbe signed a law permitting retailers to search customers suspected of shoplifting. The merchant is also immune from false arrest suits. The New York Civil Liberties Union opposed such a bill in the legislature as violating constitutional guarantees of personal security.

**POLICE REVIEW BOARDS.** Los Angeles reformed its procedure for filing citizens’ complaints against alleged misconduct, following a long campaign pressed by a number of civic organizations, including the Southern California affiliate. The change for the better occurred after an appellate court held that a section of the Penal Code which called for criminal prosecution of citizens who file false police reports was wrongfully applied to complaints of police misconduct. Such an interpretation, said the court, violates the right to freedom of petition. The ACLU of Washington renewed pressure for a police review board in Seattle in the wake of a public investigation of two cases in which police allegedly beat their victims. Contrary to police organizations’ claims, the ACLU does not seek to usurp the police departments’ disciplinary function or undermine the need for effective law enforcement. However, as outside review is needed by courts to protect against abuses by government officials, boards of independent citizens can protect the public against improper police practices. The St. Louis Civil Liberties Committee praised the continued appointment of qualified members to the local police board but noted it was pursuing two cases of improper arrest. The Washington, D.C. office of the ACLU asked the police Complaint Review Board to conduct its meetings in the open, but was refused.
COURT PROCEEDINGS

ILLEGALLY OBTAINED EVIDENCE. The U.S. Supreme Court, ruling on an issue raised by the ACLU and its Ohio affiliate in a friend-of-the-court brief, issued a historic decision which outlawed the introduction of illegally seized evidence in state criminal trials. The verdict, which will affect such states as New York, Pennsylvania and Massachusetts that still permit the practice, was hailed by the Union as a “milestone in the history of American civil liberties.” The exclusion of illegally obtained evidence from federal trials has been in effect since 1914. But in 1949 the high court said that states were not bound by the same rule. The latest verdict reverses that decision.

The due process issue was not the key principle in the case heard by the tribunal. Mrs. Dollree Mapp of Cleveland challenged the constitutionality of an Ohio obscenity law that made “mere possession” of obscene material a crime. In 1957, three policemen looking for evidence of gambling entered Mrs. Mapp’s home without a warrant and handcuffed her over her protests. They found no gambling material but they did find allegedly obscene literature which was introduced at her trial and became the basis of her conviction. Her appeal to the U.S. Supreme Court argued the unconstitutionality of the “mere possession” clause of the state law. The ACLU brief raised this point as well, but included the argument that the search and seizure had violated her rights under the Fourth Amendment. The majority opinion sustained this argument. It noted that since it last dealt with the use of illegally seized evidence in state courts 12 years ago, several states have discovered that anything short of excluding tainted evidence was “worthless and futile.” Re-examining its former opinion, the majority now was moved “to close the only courtroom door remaining open to evidence secured by official lawlessness.” Since both state and federal courts are barred by the Fourth Amendment from invading personal privacy, said the court, the rule covering violations of the Amendment must cover all courts, else it becomes an empty promise. “Our decision,” said the majority opinion, “gives to the individual no more than that to which the Constitution guarantees him, to the police officer no less than that which honest law enforcement is entitled, and to the court, that judicial integrity so necessary to the true administration of justice.”

The ACLU declared that the verdict “may prove to be a major educative force in improving police practices in the country (since) it informs these police officers that their failure to observe constitutional standards no longer is acceptable at the local level.”

RIGHT TO A FAIR HEARING. The U.S. Supreme Court unanimously ordered a new trial for Leslie Irvin, sentenced to death in Indiana for one of six slayings he allegedly committed while on a six-months murder spree in Indiana and Kentucky. The court held that newspaper, radio and television publicity on the case had developed “clear and convincing” prejudice in the minds of jurors. Declared one majority opinion: “This Court has not yet decided that the fair administration of justice must be subordinated to another safeguard of our system—freedom of the press, properly conceived. The Court has not
yet decided that, while convictions must be reversed and miscarriages of justice result because the minds of jurors or potential jurors were poisoned, the poisoner is constitutionally protected in plying his trade."

The high court refused to review an appeal brought by the ACLU of Southern California on behalf of Mrs. Elizabeth Ann Duncan, convicted of killing her daughter-in-law. The affiliate said the trial was marred by prejudicial newspaper publicity and inflammatory statements to the jury by the prosecutor. In two other cases involving over-active news media which drew the attention of Union affiliates, the ACLU of Washington objected to the "live" TV transmission of a Seattle youth's murder confession and the Illinois Division questioned the fairness of a trial against Chicago racketeer Anthony Accardo on charges that he falsified his income tax deductions—the first time the government indicted anyone on the charge after the taxes had been paid. In a trio of complaints concerning the rights of convicts and parolees, the Wisconsin CLU investigated the charge that legal materials were not provided to inmates of Waupan state prison; the contention of the Oregon CLU that prisoners are being denied access to law books and other materials to prepare their appeal was denied by a U.S. Circuit Court of Appeals and the U.S. Supreme Court declined to review; and the right of a parole board to recommit a parolee without a proper hearing was challenged by the ACLU of Pennsylvania. A study by the Greater Philadelphia Branch reported that city magistrates each year illegally commit hundreds of defendants of minor offenses who are jailed without being told of what they are accused and are not permitted to testify in their own defense. The average man appearing in a mass hearing, said the affiliate, was before the court for less than a minute. But it was not all the magistrates' fault. They must face hundreds of alcoholics and simple drunks; they have no social workers or probation staff to help, added the report.

The U.S. Supreme Court denied review in two cases backed by the ACLU in which the mental condition of the defendant was a key issue. In the first case, Lowell Lee Andrews, 18 (at the time), called Kansas police early one morning to investigate a shooting at his home. Instead, police found Andrews petting his dog on the back porch and the bodies of his father, mother and sister inside. The youth was persuaded to confess by the family minister. Two members of a state-appointed medical commission found Andrews able to distinguish right from wrong under the McNaghten Rule, thus making him eligible to stand trial. A third member of the commission found him psychotic. In challenging the McNaghten Rule, the Union said the state court erred in failing to instruct the jury on any degree of homicide other than first degree murder and by not telling the jury that if Andrews were found not guilty by reason of insanity he would not be freed, but sent to a state hospital for the criminally insane until recovery. The second case, in which the high court refused review, concerned Coy Willie Latham, a fugitive from North Carolina, who tried to commit suicide twice and was found hallucinatory on the day of an extradition hearing held in Washington, D.C. A court-appointed psychiatrist found that Latham could not, at the time, cooperate with his
counsel. A pair of cases defended by the ACLU of Washington also turned on the mental condition of the defendant. In one, a first degree murder conviction was reversed by the state Supreme Court because the defendant was slipped a tranquilizer by a trustee-prisoner, making him appear cool and almost indifferent on the witness stand; in the other, the affiliate failed to halt the execution of a convicted murderer whose sanity was challenged but who was not examined by medical experts nor represented by counsel. A state intermediate appeals court in New York turned down the latest plea on behalf of Edwin Codarre, an epileptic who was allowed to plead guilty to murder in the second degree in 1943 when he was 13 years old. Codarre's lawyer, backed by the Union, charged that "a state procedure which permits an epileptic 13-year-old to plead murder in any degree violates the due process clause of the Fourteenth Amendment." A further appeal is pending.

Other cases brought to court by ACLU affiliates: Leonard Saldana, defended by the ACLU of Southern California, whose sentence for narcotics violations was changed from five years to 20 years after he was unwittingly trapped in a crossfire of judicial theories; James Morris Fletcher, granted a writ of habeas corpus sought by the ACLU of Pennsylvania, who was convicted of murder even though the jury foreman was a close relative of the principal witness against him; Bernard Manney, former Passaic, N.J. city official, whose fourth successive trial for alleged attempted extortion was called off after repeated protests by the ACLU of New Jersey; William Linhart, whose bail was raised on a traffic case from $11 to $263 when he said he wanted a jury trial, was convicted without a jury but acquitted on appeal in a test brought by the ACLU of Northern California; and Dante Edward Gori, whose claim of double jeopardy was backed by the New York Civil Liberties Union in a friend-of-the-court brief on the ground that after a lower court judge declared a mistrial on his own initiative, Gori should not be prosecuted a second time.

RIGHT TO COUNSEL. The California Supreme Court sustained the argument of the Northern California affiliate that Mrs. Lucy Turrieta had been improperly convicted because she was not advised of her rights to counsel when tried on the charge of fraudulently receiving welfare payments (See last year's Annual Report, p. 68). But when the court sent the case back for retrial, lower courts refused her permission to change her plea from guilty to not guilty, to stop judgment because of lack of jurisdiction, and to withdraw the order revoking her probation. The Attorney General of California advised that the appointment of counsel is required in all misdemeanor cases where the defendant is indigent, but because it was merely an advisory statement, the comment is not expected to change the situation much. The ACLU filed a petition for a rehearing before a U.S. Court of Appeals in Washington, D.C. on behalf of Virgil U. Lampe, convicted of second degree murder in 1955 although he was not advised of his right to have a lawyer at the coroner's inquest, thus violating his rights under the Fifth and Sixth Amendments. In addition, his confession was made just as Lampe was going into delirium tremens. The appeals court denied the Union's first petition for review on the
technical ground that the argument was presented too late since it was not made in the original request before the lower court (before the Union entered the case). The U.S. Supreme Court denied review to James C. Kesel, a first offender, who had no lawyer at his trial or sentencing in 1949 to an eight-to-24-year jail term for robbery. Kesel, supported by the ACLU, argued that he was mentally incompetent at his trial, having spent five months in the psychopathic ward of a Navy hospital and been discharged for psychoneurosis. Kesel also had an advanced case of syphilis at his arraignment.

APALACHIN. A U.S. Court of Appeals sustained the stand of the ACLU and its New York affiliate by unanimously reversing the convictions of 20 men tried under a conspiracy indictment after they were discovered by state police at an upstate home in Apalachin, N.Y. (See last year’s Annual Report, p. 68). The convictions, said the court, “demonstrate the danger of a shotgun conspiracy charge aimed at everyone who gave an explanation inconsistent with the government’s suspicion of the purpose of the gathering . . . Bad as many of these alleged conspirators may be, their conviction for a crime which the government could not prove, on inferences no more valid than others equally supported by reason and experience, and on evidence which a jury could not properly assess, cannot be permitted to stand.” The government announced it will not appeal the case further.

GRAND JURY TESTIMONY. The New York Court of Appeals, the state’s highest court, ruled that grand juries do not have the right to make reports or presentments on matters of public concern if they do not constitute indictments. The decision, welcomed by the New York Civil Liberties Union, involved an investigation by a Schenectady grand jury into charges of corruption in the county highway department. The panel found no crime, but sought to enter its criticism of certain practices into the “court record.” The appeals court verdict, supporting the argument of the NYCLU, declared that grand juries may not “under cover of the power to inquire, employ a report to accuse an individual of misconduct or laxity in public office any more than it may do so to charge him with misbehavior in private life.” It must either indict or dismiss the charge, said the court. The New Jersey Supreme Court also criticized presentments without indictments. In such cases, it said, the presiding judge should excise embarrassing material.

In a related area, the Union objected to an anti-racketeering measure put before Congress because it provides for immunity from prosecution in order to compel persons to testify with respect to corrupt labor-management practices or interference with commerce by threats or violence. While conceding that such immunity legislation is constitutional, the ACLU said the measures undermine the Fifth Amendment’s privilege against self-incrimination. “If crimes have been committed, our law enforcement agencies are charged with the duty of apprehending the criminals,” said the Union. “The remedy does not lie in stripping a portion of our citizens of the right not to be compelled to bear witness against themselves.” The bill passed the Senate and is
pending in the House. Another provision of the anti-crime legislation that raises serious concern, said the Union, forbids the transportation across state lines of the tools of the bookmakers or numbers trade. This could conceivably apply to newspapers which carry race results or stock market figures, a common source of the numbers game. The Congress heeded the ACLU warning and excluded the provision. In other Congressional testimony on the same subject, the ACLU opposed unsuccessfully, on double jeopardy grounds, an amendment of the Fugitive Felon Act that would permit a man to be tried in a federal court as well as a state court if he fled state lines to escape local prosecution; the Union also pointed out that the federal government would be in the position of enforcing state criminal laws—for example southern anti-desegregation laws—without having any voice in the drafting of such legislation. It also objected to a proposal that would permit any federal, state or city government to stop the use of telephones or telegraphs “by merely advising the utility that the governmental agency believes the utility is being used or will be used for gambling purposes,” without any provision for judicial review of the action. This bill passed, too.

RIGHTS OF JUVENILES. The Kentucky Civil Liberties Union met with Juvenile Court authorities to draft legislation clarifying the status of juvenile offenders. California passed legislation overhauling its Juvenile Court procedures while its Attorney General said that a juvenile is entitled to a court reporter and his counsel has the right to cross-examine witnesses. The New York Civil Liberties Union opposed a bill, later killed, providing for a central registry of fingerprints of minors charged with delinquency. A county judge in Virginia sentenced two 14-year-old Negro girls to a year on an industrial farm as vagrants and two of their teen-age male companions to six months in jail for possessing obscene playing cards. None were represented by an attorney when they appeared before the judge, who later told a Washington, D.C. detective: “We don’t have juveniles in this county. If they’re old enough to steal, they’re old enough to go to jail.” After an ACLU cooperating attorney obtained a review of their case, they were placed on probation instead.

OTHER CASES. Illinois passed a new criminal code including such major changes as removing the power of sentencing from juries and eliminating life sentences (terms must be specified in years). New York state named a special commission to undertake the first major revision of its penal laws since they were enacted 80 years ago. The Greater Philadelphia Branch unwound the legal snarl that had temporarily deprived a past narcotics offender of his driver’s license and the Oregon Civil Liberties Union urged an amendment, later approved, that a motorist be told that his refusal to take a chemical test could result in suspension of his license. The Iowa Civil Liberties Union demanded investigation in two cases: a woman who claimed that a desertion case involving her husband never came to trial, and a man reportedly held in jail for a year on a bad check charge.
NEWS MEDIA AND THE COURTS. The U.S. Supreme Court refused to review a ban imposed by an Atlanta judge against taking pictures and recording interviews on sidewalks and streets adjacent to the courthouse. The high court said the ban is too abstract now, but indicated it might reconsider if a newsman were held in contempt for violating the order. The Georgia Supreme Court set aside a $20,000 contempt conviction against the Atlanta Journal and the Atlanta Constitution, which published news stories citing the previous arrest record of a robbery defendant. The court said it was the judge's duty to instruct jurors not to read newspaper articles about the case. A woman reporter in Colorado unsuccessfully appealed to the U.S. Supreme Court to reverse a 30-day contempt conviction for refusing to disclose her news sources in court, while three Maryland reporters were upheld by a county court in refusing to say where they got their information. The American Bar Association's Canon 35 which bars broadcasting, photographing and televising of court proceedings has been the target of a mass media drive on the ground that modern equipment eliminates any interference with trial proceedings. A special ABA committee named to consider revisions of Canon 35 is still bogged down in an effort to test the media's claim through a study of courtroom photography and broadcasting. A legal panel of the Ohio Supreme Court held that the ABA's rule does not prohibit the taping of courtroom proceedings for later broadcast from another location. The question arose after a Cleveland radio station installed microphones in a Parma, Ohio traffic court with the judge's permission, recording only pleas of guilty—thus eliminating witnesses and sworn testimony and removing the microphones if defendants objected. The ACLU is opposed to broadcasts, telecasts and news photography of courtroom proceedings as jeopardizing the defendant's rights to a fair trial and privacy. The New York Civil Liberties Union opposed filming or broadcasting of legislative or state commission hearings. The proposal did not pass.

INTERNATIONAL CIVIL LIBERTIES

The Union continued its concerns with the policies of the United States at the United Nations affecting civil liberties and human rights, both through its relationship as an accredited non-governmental agency and its participation with other national organizations cooperating with the U.S. Mission to the United Nations. The new Administration has not as yet brought any marked changes in U.S. policies save for rather significant support, for the first time, of the claims of some African colonial peoples to independence from NATO allies.

In the field of law to guarantee rights and liberties, no change in American policy is to be noted from long-standing opposition to international treaties, due to the continuing hostility in the Senate to international jurisdiction. No progress is in prospect even for the elementary change in the so-called Connally amendment to U.S. adherence to the International Court of Justice, under which the U.S.
judges what cases fall within domestic jurisdiction. Despite support of repeal by both major parties, the American Bar Association and many national agencies, the Union among them, isolationist pressure is too strong to expect favorable action at this time.

The activities of the United Nations for human rights, among which are civil liberties, are largely confined to studies, seminars, reports and recommendations. Cold War tensions, preoccupation with the freedom of subject peoples and nationalist resistance to international intervention, combine to obstruct the progress of law to implement the principles of the Universal Declaration of Human Rights.

U.S. TERRITORIES

PUERTO RICO. Although Puerto Rico is an autonomous Commonwealth, federal law applies to it equally with states of the Union. Efforts to extend autonomy, embodied in a bill in Congress a year ago, have apparently been shelved in view of wide opposition, the growth of a statehood party and the loss in the 1960 election of the Independence Party’s legal status.

A new party developed in the 1960 campaign, organized by the Roman Catholic bishops to contest alleged anti-Catholic policies of the government, among them the refusal to institute released time from public schools for religious education. The Christian Action Party won enough votes in the election to claim places in the legislature for a senator and a representative under the minority representation system. But the legislature challenged the election on the ground of fraud in nominations by petition and of coercion of voters by the bishops who had threatened denial of the sacraments to communicants who voted for the government party.

The Christian Action Party contested the proceedings to oust their members. Both the Bishop of Ponce and the challenged legislators appealed to the Union for aid. The Union declined to intervene beyond expressing its views based on experience in mainland elections and on the principles of political rights. While deploring the threat of coercion by a church upon the exercise by any individual of his political franchise, the Union upheld the legal right of any church to form a political party, to run candidates, to use religious symbols to identify the party, and to discipline its communicants in accordance with its tenets as interpreted by its authorities. The Union further observed that if fraud was proved in the nominating process it should have been acted on before there had been officially submitted to the voters the names of certified candidates for whom they voted in good faith. No charge of fraud was made in connection with the election itself.

The Union’s views were in the first instance presented to the legislative investigating committee by Roger Baldwin, the Union’s International Work Adviser, who, while visiting Puerto Rico, was called as a witness by the Christian Action Party. The Union sustained the right of the legislature to determine the qualifications of its members, but urged acceptance of the two legislators for whom the required number of voters had voted in good faith.
In May the legislative committee unanimously denied seats to the suspended legislators on the grounds of coercion of voters by the bishops and of extensive fraud in nominations which it held nullified their place on the ballot. The obviously debatable issues were the first of their kind ever presented to the Union.

**VIRGIN ISLANDS.** The efforts of the Virgin Islands legislature and its newly-appointed governor, a native islander like his predecessor, to win from Congress a non-voting seat in the House of Representatives, like Puerto Rico’s, failed in the 1961 session, despite support by the Interior Department. The move for an elective governor was held up pending action on the House seat. The Union has supported both reforms. A proposal to create town governments to relieve the legislature of municipal house-keeping, drafted with the Union’s aid, is still under consideration, but has had to give way to the more pressing desires for representation in Congress and an elective governor.

**GUAM.** The same proposal as that of the Virgin Islands for a non-voting delegate was made by the legislature of Guam, and with the same result. The opposition in Congress appears to rest largely on the small populations of both islands and the expense involved. No further progress was made, despite representations by the Union, in removing the Navy’s arbitrary restrictions on travel to Guam.

**SAMOA.** Further action for greater autonomy awaits experience with the new constitution adopted a year ago and the effects, if any, of the recent independence of Western Samoa, a United Nations trust area administered by New Zealand.

**PANAMA.** Although no complaints of denial of civil liberties have come from the Canal Zone, inquiry was made of officials and lawyers there, with reassuring results. A controversy over the flying of the Panamanian flag along with the Stars and Stripes in the leased zone was settled when the President authorized it.

**OKINAWA.** The million Japanese under the last military occupation by the U.S. are by executive order guaranteed both autonomy and civil liberties. The Union continued its efforts to induce the army to extend the somewhat limited autonomy and to remove restrictions on civil liberties not involving military security. The Union’s suggestions were given careful attention both by the former High Commissioner and his successor, as well as the Department of Defense. Among the remaining unsettled problems are (1) provisions of the penal code restrictive of freedom of speech, press and association; (2) restrictions on travel to and from Japan based on ill-defined political associations; and (3) limitations on the appointment of the Ryukuan chief executive and of higher court judges. The agitation for reversion to Japan continues, with the prospect of some let-up due to the permission recently given by the President for flying the Japanese flag on public buildings on appropriate occasions and to the establishment of a joint U.S.-Japanese, Ryukuan conference to deal with specified problems. A Ryukuan Civil Liberties Union was created, which cooperates both with the American and Japanese Civil Liberties Unions.
**ACLU AFFILIATES**

**Arizona:** Arizona Civil Liberties Union—639 First National Bank Building, Phoenix. Harold Goldman, President (and Chairman, Northern Area, Phoenix). Professor Michael Mahar, Vice-President (and President, Southern Area, Tucson), 2030 Calle Alta Vista, Tucson.

**California:** ACLU of Northern California*—503 Market Street, San Francisco 5. Howard A. Friedman, Chairman. Ernest Besig, Executive Director. Chapters in Marin County, Mid-Peninsula, Monterey County, Sacramento Valley and University of California.


**Colorado:** Colorado Branch, ACLU†—1452 Pennsylvania Street, Denver 3. Charles S. Milligan, Chairman. Harold V. Knight, Executive Director. Chapters in Boulder and Colorado Springs.

**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.

**Florida:** Florida Civil Liberties Union—509 Olympia Building, Miami 32. Howard W. Dixon, Chairman. Mrs. Mollie K. Sanders, Secretary. Chapter in Tampa Bay Area.

**Illinois:** Illinois Division, ACLU*—19 South LaSalle Street, Chicago 3. Tyler Thompson, Chairman. John L. McKnight, Executive Director. Chapters in Bloomington, Carbondale, DeKalb-Sycamore, North Shore, Peoria, and Champaign-Urbana.

**Indiana:** Indiana Civil Liberties Union†—Fletcher Trust Building, 108 North Pennsylvania, Indianapolis. Dr. Robert Risk, Chairman. Mrs. Sylvia Persky, Executive Secretary. Chapters in Bloomington, Calumet, Fort Wayne, Indianapolis, Lafayette, and South Bend.

**Iowa:** Iowa Civil Liberties Union—Kenneth Everhart, Chairman. Mrs. Katherine Bertin, Secretary, 3865 East 38th Street, Des Moines.

**Kentucky:** Kentucky Civil Liberties Union—Edgar S. Zingman, Chairman. Arthur S. Kling, Secretary, 1917 Maplewood Place, Louisville 5. Chapter in Central Kentucky.

**Louisiana:** Louisiana Civil Liberties Union—David Dover, President. Wade M. Mackie, Secretary, 1608 Government Street, Baton Rouge.

**Maryland:** Maryland Branch, ACLU†—Dr. H. Bentley Glass, President. Rev. Irving R. Murray, Chairman, Executive Board. Mrs. Fred E. Weisgal, Secretary, 5740 Cross Country Boulevard, Baltimore 9.

**Massachusetts:** Civil Liberties Union of Massachusetts*—41 Mount Vernon Street, Boston 8. Albert R. Beisel, Jr., Chairman. Luther K. Macnair, Executive Director. Chapters in Hampden, Hampshire and Worcester Counties.

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

Minnesota: MINNESOTA BRANCH, ACLU†—Midland Bank Building, Minneapolis. Frank S. Farrell, Chairman. Marshman Watson, Executive Secretary.

Missouri: GREATER KANSAS CITY CIVIL LIBERTIES UNION—Dr. Raymond C. Bragg, Chairman. Miss Eleanor C. Blue, Secretary, 5907 Rockhill Road, Kansas City.

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. Chapter in South Jersey.

New Mexico: AMERICAN CIVIL LIBERTIES UNION OF NEW MEXICO—Willard Kitts, President. Mrs. Frank H. Allen, Jr., Secretary, 712 Douglas MacArthur Road, N.W., Albuquerque.


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

Ohio: OHIO CIVIL LIBERTIES UNION*—710 Ninth Chester Building, Cleveland 14. R. Vance Fitzgerald, Chairman. Mrs. Vivian J. Donaldson, Executive Secretary. Chapters in Akron, Cincinnati, Cleveland, Columbus, Dayton, Oberlin, Toledo, Yellow Springs and Youngstown.


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

GREATER PHILADELPHIA BRANCH, ACLU*—260 South 15 Street, Philadelphia 2. Raymond J. Bradley, President. Spencer Coxe, Executive Director. Chapters in Delaware County, Bucks County and State of Delaware.

Rhode Island: RHODE ISLAND AFFILIATE, ACLU—Milton Stansler, Chairman, 626 Industrial Bank Building, Providence. Mrs. John W. Lenz, Secretary.

Texas: CENTRAL TEXAS AFFILIATE, ACLU—Reece McGee, President, 1203 W. 22½ St., Austin 5. Frank Wright Secretary-Treasurer.

GREATER HOUSTON CHAPTER, ACLU—Ben G. Levy, Chairman. Mrs. Sylvia Reiber, Corresponding Secretary, 3926 West Hampton, Houston 45.

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


Wisconsin: WISCONSIN CIVIL LIBERTIES UNION—2212 Hillington Green, Madison 5. Professor William Gorham Rice, Chairman. Louis Kaplan, Executive Secretary. Chapter in Milwaukee.

* 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, Box 397, Kenai
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
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, 600 Northwest Thirteenth Street, 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
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—Lino J. Saldaña, 250 Fortaleza St., P.O. Box 4151, San Juan
Virgin Islands—George H. T. Dudley, Box 117, Charlotte Amalie, St. Thomas
MEMBERSHIP AND FINANCES

February 1, 1960, through March 31, 1961

During 1960-61, the Union's fiscal year was changed to end on March 31, rather than on January 31, as formerly. This report therefore covers the period from February 1, 1960, through March 31, 1961, a total of 14 months.

On February 1, 1960, the ACLU and its 27 integrated affiliates had an enrollment of 45,935. By April 1, 1961, the total membership had risen to 50,719, a net increase of 11%. Almost 8,000 new members were added to the roster; during those 14 months about 3,200 were dropped for failure to renew their membership. The ACLU of Northern California, which handles its membership and finances separately, had about 5,000 members, some of whom also belong to the national ACLU. Taking this overlap into account, the Union had a total enrollment of approximately 54,000 on March 31, 1961.

Members' contributions for the 14 months totalled $547,200. Income of $10,500 from other sources brought the total to $557,700, an increase of 1% over the same period in 1959-60. Income from bequests of former members and friends totalled $50,000. There was a net excess of expenditures over total income of $61,000. Among extraordinary expenses which contributed to the deficit were the Union’s move to new quarters, activities in connection with the Fortieth Anniversary, the addition of another executive to the staff, the installation of new equipment and the Biennial Conference. Net worth decreased from $139,204 to $78,613.

The average contribution amounted to $10.12. About 11% of the members gave less than $5, 48% gave between $5 and $9.99, 34% between $10 and $24, 5% between $25 and $49, 1% between $50 and $99, and 1% over $100. Those contributing more than $200 during the 14-month period were:

Ruth Allen, Massachusetts; Amalgamated Clothing Workers, New York; Dorothy Atkinson, California; Mr. and Mrs. John P. Axtell, New York; Mrs. Evelyn P. Baldwin, New Jersey; Albert C. Barclay, New Jersey; Mrs. Helen Beardsley, California; Laird Bell, Illinois; Robert E. Bell, California; Mr. and Mrs. William Benesch, Pennsylvania; Dr. Viola W. Bernard, New York; Mr. and Mrs. Edgar Bernhard, Illinois; Anna H. Bing, California; Nelson M. Blachman, California; Elizabeth Borish, New York; Mrs. Sylvia Braverman, California; Julia C. Bryant, Connecticut; Andrew Burnett, California; Mrs. Carleton E. Byrne, California; Dr. and Mrs. John Caughey, California; Fanny Travis Cochran, Pennsylvania; Edward C. Cone, New Jersey; Professor and Mrs. Albert Sprague Coolidge, Massachusetts; Thurlow E. Coon, California; Rev. Stephen T. Crary, Rhode Island; Maxwell Dane, New York; Mr. and Mrs. A. P. Delacorte, New York; Dr. and Mrs. Max Delbruck, California; Mrs. Margaret DeSilver, New York; Robert T. Drake, Illinois; Edward J. Ennis, New York; William R. Everett, Minnesota; Dr. and Mrs. John H. Ferger, New York; Henry G. Ferguson, District of Columbia; Mrs. Stanton A. Friedberg, Illinois; Harvey Furgatch, California; Margaret Gage, California; William
M. Gaines, New York; Gloria Gartz, California; Dr. Saul B. Gilson, New York; Mr. and Mrs. J. W. Gitt, Pennsylvania; Herbert G. Graetz, Massachusetts; Mr. and Mrs. Philip H. Gray, California; William Roger Greeley, Massachusetts; Richard Grumbacher, Maryland; Charles K. Hackler, California; Mrs. Donald M. Harris, New York; Mr. and Mrs. Gilbert Harrison, District of Columbia; Henry Hirschberg, New York; Prynce Hopkins, California; B. W. Huesch, New York; Morton D. Hull, Pennsylvania; Mrs. Sophia Yarnall Jacobs, New York; Ethel M. Johnson, California; J. M. Kaplan, New York; Dr. and Mrs. W. S. Kiskadden, California; Mrs. William Korn (for the Mayer Family), New York; Dr. Austin Lamont, Pennsylvania; Robert Maxwell Lauer, Delaware; Mrs. Agnes Brown Leach, New York; Carter Lee, District of Columbia; Hon. Herbert H. Lehman, New York; D. Richard Levy, Pennsylvania; Mrs. V. S. Littauer, New York; Mrs. Myra Lowengart, California; Macalester College Campus Chest, Minnesota; Mr. and Mrs. Patrick Murphy Malin, New York; Arnold H. Maremont, Illinois; H. Zachary Marks, Florida; Mrs. Lenore C. Marshall, New York; T. S. Matthews, England; Frances B. McAllister, California; Matt S. Meselson, California; Merle H. Miller, Indiana; Mrs. Gertrude Pascal, New York; Dr. Linus Pauling, Jr., Hawaii; Dr. and Mrs. R. B. Pettengill, Lebanon; Dr. Dallas Pratt, New York; George D. Pratt Jr., Connecticut; Mrs. Jane A. Pratt, Connecticut; Robert O. Preyer, Massachusetts; H. Oliver Rea, New York; Harold Raynolds, Vermont; Mr. and Mrs. Chester Rick, New York; T. Thacher Robinson, Illinois; Morris Rohtlick, California; Charlotte Rosenbaum, Illinois; Walter S. Rosenberry, III, Colorado; Mrs. Alan Rosenthal, District of Columbia; Mrs. Alice F. Schott, California; Mr. and Mrs. Herman F. Schott, California; Henry W. Shelton, California; Mrs. Gratia Erickson Short, California; Mr. and Mrs. Lloyd M. Smith, California; Mrs. Ralph Smith, California; Dr. and Mrs. John Spiegel, Massachusetts; Mrs. Charles S. Stein, Jr., California; Robert M. Stein, New York; Mr. and Mrs. James Struthers, California; Mr. and Mrs. Lee Thomas, Kentucky; Miss Anne L. Thorp, Massachusetts; George B. Thorp, New York; Sidney Troxell, California; John B. Turner, New York; Mr. and Mrs. Frank Untermeyer, Illinois; Philip Wain, California; George Wallerstein, California; Charles and Lily H. Weinberg Foundation, New York; Mrs. George West, California; Mariquita West, California; Robert E. White, New York; James Whitmore, California; Harold Willens, California; Edward Bennett Williams, District of Columbia; Mary C. Wing, New York; Dr. and Mrs. Howard D. Zucker, New York; Mrs. Betty Zukor, California. Five anonymous contributions totaling $1,650 were received.

In addition to its regular financial operations, the Union continued to supervise the Roger N. Baldwin-ACLU Escrow Account, which is administered by the Fiduciary Trust Company. Between February 1, 1960 and March 31, 1961, the Account's book-value net worth stood at $33,000. The market value of its securities rose from $58,000 to $69,000.

### 1960-61 MEMBERSHIP ENROLLMENT

<table>
<thead>
<tr>
<th>NATIONAL ACLU MEMBERS FEBRUARY 1, 1960</th>
<th>45,935</th>
</tr>
</thead>
<tbody>
<tr>
<td>New members enrolled in 14-month period</td>
<td>7,941</td>
</tr>
<tr>
<td>Dropped: deceased, resigned, delinquent, etc.</td>
<td>3,197</td>
</tr>
<tr>
<td>Net increase</td>
<td>4,784</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NATIONAL MEMBERS MARCH 31, 1961</th>
<th>50,719</th>
</tr>
</thead>
<tbody>
<tr>
<td>NORTHERN CALIFORNIA SEPARATE MEMBERS</td>
<td>4,000</td>
</tr>
</tbody>
</table>

**TOTAL** | **54,719** |
## 1960-61 FINANCIAL REPORT

(The Union's fiscal year was changed in 1961 to end on March 31, rather than on January 31. This report thus includes the interim period, and covers 14 months—February, 1960, through March, 1961.)

### INCOME

<table>
<thead>
<tr>
<th>Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>New members' initial dues payment</td>
<td>7,981</td>
</tr>
<tr>
<td>Membership renewals</td>
<td>36,648</td>
</tr>
<tr>
<td>Special Funds contributions</td>
<td>9,442</td>
</tr>
<tr>
<td><strong>TOTAL MEMBERSHIP INCOME</strong></td>
<td>54,071</td>
</tr>
<tr>
<td>Executive Director's honorariums</td>
<td>890.00</td>
</tr>
<tr>
<td>Sale of pamphlets</td>
<td>2,795.52</td>
</tr>
<tr>
<td>From ACLU-Roger N. Baldwin Escrow Account</td>
<td>4,200.00</td>
</tr>
<tr>
<td><strong>TOTAL REGULAR INCOME</strong></td>
<td></td>
</tr>
<tr>
<td>Extraordinary contributions earmarked for national office Legal Expansion Fund</td>
<td>2,572.23</td>
</tr>
<tr>
<td><strong>TOTAL CURRENT INCOME</strong></td>
<td></td>
</tr>
</tbody>
</table>

Requests from the estates of former members and friends:

<table>
<thead>
<tr>
<th>Name</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>James B. Barnett</td>
<td>$13,396.53</td>
</tr>
<tr>
<td>Ivan Benedict</td>
<td>100.00</td>
</tr>
<tr>
<td>Richard T. Brooke</td>
<td>1,579.08</td>
</tr>
<tr>
<td>Clara M. Brumm</td>
<td>100.00</td>
</tr>
<tr>
<td>Robert C. Cone</td>
<td>20,000.00</td>
</tr>
<tr>
<td>Samuel L. Hoover</td>
<td>4,243.75</td>
</tr>
<tr>
<td>Ruth S. Tolman</td>
<td>701.22</td>
</tr>
<tr>
<td>Marjorie F. Warner</td>
<td>1,000.00</td>
</tr>
<tr>
<td>Ruth F. Weinberg</td>
<td>3,934.56</td>
</tr>
</tbody>
</table>

U.S. Certificate of Indebtedness, from estate of Samuel L. Hoover | 5,000.00 | $50,055.14

**TOTAL ALL INCOME** | $607,751.23

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### 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 special national or local purpose.

<table>
<thead>
<tr>
<th>Affiliate</th>
<th>Affiliate's Net Worth 3/31/61</th>
<th>Affiliate's additional local income</th>
<th>Transferred from joint memb. income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southern California</td>
<td>$27,884.58</td>
<td>$26,077.35</td>
<td>$70,319.60</td>
</tr>
<tr>
<td>N.Y.C.L.U.</td>
<td>14,761.89</td>
<td>9,738.98</td>
<td>38,719.90</td>
</tr>
<tr>
<td>Illinois Division</td>
<td>627.10</td>
<td>8,257.47</td>
<td>26,905.02</td>
</tr>
<tr>
<td>C.L.U. of Massachusetts</td>
<td>4,175.46</td>
<td>366.26</td>
<td>20,839.80</td>
</tr>
<tr>
<td>Penna./Phila. Branches</td>
<td>818.85</td>
<td>3,436.03</td>
<td>20,339.65</td>
</tr>
<tr>
<td>Ohio C.L.U.</td>
<td>1,782.16</td>
<td>none</td>
<td>12,867.80</td>
</tr>
<tr>
<td>Minnesota Branch</td>
<td>1,696.15</td>
<td>208.00</td>
<td>7,133.10</td>
</tr>
<tr>
<td>Michigan C.L.U.</td>
<td>510.98</td>
<td>493.60</td>
<td>6,430.40</td>
</tr>
<tr>
<td>Maryland Branch</td>
<td>2,761.98</td>
<td>none</td>
<td>6,081.40</td>
</tr>
<tr>
<td>ACLU of Washington</td>
<td>311.11</td>
<td>582.55</td>
<td>5,140.83</td>
</tr>
<tr>
<td>Florida C.L.U.</td>
<td>3,792.10</td>
<td>6,541.98</td>
<td>4,636.00</td>
</tr>
<tr>
<td>Indiana C.L.U.</td>
<td>(1,167.48)</td>
<td>1,555.00</td>
<td>4,295.80</td>
</tr>
<tr>
<td>Colorado Branch</td>
<td>183.21</td>
<td>1,351.15</td>
<td>4,248.10</td>
</tr>
<tr>
<td>Connecticut C.L.U.</td>
<td>3,704.71</td>
<td>51.28</td>
<td>3,250.50</td>
</tr>
<tr>
<td>Wisconsin C.L.U.</td>
<td>3,457.48</td>
<td>none</td>
<td>2,508.00</td>
</tr>
<tr>
<td>New Jersey C.L.U.</td>
<td>1,883.57</td>
<td>210.00</td>
<td>2,480.40</td>
</tr>
<tr>
<td>St. Louis Committee</td>
<td>1,007.83</td>
<td>none</td>
<td>2,068.60</td>
</tr>
<tr>
<td>ACLU of Oregon</td>
<td>780.88</td>
<td>1,027.66</td>
<td>2,030.00</td>
</tr>
<tr>
<td>Arizona C.L.U.</td>
<td>791.00</td>
<td>none</td>
<td>1,914.40</td>
</tr>
<tr>
<td>Kentucky C.L.U.</td>
<td>1,472.56</td>
<td>none</td>
<td>1,628.80</td>
</tr>
<tr>
<td>Iowa C.L.U.</td>
<td>1,144.62</td>
<td>none</td>
<td>1,618.50</td>
</tr>
<tr>
<td>Louisiana C.L.U.</td>
<td>1,263.67</td>
<td>none</td>
<td>1,201.20</td>
</tr>
<tr>
<td>Rhode Island C.L.U.</td>
<td>373.46</td>
<td>none</td>
<td>811.20</td>
</tr>
<tr>
<td>Niagara Br. (Buffalo)</td>
<td>461.11</td>
<td>none</td>
<td>788.90</td>
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<tr>
<td>ACLU of Utah</td>
<td>408.06</td>
<td>none</td>
<td>388.60</td>
</tr>
</tbody>
</table>

**TOTAL** | **$249,026.50**

Special grants

<table>
<thead>
<tr>
<th>Affiliate</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona C.L.U.</td>
<td>1,000.00</td>
</tr>
<tr>
<td>Michigan C.L.U.</td>
<td>1,500.00</td>
</tr>
<tr>
<td>Penna./Phila. Branches</td>
<td>1,500.00</td>
</tr>
</tbody>
</table>

**TOTAL** | **$253,026.50**

---

*This does not include funds locally raised and spent by affiliates, bequests and endowment, or volunteers' unpaid services.*
<table>
<thead>
<tr>
<th>EXPENDITURES (continued)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MEMBERSHIP OPERATIONS</strong></td>
</tr>
<tr>
<td>Salaries.................. $53,285.44</td>
</tr>
<tr>
<td>New promotion............ 26,348.90</td>
</tr>
<tr>
<td>Annual renewal........... 20,777.57</td>
</tr>
<tr>
<td>Semi-annual special appeals........... 14,674.97</td>
</tr>
<tr>
<td>General.................. 1,677.14</td>
</tr>
<tr>
<td><strong>FUNCTIONAL OPERATIONS</strong> $116,764.02</td>
</tr>
<tr>
<td>Salaries................ $113,036.12</td>
</tr>
<tr>
<td>Legal work.............. 13,494.54</td>
</tr>
<tr>
<td>(See Litigation on opposite column)</td>
</tr>
<tr>
<td>Educational expenses.... 44,714.56</td>
</tr>
<tr>
<td>(See Education on opposite column)</td>
</tr>
<tr>
<td>General................ 9,809.46</td>
</tr>
<tr>
<td>(See Functional—Miscellaneous on page 80)</td>
</tr>
<tr>
<td><strong>EXECUTIVE OPERATIONS</strong> $181,054.68</td>
</tr>
<tr>
<td>Salaries................ $47,479.03</td>
</tr>
<tr>
<td>Administrative........... 591.89</td>
</tr>
<tr>
<td>Board of Directors and general committees... 1,172.38</td>
</tr>
<tr>
<td>Corporate and affiliate services.......... 9,658.40</td>
</tr>
<tr>
<td><strong>JOINT MEMBERSHIP, FUNCTIONAL AND EXECUTIVE EXPENSES</strong> $59,594.97</td>
</tr>
<tr>
<td><strong>LITIGATION</strong></td>
</tr>
<tr>
<td>Wilkinson-House Un-American Activities Committee test case $1,556.46</td>
</tr>
<tr>
<td>Hood vs. Board of Trustees school segregation case 1,170.81</td>
</tr>
<tr>
<td>Oregon text book church-state case............. 1,064.26</td>
</tr>
<tr>
<td>Florida sit-ins........... 748.85</td>
</tr>
<tr>
<td>Koinonia school segregation case................. 706.60</td>
</tr>
<tr>
<td>Nostrand-Savelle loyalty oath case.............. 700.00</td>
</tr>
<tr>
<td>Torcaso church-state case....................... 560.77</td>
</tr>
<tr>
<td>City of Montgomery vs. Nesmith restaurant segregation case 450.00</td>
</tr>
<tr>
<td>People vs. Codare due process-fair trial case 405.50</td>
</tr>
<tr>
<td>Two Guys from Harrison Sunday Blue Laws case 372.83</td>
</tr>
<tr>
<td>Carr vs. Watkins right-to-privacy case........ 314.96</td>
</tr>
<tr>
<td>Poe vs. Ullman anti-birth control statute case 274.60</td>
</tr>
<tr>
<td>Apalachin detention, search and seizure case 272.28</td>
</tr>
<tr>
<td>Gomillion vs. Lightfoot racial gerrymandering case 250.22</td>
</tr>
<tr>
<td>Pauling vs. Eastland First Amendment case 221.08</td>
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<tr>
<td>Gallagher vs. Crown Kosher Sunday Blue Laws case 220.72</td>
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<tr>
<td>Ostrofsky employment and Fifth Amendment case 200.00</td>
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<tr>
<td>Isaac Pert due-process capital punishment case 200.00</td>
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<tr>
<td>McCoy-Latham extradition case.................. 172.11</td>
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<tr>
<td>Turoff contempt of Congress case.............. 166.61</td>
</tr>
<tr>
<td>Illinois film censorship case.................. 164.51</td>
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<tr>
<td>Cronan vs. FCC radio license and First Amendment case 120.83</td>
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<td>Lampe vs. U.S. due process right-to-counsel case 108.96</td>
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<td>Worthy vs. State Department passport case........ 106.60</td>
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<td>Communist Party vs. Subversive Activities Control Board............... 105.49</td>
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<tr>
<td>People vs. Munoz literacy-in-English voting case 104.50</td>
</tr>
<tr>
<td>Sweeney due process parole-revocation case........ 104.13</td>
</tr>
<tr>
<td>32 cases under $100.......................... 1,235.75</td>
</tr>
<tr>
<td>Legal work—New York office and Washington, D.C............ 1,414.91</td>
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</tbody>
</table>

| **EDUCATIONAL EXPENSES** $13,494.54 |
| Annual Report.............. $20,081.73* |
| Civil Liberties............... 13,063.15 |
| Feature Press Service........ 4,890.56 |
| Pamphlets, reprints, literature purchased........... 3,986.54 |
| National Civil Liberties Clearing House........ 1,000.00 |
| Printing, stationery, supplies........... 655.90 |
| Miscellaneous................ 2,436.68 |

* Because of revised fiscal year, includes total cost of two Annual Reports.
FUNCTIONAL MISCELLANEOUS EXPENSES

Domestic Committees .................................................. $ 1,336.61
International Committee ............................................. 755.68
Travel, hospitality, meetings, contributions ...................... 3,156.65
Postage, telephone, telegraph ....................................... 2,161.96
Printing, stationery, supplies; lettershop mailing .............. 1,437.20
Miscellaneous ................................................................ 962.36

$ 9,809.46

JOINT MEMBERSHIP, FUNCTIONAL AND EXECUTIVE EXPENSES

Rent and cleaning .......................................................... $17,468.22
Postage ........................................................................... 7,332.58
Repairs and equipment .................................................... 6,612.67
Payroll taxes ................................................................. 6,310.18
Printing, stationery ........................................................ 5,092.71
Telephone, telegraph ....................................................... 3,892.23
Insurance ....................................................................... 3,241.30
Audit .............................................................................. 2,000.00
Addressograph system ..................................................... 1,447.76
Files, archives, clippings, library ..................................... 1,302.28
Travel ............................................................................. 1,140.36
Bank charges .................................................................. 618.71
Miscellaneous ............................................................... 3,135.97

$59,594.97

BALANCE SHEET

as of March 31, 1961

ASSETS

Cash .............................................................................. $54,655.45
Accounts receivable:
From affiliates .............................................................. 3,929.70
Bail Deposit—Wilkinson case ......................................... 1,000.00
Exchange ..................................................................... 114.40
Loans receivable:
Indiana CLU ................................................................. 2,084.46
Greater Philadelphia Branch ........................................... 423.00
Securities
Endowment ................................................................... 11,075.00
Operating ...................................................................... 5,000.00
Long-term deposits
Office rent ................................................................... 3,500.00
Airlines ........................................................................... 475.00

TOTAL ASSETS ................................................................ $82,207.01

LIABILITIES

Payroll taxes payable ....................................................... $ 3,520.46
Staff saving bond purchases ........................................... 70.35
R. N. Baldwin drawing account ....................................... 2.60

TOTAL LIABILITIES ............................................................. $ 3,593.41

NET WORTH, January 31, 1960 ........................................ $139,204.24

NET WORTH

Endowment fund ........................................................... 12,075.00
General fund .................................................................. 66,538.60

TOTAL NET WORTH .......................................................... $ 78,613.60
Roger N. Baldwin-ACLU Escrow Account

NET WORTH, February 1, 1960 $ 34,633.58

Income from investments 3,020.32
Paid to ACLU for Mr. Baldwin's part-time services 4,200.00
Custodian fee 187.50
EXCESS, expenditures over income ($ 1,367.18)

NET WORTH, book value,* March 31, 1961 $ 33,266.40*

* Market value of securities in Account March 31, 1961: $69,212.00

Certificate

In our opinion, the attached financial statements present fairly the financial position of the American Civil Liberties Union, Inc., and the R. N. Baldwin Escrow Account at March 31, 1961, 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.

APFEL AND ENGLANDER
Certified Public Accountants

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

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

JOIN THE AMERICAN CIVIL LIBERTIES UNION*

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

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

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

PLEASE PRINT CLEARLY

NAME
ADDRESS
CITY ZONE STATE
Occupation

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

Annual Report, 1960-61
IT'S YOUR BILL OF RIGHTS - DEFEND IT!
JOIN THE
AMERICAN CIVIL LIBERTIES UNION!

ACLU members in these categories receive Civil Liberties each month, this 1960-61 Annual Report (and future annual reports), and their choice of pamphlets:

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

Associate Members at $2 receive Civil Liberties and the Annual Report. Weekly bulletin is available on request to contributors of $10 and over. Members living in the areas listed on pages 73 and 74 (with the exception of ACLU of Northern California which maintains separate membership and finances) also belong to the respective local ACLU organization, without payment of additional dues. If you live in one of these areas, it will automatically receive a share of your contribution. The more you give, the larger its share. Be as generous as you can! See coupon on inside cover.

BEQUESTS TO THE ACLU

Between February 1, 1950 and March 31, 1961, the national American Civil Liberties Union has received by bequest a total of $202,000 from the estates of fifty-one 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.

Those desiring to make such provision in their wills may 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.
Quantity prices on request.