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Civil Liberties Docket

Vol. III, No. 2

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National Lawyers Guild, National Committee on Constitutional Rights and Liberties

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Highlights of this Issue

"I Have Never Been a Member"

The yellow dog contract is a "written promise in which a workman as a condition of employment obligates himself not to join a labor union * * * or go on strike * * * not to do anything which will interfere with the employer's conduct of a non-union shop or open shop. * * * The employers, on their part, usually make no promise other than employment, and reserve the right of discharge at any time." In 1930, approximately 1,125,000 workers were covered by such contracts. They were outlawed by the Norris-LaGuardia Act. (Witte, 6 Wis. L. Rev. 21, 22, 27, 1930).

Yellow dog contracts involved promises by job applicants not to join or be active in organizations in the future. The most common "loyalty-security" promise exacted of job applicants today is past and present non-membership in any of the 300 organizations on the Attorney General's list. The most common "loyalty-security" cause for discharge is refusal to answer questions about past and present political activities and affiliations before Congressional Committees and employers (and unions). It has been suggested that an oath of non-membership in the past can be as strong a deterrent to future membership and activity as any old-fashioned yellow dog contract.

Such oaths now cover virtually all applicants for employment by federal, state, county and city governmental units, all inductees into the U. S. Armed Forces, all applicants for employment in "sensitive" industries, all applicants for passports, and many others. The number of Americans who have been given such oaths to fill out in the past ten years is probably well over 15,000,000.

For cases brought by organizations testing the power of the Attorney General to list them as "subversive" or to require them to submit lists of members and contributors to federal and state officials, see pending cases reported in this issue of the DOCKET at 221., 222., 223., and 211., 204., 227. (And see 344.1.)

Can Government, as Employer, Require Oath?

Seven cases have been brought by individuals who refused to answer questions asked by the government, as their employer, in order to get or hold their jobs, thus challenging directly the power of the government to require an oath of non-membership in organizations on the Attorney General's list. 3 cases were won: *Savelle*, 280.1, *Leff*, 251.1, *Bryan*, 261.8.* *Parker v. Lester*, 268.1, won in part, is still pending in part. *Pickus*, 280.2,* was lost. *Wilkins* and *Crowe*, 261.1, .7, pending.

Many individuals are suing for reinstatement to government and non-government jobs after refusals to answer questions before Congressional and state investigating committees:

Teachers and college professors: *Bailan* case (from Philadelphia) will soon be heard by U. S. S. C., 342.9. In New York, *Slochower* * won his case, but did not keep his job, 342.1; *Daniman, et al.* * lost on both counts, 342.2. The *Laba* case in New Jersey resulted in partial victory, still pending in part, 342.3. There have been no victories for California teachers, though several cases are still pending testing Dilworth Act: see *Mass*, *Schuyten*, *St. John Weiss*, *Hanchett*, 342.4, .5, .6, .7, .10.

Other government employees, from transit workers to park wardens and librarians, have suits pending. March 4, U. S. S. C. will hear *Lerner*, 343.1, testing NY Security Risk Law. (*Nagin* and *Hehir* involve same issues, 261.2, .3.) California's Luckel Act being tested in *Wolstenholme*, 261.9. And see *Gottlieb*, 344.5, *Callender*, 343.4, *Watterman*, 344.8, *Hancock* and *Globe*, 343.2, .3.

Two applicants for admission, not to a particular job, but to a profession, are testing validity of "no past membership" requirements: *Anstaplo*, 265.23 and *Konigsberg*, 265.21 (whose case was decided by U. S. S.

C. in 1957 but is still not over). And see *Sheiner*, 265.3, attempted disbarment for refusal to answer before Congressional Committee and Court.

Lafferty is seeking renewal of FCC license without signing such an oath, see 257.2.

Can Private Employer Fire for Use of Fifth?

U. S. S. C. has heard argument this Term in *Wilson*, 344.2, suit by actors discharged by movie companies for refusal to answer before Congressional committees. (And see *Ind. Prod. Corp.*, 30.1, *Wilson*, 344.3.)

In four reported arbitration cases, unions have sought reinstatement of members fired by employers for refusal to answer before Congressional committees. 2 have been successful: *UE*, 280.6*; *Re RCA*, 280.10. 2 are pending in Court against *Westinghouse* and *GE*, 344.6, .7.

One union member, expelled from Union for refusal to answer, then fired by Company at Union's insistence, is now suing Union: *Allen*, 280.8. And see *Friedman*, 269.3.

Only one case involved employee fired solely for refusal to answer such questions when asked by employer: *Gottlieb*. 280.8.

Syrek refused to sign loyalty questionnaire, fired, denied unemployment compensation; pending, 263.1. Others fired and denied compensation for refusal to answer before Congressional committees: *Kilpatrick*, *Ostrosky*, *Fino*, *Hallengren*, *Lee*, 346.1-.5.

Other Loyalty-Security Dismissal Cases

This list does not include workers testing their dismissals from government employment on "loyalty-security" grounds other than refusal to take oath or answer questions before Congressional committees: see cases at 251, 261.4 and .5, and 280.3, .4, .5, 280.7. Nor does it include workers testing constitutionality of private employers' "loyalty-security" programs: see cases at 268. (And see non-classifiable cases at 269.1, .1a, .2, .3.)

Two other classes of cases involve loyalty-security issues and refusals to answer political questions affecting employment indirectly. Cases involving denials of passports (frequently needed for professional work), will be heard by U. S. S. C. this Term: see cases at 252. Unfavorable discharges from Armed Forces can seriously impair employability of veterans. U. S. S. C. heard argument on two such cases this Term: see cases at 253. (And see denials of veterans' disability payments, at 254.)

One criminal case brought for making false denial of non-membership in organizations on Attorney General's list resulted in acquittal, see *McDaniel*, 292.1.*

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About the Civil Liberties Docket

The DOCKET is published 4 times each year, October to June, by the National Committee on Constitutional Rights and Liberties, Osmond K. Fraenkel, chairman, Ann Fagan Ginger, editor.

Concluded cases described in Vol. II will not be mentioned in this or future issues except to give citations of decisions and law review notes. Pending cases in which there has been no change in status since the last description in Vol. II are listed below and marked with an *. Pending cases in which changes have occurred since the last issue will show the page references of the previous descriptions in Vol. II and Vol. III, No. 1.

DOCKET

I. FREEDOM OF EXPRESSION AND ASSOCIATION (FIRST AMENDMENT RIGHTS) (10-299)

SPEECH AND PRESS (10-99) See also Association (200-299)

Law review articles:

on the Supreme Court in the Oct. 1956 Term:

Bernard Schwartz, The Supreme Court—Oct. 1956 Term, 32 N.Y.U. Law Rev. 1202-1241 (Nov. 1957).

Roger Paul Peters, The Supreme Court and the Spirit of 1957, 7 Buffalo Law Rev. 30-46 (Fall 1957).

The Supreme Court 1956 Term, 71 Harv. Law Rev. 85-197 (Nov. 1957), incl. The citizen's immunities and public opinion, a foreword by Arthur E. Sunderland, Jr., at 85-93.

10. Licensing

11. Meetings

- 11.1. *In re Ellis v. Allen, et al.* (N. Y. Ct. of App.) For facts, see III DOCKET 1. Jan. 9: Ct. of App. *dismissed* appeal by Comm'r. of Educ. Allen taken as of right.

12. Motion Pictures

- 12.1. *Times Film Corp. v. Chicago.* (U.S.S.C., #372.) For facts, see II DOCKET 65, III DOCKET 1. Nov. 12, 1957: U.S.S.C. *granted* certiorari, *reversed* judgment, per curiam, without argument or opinion, after viewing the film.
- 12.2. *Kingsley Intl. Pictures Corp. v. N. Y. Board of Regents.* (N.Y. App. Div., 3d Dept.)*

- 12.3. *In re Application of Excelsior Pictures Corp. v. Regents of University of New York State.* (N.Y. Ct. of App.) For facts, see II DOCKET 31, 49. N.Y. Ct. of App. *affirmed* (4-3), Desmond, J., for majority, *held* "Garden of Eden" *not* obscene or indecent; nudity *not* per se obscenity. Def's. motion for reargument denied.
- 12.6. *A. C. L. U. v. Chicago.* (Ill. S. Ct.) For facts, see III DOCKET 1. Ill. S. Ct. ruled *against* Pl., but not on issue Pl. wished to appeal to U.S.S.C. Case closed.

13. Peddlers

14. Miscellaneous

- 14.1. *Sunshine Book Co., et al. v. McCaffrey, NYC Comm'r of Licenses, et ano.* (N.Y. Sup. Ct., App. Div., 1st Dept.) For facts, see II DOCKET 31-2. Dec. 23, 1957: App. Div. unanimously *reversed* trial ct., *held* Def.-Commr. exercised unconstitutional "advance censorship" on Pls'. nudist magazines.
- 14.3. *Sunshine Book Co. v. Summerfield.* (U.S.S.C., #587.) For facts, see III DOCKET 2. Jan. 13: U.S.S.C. *granted* certiorari, *reversed* without opinion, citing *Roth v. U. S.*, 354 U. S. 476. (II DOCKET 50, 66.)
- 14.4. *Florida v. Tracey.* (Fla. Sup. Ct.) Information filed charging Def. with possession of obscene pictures under Fla. statute. June 18, 1957: Co. Ct. *granted* Def's. motion to quash the information. State's appeal pending.
Damon G. Yerkes, Esq., 603 Lynch Bldg., Jacksonville, Fla.

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20. Administration Restrictions

21. Customs

- 21.1. *U. S. v. 31 Photographs, et al.* (SD NY, # AD 189 50.) For facts, see II DOCKET 1, 49. Dec. 1957: Fedl. Judge Palmieri *released* to U. of Indiana (Kinsey) Institute for Sex Research the collection of articles the Customs Office had labelled "obscene" because they were addressed to the scientific interest of those who were to study them. Gov't. announced it will not appeal.

22. Post Office

23. Miscellaneous

- 23.1. *Daily Worker v. Moysey.* (CA 2.)*
- 23.5. *Random House and Bantam Books v. Detroit Police Commr. Piggins.* *
- 23.6. *Sapriel, et ano. v. Beverly Hills, et al.* (Calif. Super. Ct., Los Angeles Co., #671322.)*
- 23.7. *Adams, et ano. v. Hinkle.* (Wash. Sup. Ct.)*

30. Economic Restrictions

- 30.1. *Independent Productions Corp. and I. P. C. Distributors, Inc. v. Loew's Inc.,*

et al. (SD NY, Civ. #110-304.) For facts, see II DOCKET 2. Pls'. motion pending to prevent Defs. from inquiring by depositions of Pls'. officers re their personal political associations and opinions.

- 30.2. *Rubenstein and Richards v. NYC Police Comm'r. Kennedy, Trustees of NYC Police Pension Fund.* (NY Co. Sup. Ct.) Suit filed by Pls.-musicians for declaratory judgment on constitutionality of NYC Police Dept. regulations requiring entertainers and cabaret employees to carry identification cards in order to work in NYC. Suit also contests right of Dept. to collect \$. for cards and for accounting of estimated \$500,000. so collected and turned over to Def-Fund. One Pl. had been denied card for former convictions for possession of marijuana; one Pl. had card, was barred from employing musicians without such cards. Pending.

Maxwell T. Cohen, Esq., 505 Fifth Ave., NYC.

40. Contempt

41. Federal Courts

- 41.1. *U. S. v. Torre.* (SD NY.) During pre-trial examination in \$1,393,333 breach of contract and libel suit brought by Judy Garland against CBS, Def.-TV columnist for NY Herald Tribune refused to divulge name of CBS executive who was allegedly source of material in article objected to. Def. repeated refusal after Ct. order. Jan.: Ct. *convicted* Def.; 10 day sentence. Appeal to be filed.

Mathew Correa, Esq., 63 Wall St., NYC.

42. State Courts

- 42.1. *In Matter of Nies.* (Sup. Ct. Colo., #18034.)*

43. Other agencies

50. Criminal Sanctions

51. Disorderly conduct

- 51.1. *Chicago v. Corney, et al.* (Ill. App. Ct.) (142 NE 2d 160.) For facts, see former listing, *Chicago v. Members, Comm. for Racial Equality*, III DOCKET 2.

52. Obscenity (see also 12)

Law review note:

Constitutional law—Freedom of speech—Obscenity statutes, 3 Villanova Law Rev. 71-79 (Nov. 1957).

- 52.8. *People of New York v. Shapiro, et al.* (App. Div., Second Dept.)*

53. Defamation

54. Sedition (see also 241-4)

- 54.1. *U. S. v. Powell, et al.* (ND Calif., S. Div., #35065.) For facts, see II DOCKET 2, 32, 50, 66, III DOCKET 2. Nov. 1, 1957: Fedl. Judge Goodman *ordered* case dismissed after 30 days unless U. S. State Dept. permitted gathering of evidence for defense in Communist China and N. Korea. Nov. 20: State Dept. *granted* passport to counsel A. L. Wirin to go to China and N. Korea. Chinese Gov't. raised question of judicial assistance arrangements with U. S. Gov't. at ambassadorial conferences in Geneva; press reports U. S. Ambassador refused to discuss issue. Counsel Wirin now in China to interview 100 witnesses and obtain physical evidence. Success of trip probably depends on making arrangements for judicial assistance. Trial date to be set.

See New York Guild Lawyer, Jan. 1958, pp. 4, 6 for fuller description of case.

55. Picketing

- 55.1. *People of New York v. Carcel and Collazo.* (NY Ct. of App.) For facts, see II DOCKET 2, 32, III DOCKET 2. Cite: 3 N. Y. 2d 327, 144 N. E. 2d 81.

56. "Corrupt Practices"

- 56.1. *U. S. v. UAW-CIO.* (DC Mich.) For facts, see II DOCKET 2, 50. Nov. 6, 1957: After trial, jury found UAW *not guilty* of making illegal political expenditures for telecasts in 1954 election campaign. Therefore, no decision on constitutionality of Fedl. Corrupt Practices Act.

57. Miscellaneous

- 57.1. *People of New York ex rel. Hearn v. Muste, et al.* (Spec. Sess., App. Term, NY Co.) For facts, see II DOCKET 2. Feb. 7: heard and submitted.

- 57.2. *People of New York v. Peck, et al.* (NYC Magis. Ct.)*

- 57.2a. *New York v. Boyce.* (Upper Manhattan Magis. Ct., NYC.) Def.-pacifist high school teacher arrested for refusal to obey air raid drill order to take shelter. Jan. 21: Def. *acquitted* after trial.

Conrad J. Lynn, Esq., 141 Broadway, NYC.

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- 57.4. *People of California v. Aykens and Wallace.* (App. Dept., Super. Ct., San Mateo.)*

- 57.5. *U. S. v. Roumanian-American Pub. Co.* (DC DC.) For facts, see II DOCKET 33. Motion to dismiss denied. Feb. 11: trial date.

- 57.6. *New York v. DeHahn, et al.* (Lower Manhattan Magis. Ct.)

New York v. Horowitz, et al. (Flatbush Magis. Ct.) Defs.-students at Hunter and Brooklyn Colleges distributed Socialist leaflets on campuses; charged with violation of Sanitation Code forbidding distribution of advertising and commercial literature that causes litter of the streets. Courts *dismissed* charges on ground this provision inapplicable to non-commercial literature.

Rhoda Karpatkin, Esq., 101 W. 57th Street, NYC.

57.7. *San Francisco v. Paul, et ano.* (San Franc. Muni. Ct.) Sept. 1957: Defs. arrested while distributing handbills protesting against arbitrary police action in Fillmore area. Issue: constitutionality of ordinance making it unlawful to distribute or cause to be distributed "any handbills or dodgers upon the streets or sidewalks". Muni. Ct. *dismissed* charge. City Atty. then suggested Bd. of Supervisors repeal ordinance as too broad in scope.

57.8. *In Matter of Application of New York Post, et al. v. Judge Samuel Leibowitz, et ano.* (NY Ct. of App.) Def.-Judge directed Ct. stenographer not to furnish Pl.-newspaper with transcript of his charge to jury in manslaughter case concerning policeman acquitted in shooting of teen-aged boy. In suit under Art. 78, Civil Practice Act, Trial Ct. *held for Def.*; App. Div. *affirmed*. NY Ct. of App. *reversed*.

M. Marvin Berger, Esq., 110 Washington St., NYC.

Amicus briefs filed by Am. Society of Newspaper Editors, by Harold L. Cross, Esq., 154 Nassau St.; NY Herald Tribune, by E. Douglas Hamilton and Burton K. Farmer, Esqs., 154 Nassau St.; News Syndicate Co., Inc., by James W. Rodgers and Andrew L. Hughes, Esqs., 220 E. 42nd St., all of NYC.

57.9. *Staub v. City of Baxley.* (U.S.S.C.) Def.-organizer for ILGWU convicted of violating ordinance requiring permit from City for any person soliciting members for dues-paying organization, permit granted or withheld at will, and, if granted, involving \$2,000 fee per yr. plus \$500 for each new member obtained. Def. made no attempt to secure permit. U.S.S.C. (7-2) *reversed, held* ordinance unconstitutional on its face for requiring Def. to obtain permit to exercise First Amendment rights; Def. not deprived of standing to attack ordinance by failure to try to secure permit.

Morris P. Glushien, Esq., 1710 Broadway, NYC.

60. Civil Sanctions

61. Defamation

62. Injunctions in labor disputes

63. Other injunctions

FREEDOM OF RELIGION (100-199)

110. Separation of Church and State

110.1. *In re Application of Lewis and Klein v. N. Y. State Commr. of Education.* (NY Sup. Ct., Albany.)*

110.3. *Rawlings v. Butler.* (Ky. Ct. of App.) For facts, see II DOCKET 51.

Case note in

31 Tulane Law Rev. 676-679 (June 1957).

110.4. *Squires, et al. v. City of Augusta, et al.* (Super. Ct. Me., Kennebec Co.,

#3685.) For facts, see II DOCKET 51, 66. Jan. 16: heard; March 1: briefs to be filed.

- 110.5. *64th Street Residences, et al. v. NY City, et al.* (NY App. Div., 1st Dept.) Suit for declaratory judgment and permanent injunction against proposed Lincoln Square Project on ground that sectarian institution would be profited thereby, in violation of First and Fourteenth Amendments to U. S. Constitution, Art. I, Sec. 7 and Art. XI, Sec. 4 of NY Constitution. Fordham Univ., private, Catholic institution, to be redeveloper in proposed Project, to build downtown campus on part of area. Issue: whether benefits to Fordham from (1) power of eminent domain being used to obtain property now held by private owners, and (2) acquisition of property at lower cost than that paid for it by Def.-City, constitute violation of doctrine of separation of church and state. Dec. 24, 1957: Sup. Ct. *granted* Def's. motion for summary judgment. Feb. 13: Heard and submitted in App. Div.

Harris L. Present, Esq., 375 Park Ave.; Dickstein, Shapiro and Friedman, Esqs., 350 Fifth Ave., of counsel, all of NYC.

120. Pacifists and Conscientious Objectors

Book:

"Handbook for Conscientious Objectors", edited by George Willoughby. 3d edition, 1957. 108 pp. General Committee for Conscientious Objectors, 2006 Walnut St., Philadelphia. (50¢)

- 120.2. *Hanauer, et ano. v. Elkins, Pres., U. of Md.* (Md. Ct. of App.) For facts, see II DOCKET 66, III DOCKET 3. Cir. Ct. decision *held* conscientious objector provisions in U. S. draft acts not based on constitutional right, but "an act of grace" by Congress. Feb. 13: heard and submitted.

- 120.3. *U. S. v. Surls.* (U. S. Navy.)*

- 120.4. *U. S. v. Horst.* (ED Mich., #36,149.) For facts, see III DOCKET 3. Dec. 1957: After jury trial at which Def. testified re his belief in "Love" rather than "God", refused to accept non-combatant military duty, presented expert testimony of two ministers re meaning of "religious belief", Fedl. Judge Freeman *granted* Def's. motion for directed verdict of *not guilty*, on ground Selective Service Bd. had misinterpreted the law.

For description of trial, see New York Guild Lawyer, Feb. 1958, p. 4.

- 120.5. *Re Orville Cupp.* (Air Force Review Bd., D. C.) Jehovah's Witness convert *convicted* of refusal to salute officer and carry out duties as gunnery officer; 5 yr. sentence. Review Bd. *reduced* sentence to 9 mths., gave dishonorable discharge. On second review, Bd. *held* Def's. First Amdt. rights had not been violated and punishment not excessive, tho finding Def. "sincere in his religious beliefs." Discharge *changed* to honorable, but without veteran's benefits. Amicus appearance by American Civil Liberties Union, 170 Fifth Ave., NYC.

130. Denial of Tax Exemptions

- 130.1. *Valley Unitarian-Universalist Church, Inc. v. County of Los Angeles*, (formerly entitled *People's Church of San Fernando Valley v. County of Los Angeles*.) (U.S.S.C., #385.) Pl's. motion to print record at public expense and to dispense with payment of Clerk's fees *granted*. To be argued with 130.2 and .3 and *Speiser and Prince*, 266.1 and .2.
- 130.2. *First Methodist Church of San Leandro v. Horstmann, et al.* (U.S.S.C.)*
- 130.3. *First Unitarian Church of Berkeley v. Horstmann, et al.* (U.S.S.C.)*
- 130.4. *American Unitarian Assn., et al. v. County of Santa Clara, et al.* (Santa Clara Co. Super. Ct., Calif.)*
- 130.5. *Fellowship of Humanity v. Co. of Alameda and City of Oakland.* (Calif. Sup. Ct.) For facts, see II DOCKET 3, III DOCKET 3. Nov. 5, 1957: Calif. Sup. Ct. denied Def's. petition for review. Decision of Dist. Ct. for Pl. became final.
- 130.6. *Washington Ethical Society v. District of Columbia.* (CA DC, #13646.) For facts, see II DOCKET 51. Oct. 17, 1957: CA unanimously *reversed* Tax Ct., *held* terms "religion" and "religious" are not "rigid concepts". "To construe exemptions so strictly that unorthodox or minority forms of worship would be denied the exemption benefits granted to those conforming to the majority beliefs might well raise constitutional issues."
- And see *Horst*, 120.4.
- And see cases at 202.

140. Miscellaneous Restrictions

- 140.2. *People of New York v. Deen.* (NY Ct. of App.) For facts, see III DOCKET 3. Jan. 16: Ct. of App., without opinion, unanimously *affirmed* App. Div. *reversal* of conviction.

ASSOCIATION: As affecting the organization itself (200-239)

200. Privileges

201. Meetings

202. Tax exemption

- 202.1. *Communist Party v. Moysey.* (U. S. Tax Ct.)*
- 202.2. *Green v. Javits, et al.* (N. Y. Ct. of App.)
- and
- 202.2a. *New York ex rel. Lefkowitz v. Green, et al.* (N. Y. Ct. of App.) For facts, see II DOCKET 4, 67. App. Div. *affirmed* temporary restraining orders, denied Defs. motion to appeal. NY Ct. of App. *denied* Defs.' appeal because no final order to appeal from.
- And see cases at 130.

203. N.L.R.B. Certification

- 203.3. *U. S. v. Pezzati, et al.* (DC Colo.) For facts, see II DOCKET 33, 51. Oct. 30: Motion to dismiss heard and submitted.

And see *West*, 291.20.

204. Continued existence

Law review note:

Ann Fagan Ginger, Special purpose defense organizations—ACLU, NAACP, etc., XVII Lawyers Guild Rev. 141-45 (Winter 1957).

204.1. *Alabama ex rel. Atty. Genl. Patterson v. N. A. A. C. P.* (U.S.S.C., #846.)
For facts, see II DOCKET 4, 33. Jan.: Heard and submitted.

204.2. *Texas v. N. A. A. C. P., a Corp., and N. A. A. C. P. Legal Defense & Educational Fund, Inc.* (Tex. Ct. of Civ. App.) For facts, see II DOCKET 4, 34, 51, 67, III DOCKET 4. After Defs. withdrew appeal, Texas Atty. Genl. moved to affirm judgment of Ct. below on technical ground. Tex. Ct. of Civ. App. granted motion, judgment *affirmed*.

204.3. *Williams, Ga. Revenue Commr. v. N. A. A. C. P., et al.* (Ga. Dept. of Revenue.) For facts, see II DOCKET 34, 51, III DOCKET 4. State has assessed income taxes against N. A. A. C. P. in amount of \$17,000. N. A. A. C. P. contesting assessment. Pending.

And see *N. A. A. C. P.*, 204.3a.

204.3a. *N. A. A. C. P. and Calhoun v. Judge Pye.* (Ga. S. Ct.) Pl.-Calhoun, N. A. A. C. P. officer, found guilty of contempt in Defs. trial ct. for failure to furnish N. A. A. C. P. records to Ga. state revenue agents pursuant to ct. order. (See *Williams*, 204.3.) Dispute arose over composition of record. Pl.-N. A. A. C. P. brought mandamus proceeding to compel Def.-Judge to prepare accurate record for appeal. Intermediate appellate ct. held *for* Def. Ga. S. Ct. *held for Def. Pls'*. petition for rehearing pending.

Robert L. Carter, Esq., N. A. A. C. P., 20 W. 40th St., NYC.

And see *Williams*, 204.3.

204.4. *N. A. A. C. P., Va. Conference of N. A. A. C. P. and N. A. A. C. P. Legal Defense & Educ. Fund, Inc. v. Va. Atty. Genl. Patty, et al.* (ED Va., #2435, 2436.) For facts, see II DOCKET 34, 52, III DOCKET 4. Jan.: 3-judge Ct. *held for Pls.*, *granted* injunction restraining Defs. from proceeding against Pls. under Chaps. 31, 32, 35 passed in 1956; retained complaints re Chaps. 33, 36 till Pls. secure interpretation in state cts. In long opinion, majority describes in detail activities of Pl.-organization and Pl.-Legal Defense Fund, clearly sets forth limits on state statutes regulating practice of law: "In its broad coverage the statute applies to any individual who employs and pays a lawyer to act for him in a law suit involving a racial question. It also covers the pl. corps. in their effort to raise the money which in the past has been used to assist the colored people in the prosecution of suits to secure their constitutional rights both before and after the decision in *Brown v. Bd. of Educ.* * * *."

"* * * the statute obviously violates the equal protection clause, for it forbids the pls. to defray the expenses of racial litigation, while at the

same time it legalizes the activities of legal aid societies that serve all needy persons in all sorts of litigation * * *. The activities of the pls. as they appear in these cases do not amount to solicitation of business or a stirring up of litigation of the sort condemned by the ethical standards of the legal profession. They comprise * * * public instruction of the colored people as to the extent of their rights, recommendation that appeals be made to the cts. for relief, offer of assistance in prosecuting the cases when assistance is asked, and the payment of legal expenses for people unable to defend themselves; and the attorneys who have done the work have done so only when authorized by the pls. * * *." Hutcheson, J., dissented in part.

And see 272.4, .5, .6.

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- 204.5. *Arkansas v. N. A. A. C. P.* (Ark. S. Ct.) (formerly listed at 523.Ark4.) For facts, see III DOCKET 17, #523.Ark4. Cir. Ct. *found* N. A. A. C. P. had been doing business in Ark., *held* Ark. Atty. Genl. had right to pretrial discovery to obtain list of N. A. A. C. P. members and contributors, *rejected* Def.-organization's constitutional objections. N. A. A. C. P. paid \$50 annual franchise tax, plus interest, into Ct. under protest; default judgment entered against N. A. A. C. P. Appeal pending. See *Aaron*, 523.Ark3, *Faubus*, 523.Ark6, *Ark.* 204.6 and .7.
- 204.6. *Arkansas v. N. A. A. C. P.* (Cir. Ct., Pulaski Co.) Ark. Atty. Genl. seeks \$5,000 fine against N. A. A. C. P. for doing business in state without registering as foreign corporation. N. A. A. C. P. alleges it registered as foreign corporation in Apr. 1956. Jan. 21: Ct. heard argument on Def's. demurrer and Pl's. motion for inspection of N. A. A. C. P. records. Decision awaited.
- Robert L. Carter, N. A. A. C. P., 20 W. 40th St., NYC.; Thad D. Williams, J. B. Booker, Esqs., Little Rock, Ark.
- See *Ark.*, 204.5 and .7, *Aaron*, 523.Ark3 and *Faubus*, 523.Ark6.
- 204.7. *Arkansas ex rel. Atty. Genl. v. N. A. A. C. P.* (Cir. Ct., Pulaski Co.) Proceeding by Atty. Genl. seeking to enjoin Def.-organization from allegedly engaging in "illegal practice of law". Def's. demurrer filed.
- Robert L. Carter, Esq., N. A. A. C. P., 20 W. 40th St., NYC.
- And see 204.8, 204.9 and *Va. v. N. A. A. C. P.*, 204.4.
- 204.8. *Arkansas ex rel. Bennett v. N. A. A. C. P. Legal Defense & Educational Fund.* (Cir. Ct., Pulaski Co., #44,679.) Aug. 1957: Atty. Genl. complained Def. doing business in state without complying with foreign corps. law, asked \$5,000 penalty. Oct. 1: Cir. Ct. *denied* Def's. motion to quash service on ground Def. not amenable to service in Ark. Atty. Genl. obtained order for production of Def's records, incl. (1) names and addresses of persons receiving Def's. professional service and assistance (2) names of all Ark. attorneys associated with Def's. activities (3) names and addresses of all Ark. contributors. Def. furnished under seal all this information except (3), gave number of contributors per year and amount

contributed annually. Def. also filed motion for order limiting scope of discovery. Pending.

Thurgood Marshall, Esq., N. A. A. C. P. Legal Defense & Educational Fund, 10 Columbus Circle, NYC.

And see 204.9, *Va. N. A. A. C. P.*, 204.4, *Va. Legis. Comm.*, 272.6.

- 204.9. *Arkansas ex rel. Bennett v. N. A. A. C. P. Legal Defense & Educational Fund.* (Cir. Ct., Pulaski Co., #45,183.) Dec. 23, 1957: Atty. Genl. asked for injunction restraining Def. and its agents from violating Ark. state law by engaging in practice of law. Jan. 8: Def. filed demurrer, alleging lack of jurisdiction over the person, lack of cause of action, Atty. Genl. not proper party Pl. Pending.

Thurgood Marshall, Esq., N. A. A. C. P. Legal Defense & Educational Fund, 10 Columbus Circle, NYC.

And see 204.8, *Va. N. A. A. C. P.*, 204.4, *Va. Legis. Comm.*, 272.6.

- 204.10. *Little Rock v. Bates, et al.* (Cir. Ct., Pulaski Co.) (formerly listed at 523.Ark5.) For facts, see III DOCKET 17, #523.Ark5. Suit against Rev. Crenshaw for failure to produce N. A. A. C. P. membership and contributors list *dismissed* for lack of evidence that notice had been served on Def.

Dec. 1957: Little Rock Muni. Ct. *found* Def. Bates *guilty* of failure to produce list of N. A. A. C. P. members and contributors under Little Rock ordinance; fined \$150 and costs. Feb. 11: in trial de novo, Cir. Ct. *affirmed*, reduced fine to \$25. To be appealed.

Robert L. Carter, Esq., N. A. A. C. P., 20 W. 40th St., NYC.; Thad D. Williams, Esq., Little Rock, Ark.

And see *Ark. State Conf.*, 204.11, *Williams*, 204.13 and *Aaron*, 523.Ark3 and *Faubus*, 523.Ark6.

- 204.11. *Arkansas State Conference of Branches, N. A. A. C. P. v. Baldwin, et al.* (ED Ark., #3454.) Suit by N. A. A. C. P. to enjoin Def. Little Rock City officials from enforcing ordinance requiring N. A. A. C. P. to submit list of members and contributors, and to prevent harassment of Pl.-organization and accumulation of penalties against it. Nov. 15, 1957: Ct. *granted* parties' request to hold Def's. motion to stay and Pl's. motion for temporary restraining order pending outcome of *Bates* case, 204.10. Parties stipulated there will be no similar proceedings against other N. A. A. C. P. officials pending decision in *Bates*.

Robert L. Carter, Esq., N. A. A. C. P., 20 W. 40th St., NYC.; J. B. Booker, Esq., Little Rock, Ark.

And see *Bates*, 204.10, *N. Little Rock N. A. A. C. P.*, 204.14, and *Aaron*, 523.Ark3 and *Faubus*, 523.Ark6.

- 204.12. *North Little Rock v. Fair.* (Cir. Ct., Pulaski Co.) Dec. 1957: Def.-vice pres. of N. Little Rock N. A. A. C. P. tried and *convicted* for violating ordinance requiring N. A. A. C. P. to furnish City with list of members and contributors. Fined \$25 and costs. Def. alleged he was not custodian

of membership list. Jan.: Case ready for trial de novo in Cir. Ct.; passed by City Atty. for 90 days. Robert L. Carter, Esq., N. A. A. C. P., 20 W. 40th St., NYC.; Frank D. Reeves, Esq., 473 Florida Ave. NW, Washington, D. C.; George Howard, Jr., 329½ Main St., Pine Bluff, Ark. And see *Williams*, 204.13, *N. Little Rock N. A. A. C. P.*, 204.14, *Bates*, 204.10, and *Aaron*, 523.Ark3 and *Faubus*, 523.Ark6.

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204.13. *North Little Rock v. Williams*. (Cir. Ct., Pulaski Co.) Jan. 9: North Little Rock Muni. Ct. *found* Def.-pres. of N. Little Rock N. A. A. C. P. *guilty* of failure to submit to Pl.-City list of members and contributors to N. A. A. C. P., under city ordinance. Fined \$25 and costs. Feb. 12: trial de novo in Cir. Ct.

Robert L. Carter, Esq., N. A. A. C. P., 20 W. 40th St., NYC.

And see *Fair*, 204.12, *N. Little Rock N. A. A. C. P.*, 204.14, and *Bates*, 204.10, and *Faubus*, 523.Ark6.

204.14. *North Little Rock N. A. A. C. P. Branch v. Perry*. (ED Ark., #3473.) Nov. 26, 1957: Pl.-N. A. A. C. P. filed motion for temporary restraining order to prevent Def.-City of N. Little Rock from enforcing ordinance requiring Pl.-N. A. A. C. P. to submit list of members and contributors. Dec. 19, 1957: parties stipulated there will be no prosecution of any N. A. A. C. P. officials under this ordinance except *Mrs. Williams*, 204.13; proceedings against other officials dismissed. Ct. passed case pending litigation in *Williams* in state cts.

Robert L. Carter, Esq., N. A. A. C. P., 20 W. 40th St., NYC.

And see *Fair*, 204.12, *Williams*, 204.13, and *Bates*, 204.10, and *Faubus*, 522.Ark6.

210. Compulsory Registration

211. 1950 Internal Security Act

211.1. *Communist Party of U. S. v. Subversive Activities Control Bd.* (CA DC.) For facts, see II DOCKET 4, 34, 67. Jan. 9: CA DC *denied* Pl's. motion to dismiss SACB ruling against Pl.; held *Jencks* rule (291.1, II DOCKET 74) applicable to administrative proceedings; *remanded* to SACB for production of Gov't. documents bearing on credibility of witness Markward. "The opinion of the Supreme Court in the *Jencks* case * * * is based upon the elementary proposition that the interest of the United States is that justice be done. The same elementary proposition applies here and leads to the same result."

211.2. *Rogers v. Jefferson School*. (CA DC.) For facts, see II DOCKET 4, 34. Argument on appeal awaiting decision in 211.1.

211.3. *Rogers v. Labor Youth League*. (CA DC.)*

211.4. *Rogers v. Natl. Council of American-Soviet Friendship*. (CA DC.)*

211.5. *Rogers v. Civil Rights Congress*. (SACB #106-53.)*

211.6. *Rogers v. Washington Pension Union*. (SACB #114-55.)*

- 211.7. *Rogers v. American Peace Crusade.* (SACB #117-56.) For facts, see II DOCKET 5, 34, III DOCKET 4. Dec. 30, 1957: After reconsideration by SACB, issued modified report ordering Def.-organization to register.
- 211.8. *Rogers v. California Labor School in San Francisco.* (CA DC.)*
- 211.9. *Rogers v. Am. Comm. for Protection of Foreign Born.* (SACB.)*
- 211.10. *Rogers v. California Emergency Defense Committee.* (SACB.)*
- 211.11. *Rogers v. Connecticut Volunteers for Civil Rights.* (SACB.) For facts, see III DOCKET 4. Oct. 4, 1957: SACB member recommended to SACB that Def. be listed. Pending.

212. 1954 Communist Control Act

- 212.1. *Rogers v. Intl. Union of Mine, Mill & Smelter Workers.* (SACB.)*
- 212.2. *Rogers v. United Electrical, Radio & Machine Workers.* (SACB.)*

213. State Laws

- 213.1. *La. ex rel. LeBlanc, Atty. Genl. v. Lewis, et al. and N. A. A. C. P.* (La. Ct. of App.)*
- 213.2. *Lewis, et al & N. A. A. C. P. v. LeBlanc, Atty. Genl.* (DC La.)*

220. Listing

221. By the Attorney General of the United States

- 221.1. *Rogers v. National Lawyers Guild.* (Dept. of Justice.)*
- 221.4. *Rogers v. Independent Socialist League.* (Dept. of Justice.)*
- 221.5. *Rogers v. Californians for the Bill of Rights.* (Dept. of Justice.)*
- 221.6. *Rogers v. Natl. Council of Arts, Sciences and Professions.* (Dept. of Justice.)*

222. By Congressional Committees

Case note on:

Methodist Federation for Social Action v. Eastland, 141 F. Supp. 729 (DC 1956), I DOCKET 4, #162.1, in 43 Iowa Law Rev. 132-37 (Fall 1957).

223. By State authorities

- 223.1. *Luscomb v. Bowker, et al.* (Suffolk Co. Ct.)*
- 223.2. *Tormey v. Bowker, et al.* (Suffolk Co. Ct.)*

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ASSOCIATION: As affecting members (240-299)

240. Criminal Penalties for Membership

241. Smith Act: conspiracy

Law review note:

The Supreme Court, the Smith Act and the "clear and present danger" test, 32 St. John's Law Rev. 91-99 (Dec. 1957).

- 241.1. *Yates, et al. v. U. S.* (DC Calif.) For facts, see II DOCKET 6, 68. Dec. 2, 1957: Ct. *dismissed* indictments against 9 Defs. on Gov't. motion based on its inability to "satisfy the evidentiary requirements laid down by the Supreme Court" in *Yates*.
- 241.3. *Wellman, et al. v. U. S.* (CA 6.)*
- 241.4. *Fujimoto, et al. v. U. S.* (CA 9.) For facts, see II DOCKET 6, 68, III DOCKET 5. Jan. 16: CA unanimously *reversed* convictions of all 7 Defs. on basis of U.S.S.C. *Yates* decision (241.1); judgment of *acquittal* entered.
- 241.5. *Huff, et al. v. U. S.* (CA 9, #14320.) For facts, see II DOCKET 6, 68, III DOCKET 5. Jan. 19: CA unanimously *reversed* conviction of 4 Defs. on basis of U.S.S.C. decision in *Yates*, 241.1.
- 241.6. *Sentner, et al. v. U. S.* (CA 8.)*
- 241.7. *Kuzma, et al. v. U. S.* (CA 3.) For facts, see II DOCKET 6, III DOCKET 5. Nov. 14: CA *set aside* convictions of 4 Defs., *ordered* new trials for remaining 5 Defs.
- 241.8. *Bary, et al. v. U. S.* (CA 10.) (248 F. 2d 201.)*
- 241.9. *Brandt, et al. v. U. S.* (CA 6.)*
- 241.10. *Silverman, et al. v. U. S.* (U.S.S.C., #643.) (248 F. 2d 671.) For facts, see II DOCKET 7, III DOCKET 5. Feb. 3: U.S.S.C. *denied* Gov't's. petition for certiorari; case closed.
- 241.11. *Charney, et al. v. U. S.* (CA 2.)*
- 241.12. *U. S. v. Russo, et al.* (DC Mass.) For facts, see II DOCKET 7, 35, 69, III DOCKET 6. Dec. 1957: Ct. *granted* Gov't's. motion *to dismiss* because Gov't. lacked proof necessary to obtain convictions under recent U.S.S.C. decisions; case closed.
- 241.13. *U. S. v. Mirabel, et al.* (DC Puerto Rico.) For facts, see II DOCKET 7, 52. Dec. 1957: Ct. *granted* Gov't's. motion *to dismiss* all indictments; case closed.
- 241.14. *U. S. v. Green and Winston.* (U.S.S.C.) 2 of Defs. in *Dennis, et al. v. U. S.*, 341 U. S. 494 (1950), now serving sentences, petitioned U.S.S.C. for rehearing on basis of U.S.S.C. decision in *Yates*, 241.1 (II DOCKET 68.) Jan. 27: U.S.S.C. *denied* petition.
And see *Green and Winston*, 411.2.

242. Smith Act: mere membership

- 242.1. *Lightfoot v. U. S.* (DC Ill.)*
- 242.2. *Scales v. U. S.* (DC N. C.) For facts, see II DOCKET 7, 69, III DOCKET 6. Feb.: New trial in progress.
- 242.3. *Blumberg v. U. S.* (CA 3.)*
- 242.4. *Noto v. U. S.* (CA 2.)*

- 242.5. *U. S. v. Weiss.* (ND Ill. E. D.)*
- 242.6. *U. S. v. Blum* (SD Ind.) Nov. 27, 1957: Ct. *granted* Gov't's. motion to *dismiss* indictment; case closed.
- 242.7. *U. S. v. Russo.* (DC Mass.)*
- 242.8. *U. S. v. Hellman.* (DC Mont.)*

243. 18 U.S.C. 2384

- 243.1. *Lebron, et al. v. U. S.* (CA 2.) For facts, see I DOCKET 4, #120.1, III DOCKET 6. Nov. 20, 1957: Trial Judge Walsh *denied* Defs.' motion to vacate sentence. Jan. 13: CA 2 granted leave to appeal in forma pauperis. Conrad J. Lynn, Esq., 141 Broadway, and Abraham Unger, Esq., 320 Broadway, both of NYC.
- 243.2. *Castro, Valle, et al. v. U. S.* (SD NY.) For facts, see I DOCKET 5, 52, 89, #120.2, III DOCKET 6. Trial Judge McGohey *denied* motion to vacate sentence; no appeal taken.

244. State laws

Case note on:

Pennsylvania v. Nelson, 350 U. S. 49, I DOCKET #130.1, in 18 Ohio State Law Journal 438-442 (Summer 1957).

- 244.2. *Pennsylvania v. Onda.* (Pa. Ct. of Common Pleas.) For facts, see II DOCKET 7. Dec. 1957: case *dismissed* on authority of *Nelson*, 350 U. S. 49.
- 244.4. *Alabama v. Rev. King, et al.* (Ala. S. Ct.) For facts, see II DOCKET 8, 50, 70. Nov. 26, 1957: Def.-King paid fine, withdrew appeal; State dismissed indictments against 89 other Defs. Case closed.
- 244.5. *Louisiana v. G. and J. Jenkins.* (La. Sup. Ct.) For facts, see II DOCKET 53, III DOCKET 6. Nov.: Crim. Dist. Ct. *dismissed* indictment against J. Jenkins on basis of *Nelson* decision. Appeal pending.
Amicus brief filed by Am. Civil Liberties Union, by George A. Dreyfous, Esq., 1609 Natl. Bank of Commerce Bldg., New Orleans, La.

250. Civil Disabilities: Federal

Law review articles:

Ohio State Law Journal, Vol. 18, No. 3 (Summer 1957) symposium on Federal loyalty-security programs:
 Jerre S. Williams, Report of the Special Comm. on the Federal Loyalty-Security Program of the Association of the Bar of the City of New York, pp. 283-307;
 Roger Robb, Procedural recommendations of the Commission on Government Security, pp. 308-316;
 William F. Tompkins, Substantive recommendations of the Reports—An internal view, pp. 317-330;
 Robert N. Shamansky, Freedom and the Report of the Commission on Government Security, pp. 331-358;

251. Federal employment

Law review note:

Dismissal of government employees under Federal and New York security risk laws, 32 St. John's Law Rev. 56-67 (Dec. 1957).

- 251.5. *J. Duncan v. Summerfield, U. S. Postmaster.* (CA DC.)*
- 251.6. *A. Duncan v. Blattenberger, U. S. Public Printer.* (DC DC, #4203/56.)*
- 251.7. *Tucker v. Brucker.* (CA DC.) For facts, see II DOCKET 53. Jan.: CA (per curiam) *reversed* DC decision awarding summary judgment to Def., and remanded to DC with order that Pl. be *reinstated* to his job.
- 251.8. *Bernabei v. Summerfield.* (CA DC.) For facts, see II DOCKET 53. Jan.: CA (per curiam) *reversed* DC decision awarding summary judgment to Def., and remanded with order that Pl. be *reinstated* to his job.
- 251.9. *Vitarelli v. Seaton.* (DC DC.)*
- 251.10. *Coleman, et al. v. Brucker.* (CA DC.) For facts, see II DOCKET 53, 69. Nov. 13: Trial Judge Holtzoff *denied* Pls'. motion for order requiring Justice Dept. to show Judge findings of Army security bd. against Pls.; *ruled* one Def. entitled to reinstatement to non-sensitive job (under U.S.S.C. decision in *Cole*, (I DOCKET, #220.6)); *held* Pls. had no constitutional right to confront witnesses against them in this non-criminal proceeding. Appeal pending.
- 251.11. *Kutcher v. U. S.* (US Ct. of Claims.) See *Kutcher v. Gray*, 122 F. 2d 783; *v. Higley*, I DOCKET 9, 91, #220.5; *v. Housing Auth. of Newark*, 119 A. 2d 1, I DOCKET 59, #410.13; *re Kutcher*, I DOCKET 55, #227.3. Dec. 5, 1957: Pl.-member Socialist Workers Party filed suit for \$23,000. pay lost while under suspension from Veterans Admr. job, 1948-1956, to which he was restored after litigation. Comptroller General's office had denied Pl.'s. claim. Pending.

252. Deprivation of passport rights

- 252.2. *Dayton v. Dulles.* (U.S.S.C., #621.) For facts, see II DOCKET 8, 36, III DOCKET 6. Jan. 6: U.S.S.C. *granted* Pet's. application for certiorari; consolidated with *Kent* and *Briehl*, 252.21 and .22 for hearing, probably March 31.
- 252.3. *Stewart v. Dulles.* (State Dept.) For facts, see II DOCKET 36, 69. Pending hearing ordered by CA (see III DOCKET 6), State Dept. *issued* passport.
- 252.4. *Chodorov v. Dulles.* (State Dept.)*
- 252.20. *Robeson v. Dulles.* (State Dept.) For facts, see II DOCKET 8, 36. New application for passport filed. Hearing held; passport denied.
Leonard B. Boudin, Esq., 25 Broad St., NYC.

- 252.21. *Kent v. Dulles*. (U.S.S.C., #481.) (248 F. 2d 600.) For facts, see II DOCKET 8, 36, 69. Nov. 25, 1957: U.S.S.C. *granted* petition for certiorari; to be argued with *Dayton* and *Briehl*, 252.2 and .22, probably March 31.
- 252.22. *Briehl v. Dulles*. (U.S.S.C.) (248 F. 2d 561.) For facts, see II DOCKET 8, 36, 69. Nov. 25, 1957: U.S.S.C. *granted* petition for certiorari; to be argued with *Dayton* and *Kent*, 252.2 and .21, probably March 31.
- 252.23. *Leff v. Dulles*. (DC DC.)*
- 252.24. *DuBerg v. Dulles*. (DC DC.)*
- 252.25. *Lamont v. Dulles*. (CA DC.) For facts, see II DOCKET 69. Jan.: DC *granted* Gov't's. motion for summary judgment. Appeal pending.

253. Unfavorable Army discharges

Law review article:

William K. Jones, Jurisdiction of the Federal courts to review the character of military administrative discharges, 57 Columbia L. Rev. 917-974 (Nov. 1957).

- 253.4. *Harmon v. Stevens*. (U.S.S.C.) For facts, see II DOCKET 9, 54, 70. Jan. 14: argued; decision awaited. During argument, Gov't. limited issue to power of U.S.S.C. to review decision of U. S. Army, conceded Army had no right to issue discharge based on pre-induction conduct of draftee.
- 253.5. *Marshall v. Brucker*. (U.S.S.C., #839 Misc.—1956.)*
- 253.6. *Abramowitz v. Brucker*. (U.S.S.C.) For facts, see II DOCKET 9, 54, 70. Jan. 14: argued; decision awaited.
- 253.7. *Bland v. Hartman, et al.* (CA 9, #15155.)*

254. Deprivation of veterans disability payments

- 254.1. *Wellman v. Higley, Admr. Veterans Affairs*. (CA DC.) For facts, see II DOCKET 9, 36, 70. Feb. 5: heard and submitted.
- 254.2. *Thompson v. Veterans Admin.* (DC DC.)*

255. Deprivation of Social Security rights

256. Deprivation of housing rights

257. Deprivation of Federal Licenses

- 257.2. *In re Application of Lafferty for Renewal of Radio Operator's License*. (Fedl. Comm. Comm.) For facts, see II DOCKET 9-10, 36. Full Comm. *denied* license renewal.

258. Deportation proceedings

- 258.1. *Rowoldt v. Perfetto*. (U.S.S.C., #34.) For facts, see II DOCKET 10. Dec. 9, 1957: U.S.S.C. (5-4) *reversed*, Frankfurter, J. *held* Pet's. membership in Communist Party for approximately one yr. in 1935 plus his work in Communist book store at that time "all too insubstantial to support

the order of deportation. The differences on the facts between *Galvan v. Press*, 347 U.S. 522, and this case are too obvious to be detailed."

- 258.2. *Re Janosco*. (Immigration and Naturalization Service.)*
- 258.3. *Re Zuker*. (Bd. of Imm. App.) Nov. 1, 1957: Bd. *sustained* Deportee's appeal from finding of Special Inquiry Officer that Dep. was deportable for former membership in Communist Party.
- William J. Corrigan, Esq., 620 Williamson Bldg., Cleveland.

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259. Denaturalization proceedings

- 259.1. *Nowak v. U. S.* (U.S.S.C., #72.) For facts, see III DOCKET 7. Jan. 28: argued; decision awaited.
- 259.2. *Maisenberg v. U. S.* (U.S.S.C., #76.) For facts, see III DOCKET 7. Jan. 28: argued; decision awaited.
- 259.3. *U. S. v. Minerich*. (CA 7, #12005.) 1928: Def. admitted to citizenship. 1956: DC *ordered* Def. Croation-language newspaper editor denaturalized for failure to tell immigration examiners about Communist Party membership at time of admission to citizenship, or about two previous arrests. Dec. 6, 1957: CA 7 *reversed, held*: "To presently approve Minerich's forfeiture of citizenship would be saying that he ought to be blamed for having remained silent because of what is currently acknowledged about the communist threat... A political decision, here, based on hindsight would infect the judicial processes of our free society faster than tolerating retention of a probably undeserved privilege of citizenship for Minerich. .."
- Irving Steinberg, Esq., 180 W. Washington, Chicago.

260. Civil Disabilities: State, Local and Private

261. State or local governmental employment

Law review note:

Dismissal of government employees under Federal and New York security risk law, 32 St. John's Law Rev. 56-67 (Dec. 1957).

- 261.1. *Wilkins v. Carlander, et al.* (Super. Ct., Kings Co. #490844.)*
- 261.2. *Nagin v. Zurmuhlen*. (N.Y. Sup. Ct., N.Y. Co.)*
- 261.3. *Hehir v. NYC Transit Authority, NY State Civil Service Commission, et ano.* (N.Y. Sup. Ct., Kings Co.)*
- 261.5. *Reif v. NYC Dept. of Hospitals*. (Spec. Term, Part One, NY Co. Sup. Ct.) For facts, see II DOCKET 10, 37, 70. NY State Civil Service Commission *ordered* Pl. restored to her job. Def.-Dept. sued to vacate order. Jan.: Spec. Term *dismissed* Def's. suit.
- 261.7. *Crowe v. County of Wayne, Mich.* (Cir. Ct. Wayne Co.)*
- 261.9. *Wolstenholme v. Oakland Library Bd.* (Alameda Co. Super. Ct.)*

- 261.10. *Gottlieb v. City of New Orleans*. (La. Ct. of App., Parish of Orleans, #20977.)*
- 261.11. *NYC Housing Authority v. Wyatt*. (NY Co. Sup. Ct.) 1955: Def.-guard dismissed by Pl.-Housing Auth. Aug. 12, 1957: NY State Civil Service Comm. *ordered* Def. reinstated with back pay because, while there "is evidence of reasonable grounds for. .. belief. .. app. was person of doubtful trust and reliability as provided in Security Risk Law", Pl. failed to show how watchman could, "by disclosure of confidential information, by sabotage or by any other means, endanger the security or defense of the nation and the state." Pl.-Auth. brought suit to uphold its dismissal of Def. Pending.

262. Teaching

And see cases at 342, 262, and 280.

263. Denial of State unemployment insurance rights

- 263.1. *Syrek v. Calif. Unemployment Insurance Appeals Bd., et al.* (Calif. Dist. Ct. of App.) For facts, see II DOCKET 37, 54. Dec. 20, 1957: Super. Ct. *denied* writ of mandate; appeal pending.
- 263.2. *Re Albertson*. (NY Unemp. Ins. Appeal Bd.)*
And see cases at 346.

264. Denial of State licenses

265. Proceedings against attorneys and Bar applicants

And see cases at 373.

- 265.3. *Florida v. Sheiner*. (Fla. Sup. Ct.)*
- 265.4. *In re Schlesinger*. (Allegheny Co. Common Pleas Ct., Pa.) For facts, see II DOCKET 11, III DOCKET 8. Dec. 1957: Argued before three judge Ct.; briefs filed in Feb.
- 265.5. *In re Steinberg*. (Allegheny Co. Common Pleas Ct., Pa.) For facts, see II DOCKET 11, III DOCKET 8. Dec. 1957: Argued before three judge Ct.; briefs filed in Feb.
- 265.20. *Schware v. Bd. of Bar Examiners of N. Mex.* *
- 265.21. *Konigsberg v. State Bar of California and Comm. of Bar Examiners*. (Calif. Sup. Ct.) For facts, see II DOCKET 11, 37, 71, III DOCKET 9. Summer 1957: On return of mandate from U.S.S.C., Pl. petitioned Calif. Sup. Ct. for immediate admission. Sup. Ct. referred matter back to Comm. of Bar Examiners, which held hearings Sept. 21 solely to question Pl. re past or present Communist Party membership, especially since 1953. On Pl's continued refusal to answer, Comm. informed him specifically that failure to answer this question, and this alone, would be ground for denial of admission. Nov. 9: Comm. filed report with Calif. Sup. Ct. that it was "unable to certify that applicant possesses the requisite qualifications or has fulfilled the requirements for practice of

law in the state." Jan. 13, 1958: Pl. filed brief in Calif. Sup. Ct. Pending.

Case notes in

5 U.C.L.A. Law Rev. 136-142 (Jan. 1958).

3 Villanova Law Rev. 93-95 (Nov. 1957).

- 265.22. *Patterson v. Oregon State Bd. of Bar Examiners.* (Ore. Sup. Ct.) For facts, see II DOCKET 11, 71. Dec. 1957: On remand, Ore. Sup. Ct. *affirmed* earlier decision refusing Pet. admission to Bar.
- 265.23. *Re Anastaplo.* (Comm. on Character and Fitness, 1st App. Ct. Dist. of Ill.)*

266. Deprivation of right to tax exemption

And see cases at 130.1, .2, .3.

- 266.1. *Speiser v. Randall and Foley.* (U.S.S.C., #483.) For facts, see II DOCKET 11, 71-72. Nov. 25, 1957: U.S.S.C. noted probable jurisdiction, set cases down with *Valley Unitarian-Universalist Church*, 130.1, .2, .3.

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- 266.2. *Prince v. City and Co. of San Francisco.* (U.S.S.C., #484.) For facts, see II DOCKET 11, 71-72. Nov. 25, 1957: U.S.S.C. noted probable jurisdiction, see cases down with *Valley Unitarian-Universalist Church*, 130.1, .2, .3.
- 266.3. *Lehrer v. Hall.* (Calif. Super. Ct., Marin Co.)*
- 266.4. *Bliss v. Quinn.* (Calif. Super. Ct., Los Angeles Co.)*

267. Private employment—Teaching

And see cases at 262, 280 and 342.

268. Private employment—defense establishments

- 268.1. *Parker, et al. v. Lester, et al.* (ND Calif.)*
- 268.3a. *Dupree v. U. S.* (ED Pa.) (247 F. 2d 819.) For facts, see II DOCKET 55, 72. New complaint filed. Gov't.'s preliminary motions heard and submitted.
- 268.5b. *Dressler v. McElroy, et ano.* (CA DC.) (formerly v. *Wilson*.)*
- 268.5a. *Dressler v. Wis. Emp. Relations Bd.* (Cir. Ct., Milw. Co. #266-453.) For facts, see II DOCKET 72. Nov. 1957: heard and submitted.
- 268.7. *Kreznar v. Wilson.* (DC DC.)*
- 268.8. *Webb v. U. S., et al.* (Ind'l. Personnel Security Bd.)*
- 268.9. *Bessell v. Eastern Industrial Personnel Security Hearing Bd.* (ED. Pa.) For facts, see III DOCKET 8. Gov't's. preliminary motions heard and submitted.

269. Private employment—other

- 269.1. *Faulk v. Aware, Inc., et al.* (N. Y. Sup. Ct., N. Y. Co.) For facts, see II DOCKET 12, III DOCKET 8. Trial Ct. struck two of Defs. answers as "insufficient". Pending.
- 269.1a. *Iverson v. Seattle Gas Co.* (Super. Ct., King Co., Washington, #471046.) 1954: Pl.-employee of Def. Co. put notice on employees' bulletin board explaining why he would not answer any questions re his political affiliations when Un-American Activities Comm. held hearings in Seattle. Def. Co. gave statement to newspaper that Pl. had put this on bulletin board, that communists were disloyal people who followed Russia rather than U.S., that such people could not work for Gas Co. because they were liable to blow up the gas works. Pl. sued for libel. Def. pleaded qualified privilege and truth as defenses. Pl. moved for summary judgment to strike affirmative defense of qualified privilege. Pending.
Caughlan and Opendack, Esqs., 702 Lowman Bldg., Seattle, Washington.
- 269.2. *Allen v. Local 1976, Carpenters Union-AFL-CIO.* (Los Angeles Dist. Ct. of App.)*
- 269.3. *Friedman v. Hayes, pres., and Intl. Assn. of Machinists.* (CA DC.) 1952: Pl.-diemaker *acquitted* of charge of supporting, encouraging, advocating communism by local union trial bd. Union officials appealed to Def.-Union Pres., who *reversed*, held evidence clearly established Pl's. advocacy. Pl.-member sued to bar expulsion from Def.-Union. DC DC decided *for Pl.* Feb. 20: CA DC *reversed*, *held* Pl. had been legally expelled.
And see *Allen v. Office Employees' Union*, 280.8.

270. Criminal Penalties for Non-disclosure

271. Congressional Committees

Law review note:

Congressional investigations and the privileges of confidential communications, 45 Calif. L. Rev. 347-362 (July 1957).

- 271.5. *U. S. v. Davis.* (CA 6.) For facts, see II DOCKET 12, 38, III DOCKET 8. Appeal pending.
- 271.6. *U. S. v. Watson.* (CA DC.) For facts, see II DOCKET 12, 38. Case set down for argument *en banc*.
- 271.7. *U. S. v. Barenblatt.* (CA DC.) For facts, see II DOCKET 12-13, 38, 72, III DOCKET 9. Jan. 16: On remand from U.S.S.C., conviction *affirmed* (5-4), Bastian, J.: Def. had been carefully and specifically informed of purpose of Comm. investigation. Edgerton, J. dissenting (with Bazelon, J.): "I understand *Watkins* to hold that the Comm. on Un-American Activities had no authority to compel testimony because it had no definite assignment from Congress. . . ." Fahy, J. dissenting (with Washington, J.): "Reading *Sweezy* in the light of *Rumely* and *Watkins*, I think the Comm. could not proceed to investigate the field of education—at least with the

use of compulsory process, under the sanction of contempt—without a more specific authorization than it had been given. . . ." To be appealed.

- 271.8. *U. S. v. Lorch*. (SD Ohio, W. Div., #3185.) For facts, see II DOCKET 13, 55. Nov. 27, 1957: DC *acquitted* Def. after trial.
- 271.9. *U. S. v. Russell*. (CA DC, #13529.)*
- 271.10. *U. S. v. Deutch*. (CA DC.)*
- 271.11. *U. S. v. Sacher*. (CA DC.) For facts, see II DOCKET 38, 72, III DOCKET 9. Jan. 31: on remand from U.S.S.C., conviction *affirmed* (5-4); Burger, J., for maj.: Questions re Def's. political affiliations clearly pertinent to Comm. investigation and Def. knew their pertinency. To be appealed.
- 271.12. *U. S. v. Gojack*. (CA DC.) For facts, see II DOCKET 13, 55. Set down for argument *en banc*.
- 271.13. *U. S. v. Metcalf*. (SD Ohio.)*
- 271.14. *U. S. v. Watkins*. (354 U.S. 178.) For facts, see II DOCKET 13, 72.

Case note in

3 Villanova Law Rev. 98-100 (Nov. 1957).

- 271.15. *Shelton v. U. S.* (CA DC.) For facts, see II DOCKET 38, 55, III DOCKET 9. Set down for argument *en banc*.
- 271.16. *U. S. v. Whitman*. (DC DC.)*
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- 271.17. *Knowles v. U. S.* (CA DC.)*
- 271.19. *Price v. U. S.* (CA DC.) For facts, see II DOCKET 39, 56, 73, III DOCKET 9. Set down for argument *en banc*.
- 271.20. *Liveright v. U. S.* (CA DC.) For facts, see II DOCKET 39, 56, III DOCKET 9. Set down for argument *en banc*.
- 271.21. *U. S. v. Nathan*. (DC DC.) For facts, see II DOCKET 56, 73. Nov. 22, 1957: Trial Ct., after argument, *granted* Def's. renewed motion for *acquittal* because Cong. Comm. had not explained pertinency of questions to Def.
- 271.22. *U. S. v. Miller*. (DC DC.)*
- 271.23. *U. S. v. Sullivan*. (SD NY, #152-238.)*
- 271.24. *U. S. v. Yarus aka Tyne*. (SD NY, #15586.)*
- 271.25. *U. S. v. Seeger*. (SD NY.)*
- 271.26. *U. S. v. Kling*. (CA 8.) For facts, see II DOCKET 56. Oct. 15, 1957: ED Mo. *sustained* Def's. motion *to dismiss* indictment. Jan. 22: CA 8, on appeal by Gov't., *sustained* Def's. motion *to dismiss*.

And see cases at 331.

272. State committees

- 272.1. *Sweezy v. New Hampshire by Att. Genl. Wyman*. (354 U.S. 234.) For facts, see II DOCKET 13, 73.

Case note in

32 N.Y.U. Law Rev. 1302-1308 (Nov. 1957).

30 Rocky Mountain Law Rev. 82-85 (Dec. 1957).

272.2. *New Hampshire v. Uphaus*. (N.H. Sup. Ct.) For facts see II DOCKET 13, 56, III DOCKET 9. Nov. 15: on remand, N.H. Sup. Ct. *affirmed* conviction. Appeal to U.S.S.C. pending.

272.3. *New Hampshire by Wyman v. De Gregory*. (U.S.S.C.) For facts, see II DOCKET 39, 56, III DOCKET 9. Dec. 18: N. H. Sup. Ct., after re-argument, *over-ruled* Def's. exceptions; Dec. 31: rehearing denied; Jan. 29: Def. filed notice of appeal to U.S.S.C.

272.4. *N.A.A.C.P., Va. Conference of N.A.A.C.P., et al. v. Ames*. (ED Va.)*

272.5. *N.A.A.C.P., Va. Conference of N.A.A.C.P., et al. v. Va. Comm. on Offenses against Administration of Justice* (formerly listed as *Va. Legislative Comm. on Racial Activities*). (Va. S. Ct. of App.) For facts, see III DOCKET 9. Jan. 20: Va. S. Ct. of App. *held* Def.-Boatwright Comm. had right to subpoena Exec. Secy. of Va. State Conference of N.A.A.C.P. Branches to secure list of N.A.A.C.P. members and contributors; this did not violate rights of N.A.A.C.P. or its members to freedom of speech. Petition for rehearing pending.

But see *N.A.A.C.P. v. Patty*, 204.4.

272.6. *Virginia Legislative Comm. on Racial Activities v. Brown*. (Va. S. Ct. of App.) For facts, see III DOCKET 10. Def's. application for certiorari to Va. S. Ct. of App. pending.

And see cases at 204 and 213.

273. Legal and administration tribunals

273.3 Non-crim. *Nukk, et al. v. Shaughnessy*. (SD NY.) For facts, see II DOCKET 13-14. Stipulation filed in conformity with U.S.S.C. decision in *Witkovich*, 273.1, II DOCKET 13, 73, and *Sentner*, 273.4, II DOCKET 14, 73.

273.5. *Kentucky v. Rhine*. (Ky. Ct. of App.) For facts, see II DOCKET 39, 73-4. Cite: 303 S.W. 2d 301.

274. Refusal to produce records

274.1. *Flaxer v. U. S.* (CA DC.)*

274.2. *U. S. v. Baxter*. (ED Mich., SD.)*

274.3. *McPhaul v. U. S.* (CA 6.)*

Amicus brief by Detroit Chapter, American Civil Liberties Union on First Amendment point.

280. Civil Penalties for Non-disclosure

280.1. *Savelle and Nostrand v. U. of Wash., et al.* (Wash. Sup. Ct.)*

280.4. *Bd. of Higher Education v. Allen, Hughes, et al.* (Sup. Ct., Albany Co.)*

280.5. *Bd. of Education v. Allen, et al.* (Sup. Ct., Albany Co.)*

- 280.8. *Allen v. Office Employees' Intl. Union, et al.* (Washington Sup. Ct., #34595.) Def. Union called Pl.-member in and asked her if it was true that she was a communist. Pl. refused to answer. On basis of her having been named and refusing to answer question, Def.-Union expelled Pl. after notice and hearing, but gave her chance to return to Union within 6 mths. if she went to FBI and cleared herself. Union informed Pl's. employer that Pl. no longer in good standing and, under contract, Co. must release her, which they did. Pl. suing Def.-Union for damages for tort of interference with contract of employment. Super. Ct. sustained Def's. demurrer. Pending on appeal.
Caughlan and Opendack, Esqs., 702 Lowman Bldg., Seattle, Washington.
And see *Allen v. Carpenters Union*, 269.2.
- 280.9. *Lowenstein v. Newark Bd. of Educ.* (Bd. of Educ., Newark.) Pl.-teacher dismissed for failure to answer questions asked by Sup't. of Schools re alleged past membership in Communist Party. Issue: is this a proper question in determining Pl's. fitness to teach? Can refusal to answer be ground for dismissal? Pending.
Morton Stavis, Esq., 744 Broad St., Newark, N. J.
And see cases at 342.
- 280.10. *Re: RCA.* (Arbitrator Sam Harris, Esq., 120 Broadway, NYC.) Employees of RCAC dismissed for refusing to answer questions re political beliefs and affiliations before Senate Internal Security Comm. on First Amendment grounds. Arbitration under American Communications Assn. contract resulted in ruling that dismissals were not for cause. Reinstatement and back pay ordered.
Victor Rabinowitz, Esq., 25 Broad St., NYC., for Union.
And see cases at 342, 343, 344.

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290. Penalties for False Disclosure

291. Taft-Hartley oath

- 291.1. *Jencks v. U. S.* (DC Tex., El Paso.) For facts, see II DOCKET 14, 74. Dec. 31, 1957: Justice Dep't. moved for dismissal of indictment because "on the available evidence, the Gov't. can not successfully retry this Def." Ct. *granted* motion to *dismiss*.
For cases involving "Jencks' rule":
See cases at 312 and 355.
- 291.3. *Bryson v. U. S.* (U.S.S.C.) For facts, see II DOCKET 15, 74, III DOCKET 10. Nov. 18, 1957: U.S.S.C. *denied* Def's. petition for rehearing.
- 291.4. *Travis v. U. S.* (DC Colo.) (247 F. 2d 130.) For facts, see II DOCKET 15, 57, III DOCKET 10. Jan. 30: second jury trial opened.
- 291.5. *Lohman v. U. S.* (CA 6.) For facts, see II DOCKET 15; III DOCKET 10. Jan.: CA 6 reversed on basis of *Jencks* decision, 291.1; retrial date in DC to be set.

- 291.6. *U. S. v. Killian.* (DC Ill.) (246 F. 2d 77.) For facts, see II DOCKET 15, 40, III DOCKET 10. March: trial date.
- 291.7. *U. S. v. Haug, at ano.* (ND Ohio ED.)*
- 291.20. *U. S. v. West, Haug, et al.* (ND Ohio, ED, #22230.) For facts, see II DOCKET 40, 74, III DOCKET 10. Jan.: Ct. *granted* Gov't's. motion to dismiss one Def.; after 4 wk. trial, jury *convicted* 7. Feb. 19: sentencing. David Scribner, Esq., 15 William St., NYC; Stephen M. Young, Esq., Natl. City Bank Bldg., Fred Mandel, Esq., Standard Bldg., both of Cleveland; Ct.-appointed counsel: Chester T. Gillespie, Esq., Public Square Bldg., Paul J. Gnau, Esq., Citizens Bldg., both of Cleveland, Alan D. Sophrin, Esq., Cuyahoga Falls, Ohio, Henry P. Cosling, Esq., Mahoning Bank Bldg., Youngstown, Ohio.
- For description of trial, see New York Guild Lawyer, Feb. 1958, p. 6.

292. Government Security Questionnaires

II. DUE PROCESS AND RELATED RIGHTS (FOURTH, FIFTH, SIXTH, SEVENTH, EIGHTH AND FOURTEENTH AMENDMENTS) (300-499)

300. Searches and Seizures

Law review note:

Federal courts' control of illegal conduct of State officers who aid in enforcement of federal law, 42 Minnesota Law Rev. 121-134 (Nov. 1957).

301. Wiretapping

Report:

Special Comm. on Wiretapping and Eavesdropping Legislation, and Comm. on Bill of Rights, Reports on wiretapping and eavesdropping legislation in the State of New York, 1958: Assn. of the Bar of the City of New York, 42 W. 44th St., NYC.

Law review notes:

William J. Harte, Courts—Injunction—Court may not enjoin use of secretly recorded conversations by legislative investigating body, XXXIII Notre Dame Lawyer 132-4 (Dec. 1957).

Some aspects of wiretapping in the Federal and New York jurisdictions, 32 St. John's Law Rev. 79-91 (Dec. 1957).

- 301.5. *Costello v. U. S.* (SD NY.) For facts, see II DOCKET 40, III DOCKET 11. Dec. 17, 1957: DC *denied* Def's. motion to set aside conviction, *held* there was sufficient trial evidence free of wiretap taint to sustain conviction.
- 301.6. *U. S. v. Benanti.* (U.S.S.C.) For facts, see II DOCKET 75, III DOCKET 11. Dec. 9: U.S.S.C. unanimously *reversed*, (Warren, C.J.) *held*: "evidence obtained by means forbidden by Sec. 605, whether by state or Federal agents, is inadmissible in Federal Court"; "Congress, setting out a prohibition in plain terms, did not mean to allow state legislation which would contradict

that section and that policy."

- 301.8. *Rathbun v. U. S.* (U.S.S.C.) Def. convicted of threatening a person's life in interstate telephone call, based on testimony of police who listened in on extension telephone at invitation of recipient of the call. Dec. 9: U.S.S.C. (7-2) held such use of extension did not constitute "interception" within Sec. 605.

Thomas K. Hudson, Esq.

Comment:

Osmond K. Fraenkel, Two Wiretapping cases, New York Guild Lawyer, Feb. 1958, pp. 5, 7.

- 301.9. *Memorandum by Justice Hofstadter.* (NY Co. Sup. Ct., Spec. Term, Part 2.) Jan. 2: As result of U.S.S.C. decision in *Benanti*, 301.6, Justice Hofstadter issued Memo announcing he would deny all requests for wiretapping orders by NY state and city law enforcement officers under NY statute permitting this procedure; U.S.S.C. has held "that when state officers indulge in wiretapping they are violating Federal law and subject themselves to Federal prosecution * * *. Clearly a judge may not lawfully set the wheels in motion toward the illegality by signing an order—the warrant itself partakes of the breach, willful or inadvertent, of the Federal law."

- 301.10. *New Jersey v. Giardina.* (NJ Super. Ct., App. Div.) Def. convicted of being conspirator in a theft, appealed for reversal because part of evidence against him was testimony by switchboard operator who listened in on phone conversations. Nov. 25, 1957: N.J. App. Div. *affirmed*, held such listening thru extension or switchboard "without the knowledge of the participants, while a generally reprehensible invasion of the right of privacy, is not within the compass of our present wire tapping statute * * *."

302. Other Federal cases

- 302.1. *Hinton v. Eastland, et al.* (CA DC.) For facts, see II DOCKET 15, III DOCKET 11. Jan. 22: after being held by Gov't. officials for 4 yrs., on day case to be argued before CA DC, U. S. Atty. *mooted* case by returning all papers to Pl., without their having been examined by grand jury for evidence of some criminality.

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- 302.4. *Draper v. U. S.* (U.S.S.C., #411 Misc.) (147 F. Supp. 689, 248 F. 2d 295.) Def. *convicted* of narcotics possession on basis of tip by professional informer. CA 10 *affirmed*. Issue: since arresting officer did not see Def. commit a crime prior to arrest (narcotics found in his possession not visible), arrest had to be by warrant issued on basis of sworn statement; since no warrant or sworn statement made, arrest violated Fourth Amendment and accompanying search and seizure also violated Fourth Amendment. Petition for certiorari pending.

Osmond K. Fraenkel, Esq., 120 Broadway, NYC.

- 302.5. *Blackford v. U. S.* (U.S.S.C.) 1956; Def. searched by U. S. Customs on return from Mexico where Dr. discovered heroin encased in rubber sheath in Def's. rectum, and extracted same over Def's. protests and physical

resistance. DC *convicted* Def. for unlawfully importing heroin on basis of this evidence. CA 9 *affirmed, held* evidence admissible. Application for certiorari pending.

A. L. Wirin, Esq., 257 S. Spring St., Los Angeles; Rowland Watts and Nanette Dembitz, Esqs., A. C. L. U., 170 Fifth Ave., NYC; William F. Gavin, Esq., San Diego, Calif., all for American Civil Liberties Union.

- 302.6. *Local 107 v. McClellan, et al.* (DC DC.) Sept. 26, 1957: Def.-Congressional Comm. subpoenaed Pl.-Union's records, retained and refused to return them, though needed by Pl. for Dept. of Labor reports. Jan. 23: suit for recovery of records filed. Issues: is a subpoena a warrant of seizure? Is unreasonable retention of records unreasonable seizure under Fourth Amendment? Pending.

John Rogers Carroll, Esq., 2015 Land Title Bldg., Philadelphia.

- 302.7. *Weise v. U. S.* (CA 9, #15502.) Defs. stopped at night while driving car across Washington-Oregon border; FBI had warrant for arrest based on hearsay evidence telephoned from FBI agents in Calif., seized sealed boxes in car. Defs. convicted under 18 U. S. C. 1465 of interstate transportation of obscene materials, i.e., part of material so seized. Gov't. admitted at least 80% of seized material not objectionable. Issue: probable cause for arrest, issuance of warrant and search and seizure; whether search and seizure unreasonable; affect of U.S.S.C. decision in *Kremen*, 302.3, II DOCKET 75. Jan. 15: heard and submitted.

Edward Mosk, Esq., 5305 Yucca St., Hollywood.

303. Other State cases

- 303.1. *Levy v. Grant, et al.* (S. Dist., Calif.)*

- 303.5. *Franklin, et al. v. Gough, et al.* (Los Angeles Superior Ct.) For facts, see II DOCKET 75, III DOCKET 11. 4 policemen entered Pl's. restaurant at noon, searched all persons found there, some Pls. made to undress and stand bare-foot on wet floor; no arrests made. Original suit dismissed. Pls. filed claims against Def.-police under city ordinance. Oct. 11, 1957: new suit filed. Issue: right of privacy v. right of police to detect crime and criminals; whether search was reasonable under Calif. Const., Art. I, Sec. 10, Sec. 836 Penal Code. Pending.

Gorenfeld, Ross and Manes, Esqs., 510 S. Spring St., Los Angeles.

Amicus appearance by American Civil Liberties Union of S. Calif., by Fred Okrand, Esq., 257 S. Spring St., Los Angeles.

- 303.8. *Castillo, et al. v. New York.* (NY Co. Sup. Ct.) Pls.-Puerto Rican Nationalists sued NYC Police for police brutality and assault, false arrest and imprisonment. Jan. 15-16: during jury trial, City consented to direction of judgment *for Pls.* for \$1200.

Conrad J. Lynn, Esq., 141 Broadway, NYC.

310. Indictment

311. Composition of grand jury (see also 510)

312. Character of evidence

- 312.2. *Pennsylvania v. Jakobowitz*. (Ct. of Com. Pleas, Phila. Co.) August 1957: Def. filed petition for writ of certiorari to compel Magistrate Harry J. Ellick to produce transcript of trial at which Def. convicted of disorderly conduct. Def. alleges there was no sworn information, no opportunity to be heard, no transcript. Issue: is a Def. convicted of misdemeanor before magistrate, entitled as matter of right to transcript for purposes of appeal? Pending.
Martin Barol, Esq., 6651 Wayne Ave., Philadelphia, Pa. Amicus appearance by Greater Philadelphia Branch, ACLU, 260 S. 15th St., Philadelphia.
- 312.3. *U. S. v. Palermo*. (SD NY.) Def., indicted for tax evasion, sought subpoena for reports and statements by Internal Revenue agents and accountants. Aug. 26, 1957: Fedl. Judge Bryan *granted* Gov't's. motion to quash, *held* U.S.S.C. decision in *Jencks*, 291.1, II DOCKET 74, *not* applicable; "The Jencks case deals solely with problems arising when, and only when, the prosecution has placed a witness on the stand and his credibility is therefore in issue."
- 312.4. *U. S. v. Benson*. (SD NY.) Defs. served on FBI subpoena duces tecum for all relevant statements and reports in its possession of Gov't. witnesses touching subject of their testimony in forthcoming trial. Fedl. Judge Palmieri *granted* Gov't's. motion to quash, *held* *Jencks* decision, 291.1, II DOCKET 74, limited to disclosure of statements made by Gov't. witness whose credibility in issue, not applicable to pre-trial procedure.
- 312.5. *Heikkinen v. U. S.* (U.S.S.C., #89.) (240 F. 2d 94.) Def.-alien against whom deportation order was outstanding *convicted* under Immigration Act for failure to make timely departure. Jan. 6: U.S.S.C. unanimously *reversed* conviction for wilful failure to depart because no evidence introduced to identify country willing to receive him; *reversed* conviction for wilful failure to make timely application in good faith for travel documents because Imm. Service officers had informed Def. that Service was making necessary arrangements to effect his deportation, thus inducing his inaction.
Forer and Rein, Esqs., 711 14th St., NW, Washington, D.C.; M. Michael Essin, Esq., 623 North 2d St., Milwaukee, Wis.

320. Double Jeopardy

321. Federal cases

- 321.2. *Green v. U. S.* (U.S.S.C.) Def. tried for first degree murder; convicted of arson and second degree murder; conviction *reversed* on appeal, CA DC holding death resulting from arson can only be punished as first degree murder under Dist. of Columbia law. In second trial, Def. *convicted* of first degree murder; death sentence. Dec. 16, 1957: U.S.S.C. (5-4) *reversed*; Black, J. based opinion on "the assumption" first jury had in effect acquitted Def. of first degree murder when it brought in only second degree verdict; Def. should not be required to "barter" away his right to be free of the greater charge in order to appeal the lesser: "Conditioning an appeal of one offense on a coerced surrender of a valid plea of former jeopardy on another offense

exacts a forfeiture in plain conflict with the constitutional bar against double jeopardy." Frankfurter, J., *dissenting* (with Burton, Clark, Harlan, JJ.) felt majority indirectly overruled *Trono v. U. S.* (1905 U.S.S.C.)

Court-appointed counsel: George Blow, Esq., and George Rublee II, Esq., both of Washington, D.C.

330. Self-incrimination: Criminal Sanctions

Law review article:

J. A. C. Grant, Federalism and self-incrimination, 4 U.C.L.A. Law Rev. 549-82 (June 1957), 5 U.C.L.A. Law Rev. 1-25 (Jan. 1958).

331. Congressional Committees

331.4. *McKenzie v. U. S.* (U.S.S.C., #131.) (244 F. 2d 712.) For facts, see II DOCKET 16, 75, III DOCKET 11. Oct. 14: U.S.S.C. *granted* petition for certiorari, *reversed* conviction on Gov't's. confession of error.

331.5. *Wollam v. U. S.* (U.S.S.C., #131.) (244 F. 2d 212.) For facts, see II DOCKET 16, 75, III DOCKET 11. Oct. 14: U.S.S.C. *granted* petition for certiorari, *reversed* conviction on Gov't's. confession of error.

331.7. *U. S. v. William Davis.* (ED Mo., E. Div.)*

331.8. *U. S. v. Simpson.* (ED Mo., E. Div.)*

And see cases at 271.

332. State Committees

333. Grand juries and tribunals

333.2. *Brown v. U. S.* (U.S.S.C.)*

333.3. *Philips v. U. S.* (CA 9)*

333.3a. *Daschbach v. U. S.* (CA 9)*

333.3b. *Pettus v. U. S.* (CA 9)*

333.4. *Yates v. U. S.* (U.S.S.C.) (227 F. 2d 851.) For facts, see II DOCKET 16, 76. Nov. 25, 1957: U.S.S.C. (6-3) *affirmed*; *held* Ct. imposed punishment for contempt to properly vindicate authority of Ct.; "prosecution cannot multiply contempts by repeated questioning on the same subject of an inquiry within which a recalcitrant witness already has refused answers"; "petitioner's understandable reluctance to be an informer, altho legally insufficient to explain her refusals to answer, is a factor, as is her apparently courteous demeanor and the fact that her refusals seem to have had no perceptible effect on the outcome of the trial." 10 contempt convictions *reversed*; sentence on one *vacated*, remanded for resentencing. Douglas, J. (with Warren, C.J., Black, J.) *dissenting*: "This case to me is a shocking instance of the abuse of judicial authority. It is without precedent in the books" because of "transparent attempt to multiply offense." Jan. 29: DC resentenced: one yr. in jail.

333.6. *Matles v. U. S.* (247 F. 2d 378.) For facts, see II DOCKET 58, 76, III DOCKET 12. *On merits*: awaiting decision in DC after reopened trial; *on*

contempt: petition for certiorari pending in U.S.S.C.

334. Grants of immunity: federal

- 334.2. *U. S. v. Glasser, Symonds, Oda, McElarth.* (CA DC.) For facts, see II DOCKET 58, 76, III DOCKET 12. Cite: 248 F. 2d 612.

335. Grants of immunity: state

- 335.1. *Morgan v. Ohio.* (Ohio S. Ct., #34311.) For facts, see II DOCKET 17, 76. Feb. 11: Ohio S. Ct. on remand on briefs and oral argument, *affirmed* conviction: "this Court does *not* find enough similarity with the *Sweezy* and *Watkins* cases to warrant a change in its former judgment." Petition for rehearing pending.

And see *Raley*, 335.4 and *De Gregory*, 272.3.

- 335.2. *Ohio v. Jackson, et ano.* (Ohio Ct. of App.)*
335.3. *Ohio v. Hupman, et al.* (Ohio Ct. of App.)*
335.4. *Raley, et al. v. Ohio.* (Ohio S. Ct.) For facts, see II DOCKET 17, 76. Feb. 11: Ohio S. Ct., on remand, on briefs and oral argument, *affirmed* conviction.
335.5. *Ohio v. Slagle, et al.* (Ohio Ct. of App.)*
335.6. *Ohio v. Arnold, et al.* (Ohio Ct. of App., 9th Dist., #4524-31.)*
335.7. *Knapp v. Schweitzer.* (U.S.S.C.) For facts, see II DOCKET 76. U.S.S.C. *dismissed* appeal on question of whether Taft-Hartley Act pre-empted field of legislation re bribery of union officials employed by Co. in interstate commerce; *granted* certiorari on question whether witness before grand jury in state proceeding may claim privilege against self-incrimination as to questions the affirmative answer to which could establish elements of crime under fedl. law, in face of state immunity act. March 6: argument.

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- 335.8. *New York v. Lanza.* (NY Ct. of Gen. Sess.) Def., called as witness before NY Joint Legislative Comm. on Gov't. Operations, declined to answer 19 questions despite Comm's. grant of immunity to him. Jan. 21: Def. *found guilty* of contempt under Penal Law Sec. 1330; Ct. *held* Comm. has power to confer immunity against criminal prosecution on witnesses who appear before it. Feb. 20: sentencing.

Michael P. Drenzo, Esq., 253 Broadway, NYC.

336. Miscellaneous

- 336.1. *Lambert v. California.* (U.S.S.C., #47.) For facts, see II DOCKET 76. Dec. 16: U.S.S.C. (5-4) *reversed*, Douglas, J.; *held* usual requirement of knowing the law must be modified where criminal conduct was "wholly passive—mere failure to register." No discussion of constitutionality of statute, requirement of sufficient notice to persons required to register. *Dissenters*: Frankfurter, Harlan, Whittaker, Burton, JJ.

Samuel McMorris, Esq., Los Angeles, and Ct.-appointed counsel: Warren M. Christopher, Esq., Los Angeles.

- 336.2. *Reyes v. U. S.* (CA 9.) Def. charged with violation of Narcotics

Registration Act: any person presently a narcotics addict, or previously convicted of narcotics violation (with imprisonment for more than 1 yr.) must register on special form every time he leaves or enters U. S. 1934: Def. sent to County Jail for 60 days for narcotics possession. 1957: Def. questioned by Customs Office on return to U. S. after 2-hr. trip to Mexico; arrested after admitting conviction for failure to register; convicted; fined \$100, suspended sentence. Issues: 1) statute, by its terms, inapplicable to Def.; 2) statute violates due process because vague and uncertain, is ex post facto, violates privilege against self-incrimination, violates right to freely travel. Appeal pending.

Gostin, Katz and Porter, Esqs., 339 W. Broadway, San Diego, California.

340. Self-incrimination: Civil Sanctions

341. Army discharges

See cases at 253.

342. Employment—Public teachers

342.2b. *Austin v. NY Bd. of Higher Education*. (App. Div., 1st Dept.) For facts, see III DOCKET 12. Sup. Ct. *dismissed*; appeal pending.

342.3. *Laba, et al. v. Newark Bd. of Educ.* (Newark Bd. of Educ.) (23 N.J. 364.) For facts, see II DOCKET 17, 41-2, 58, 77, III DOCKET 12. Pls.-Lowenstein and Zimmerman refused to answer as to past membership. Sup't. of Schools *recommended* dismissal. Heard and submitted to Bd. of Educ.

342.4. *Mass v. San Francisco Bd. of Educ.* (Cal. Super. Ct.)

342.5. *Schuyten v. Contra Costa Bd. of Educ.* (Calif. Dist. Ct. of App.) For facts, see II DOCKET 17, 42. Nov. 13, 1957: heard and submitted.

342.9. *Bailan v. Bd. of Education*. (U.S.S.C., #668.)

342.10. *Hanchett v. Dixie School District*. (Marin Co. Super. Ct., Calif.) Oct. 22, 1957: Pl.-school teacher *fired* for refusing to answer some questions before House UnAmerican Activities Comm., tho testifying he had not been Communist Party member since 1951. On receipt of petition supporting Pl's. retention, Def.-Bd. *returned* Pl. to his job pending decision by Super. Ct. on sufficiency of Pl's. explanation for his refusal to answer, under Calif. Dilworth Act.

See *Mass*, 342.4.

343. Employment—Other public officers

343.1. *Lerner v. Transit Authority*. (U.S.S.C.)*

343.2. *Hancock v. Burns*. (Calif. Dist. Ct. of App., San Francisco.) For facts, see II DOCKET 18. Heard and submitted.

343.3. *Globe and Nelson v. Los Angeles County*. (Super. Ct., Los Angeles Co.)*

343.4. *Callender v. San Diego County*. (4th Dist. Ct. of App., Calif.) 1954: Pl.-park warden dismissed for refusal to answer questions before House UnAmerican Activities Comm. on basis of Fifth Amendment privilege. In appeal to Co. Civil Service Comm., Pl. offered to answer all questions re political

affiliations; Comm. refused to ask such questions, based dismissal solely on refusal to answer to Cong. comm. Trial ct. *held against* Pl. Appeal pending.

A. L. Wirin and Fred Okrand, Esqs., 257 S. Spring St., Los Angeles; Byron F. Lindsley, Esq., San Diego, California.

344. Employment—Private

Law review note:

Is invocation of the Fifth Amendment or alleged subversive activity "just cause" for dismissal of a privately employed individual, 11 Rutgers Law Rev. 745-56 (Summer 1957).

- 344.2. *Wilson, et al. v. Loew's, Inc., et al.* (U.S.S.C., #552.) For facts, see II DOCKET 42. Argued before U.S.S.C.; decision awaited.
- 344.3. *Wilson v. Liberty Films, Inc., et al.* (Los Angeles Co. Super. Ct., #668887.)*
- 344.5. *Gottlieb v. Universal Pictures Co., Inc.* (Los Angeles Mun. Ct.)*
- 344.6. *United Electrical, Radio and Machine Workers of America, Local 610 v. Westinghouse Airbrake Co.* (Allegheny Co. Ct. of Common Pleas, #3132.)*
- 344.7. *Nelson v. General Electric.* (Muni. Ct., Dist. of Col., #M6521-57.) For facts, see II DOCKET 13. Awaiting trial.
- 344.8. *Watterman v. S. Calif. Gas Co.* (Los Angeles Super. Ct.) Pl.-employee *dismissed* by Def.-employer for refusal to answer questions re alleged membership of other persons in Communist Party before Calif. Burns Comm. Pl. answered all questions as to himself. Suit for reinstatement pending.
- A. L. Wirin and Fred Okrand, Esqs., 257 S. Spring St. and Allan Carson, Esq., 354 S. Spring St., all of Los Angeles.

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345. Attorneys

346. Unemployment insurance

- 346.1. *Kilpatrick v. Bureau of Unemployment Compensation.* (Cuyahoga Co. Com. Pleas Ct., #669433.) For facts, see II DOCKET 18. Aug. 30, 1957: Ct. *vacated* ruling by Bureau, *held* Pl's. refusal to answer questions not related to his work, Pl. entitled to compensation. State's appeal pending.
- 346.2. *Ostrosky, et al. v. Maryland Employment Security Bd. and Bethlehem Steel Co.* (Baltimore City Super. Ct.)*
- 346.3. *Fino v. Sun Ray Drug Co. and Md. Employment Security Bd.* (Balt. City Super. Ct.) Pl. discharged by Def.-Co. following claim of privilege against self-incrimination in refusing to answer questions re alleged Communist Party membership at UnAmerican Activities Comm. hearings. Def.-Emp. Security Bd. denied unemployment compensation on ground Pl. discharged for deliberate and wilful "misconduct connected with work" under Md. Unempl. Comp. Law, Art. 95A, Sec. 5B. Issues: 1) whether such refusal constituted such "misconduct" or involved Bd's. adding category to those

listed in Act; 2) whether disqualification for exercise of constitutional privilege under Fifth Amendment deprived Pl. of due process under Fourteenth Amendment. Pending.

Harold Buchman, Esq., 205 Tower Bldg., Baltimore.

- 346.4. *Hallengren v. Capitol Airlines, Inc. and Md. Emp. Security Bd.* (Balt. City Super. Ct.) Facts, issues and status similar to *Fino*, 346.3.

Harold Buchman, Esq., 205 Tower Bldg., Baltimore.

- 346.5. *Lee v. Eastern Stainless Steel Co. and Md. Emp. Security Bd.* (Balt. City Super. Ct.) Facts, issues and status similar to *Fino*, 346.3.

Harold Buchman, Esq., 205 Tower Bldg., Baltimore.

350. Due Process

Law review article:

Alfred W. Blumrosen, Contempt of court and unlawful police action, 11 Rutgers Law Rev. 526-548 (Spring 1957).

351. Delay in arraignment

352. Grand Jury procedures

353. Confessions

- 353.3. *Reck v. Ragen.* (ND Ill. E. Div., #57 C 2027.) (392 Ill. 311, 64 NE 2d 526; *cert. den.* 331 U. S. 855; 7 Ill. 2d 261, 130 NE 2d 200; *cert. den.* 350 U. S. 942.) 1936: Def.-Reck and 3 others arrested for murder; Reck, then 19 yrs. old, held in custody 1 week without opportunity to see counsel or family, during week taken to hospital twice when he fainted and passed blood from his mouth, signed confession during week. At arraignment, immediately entered not guilty plea; at trial, unsuccessful in having confessions kept from jury. Found *guilty*, 199 yr. term. 1945: Ill. S. Ct. *affirmed* conviction in writ of error proceeding, U.S.S.C. *denied cert.*; 1948: DC *denied* petition for habeas corpus writ on ground of failure to exhaust state remedies. 1952: state trial ct. *denied* petition under Ill. Post-Conviction Hearing Act; Ill. S. Ct. *affirmed*; U.S.S.C. *denied cert.*, without prejudice to application for habeas corpus writ in DC. Dec. 10, 1957: petition for habeas corpus filed in DC. Issue: whether confession taken from prisoner during illegal period of detention under circumstances given, plus Def's. low intelligence, denied him due process. Pending.

Counsel secured by Ill. Div., Am. Civil Liberties Union: Bernard Weissbourd and Richard Siegal, Esqs., 135 S. LaSalle St., and Daniel P. Moore, Esq., all of Chicago.

354. Unfair press releases

355. Perjured testimony

- 355.4. *Sobell v. U. S.* (U.S.S.C.) For facts, see II DOCKET 43, 77, III DOCKET 13. Nov. 12, 1957: U.S.S.C. *denied* petition for certiorari on ##440 and 441.

Jan. 6: U.S.S.C. *denied* petition for rehearing.

Amicus curiae brief by Dr. Harold C. Urey, et al, accepted.

- 355.6. *Yiannopoulos v. Robinson, Dist. Dir.* (CA 7.) For facts, see II DOCKET 13. Cite: 247 F. 2d 655.

356. Courts martial

- 356.1. *Guagliardo v. McElroy, Sec. of Defense, et al.* (DC DC, habeas corpus #123-57.) Def.-civilian employee of U. S. Armed Forces abroad tried by court martial in Morocco, *convicted* of grand larceny, 3 yr. sentence. Issue: jurisdiction of military over such civilian-employee. Jan. 14: DC *upheld* conviction, *held* constitutional provision of Uniform Code of Military Justice giving such jurisdiction.

Irwin Geiger, Esq. and Michael A. Schuchat, Esq., both of Tower Bldg., Washington.

357. Naturalization proceedings

358. Denaturalization proceedings

- 358.1. *Trop v. Dulles.* (U.S.S.C.)*
358.2. *Diaz-Estrata v. Press.* (SD Calif.)*
358.3. *Matter of Bean.* (ND Calif., S. Div.) For facts, see II DOCKET 19, 59. Feb. 13: heard and submitted on crossmotions for summary judgment.
358.4. *Zukar v. U. S.* (CA 7, #11718.)*
358.6. *Nishikawa v. Dulles.* (U.S.S.C.)*
358.7. *Perez v. Brownell.* (U.S.S.C.)*

359. Loyalty hearings

See 251 and 268.

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360. Speedy and Public Trial

Law review note:

The right to a speedy criminal trial, 57 Columbia Law Rev. 846-7 (June 1957).

- 360.1. *In re Baird.* (Calif. S. Ct.)*
360.2. *Brown v. Hoblitzell, Sheriff.* (Ky. Ct. of App., #V-59-55.)*

370. Counsel

Law review article:

Special issue on Criminal Law Reform, XVII Lawyers Guild Rev. (Winter 1957):

Victor Rabinowitz, Indigent defendants and the right to representation, 127-130.

Criminal Law Reform Comm., Voluntary defenders in Massachusetts, 131-133.

William Rossmore, New Jersey assigned counsel system, 134-135.

David Scribner, New York City—the Legal Aid Society, 136-138.

Louis Stone, Public defender system, 139-140.

Ann Fagan Ginger, Special purpose defense organizations, 141-144.

Daniel Crystal, Right to counsel for impoverished defendants in Britian and Canada, 145-147.

Law review note:

Due process and the right to counsel in administrative proceedings, 32 St. John's Law Rev. 67-79 (Dec. 1957).

Law review article:

Arnold S. Trebach, A Modern Defender System for New Jersey, XII Rutgers Law Rev. 289-327 (Winter 1957).

371. Federal cases

372. State cases

372.1. *Henderson v. Michigan*. (CA 6.)*

372.3. *Hinkley v. Washington*. (Wash. S. Ct., #33869.) Def. convicted on one count of 2d degree burglary, 4 counts of forgery. At time of sentencing, Def. stated he had no further funds to employ atty.; atty. dismissed from case. Def. then told Judge he wished to make statement; Judge ordered Ct. reporter to stop transcribing. Def. then gave oral notice of appeal and requested appointment of atty. to handle appeal. 16 days later, Ct. denied atty., told Def. he had not given notice of appeal; Def. contradicted statement; Ct. said: "Well, at any rate you are now giving oral notice * * *." Wash. law: oral notice of appeal can be given only at time of sentencing; written notice at any time within 30 days after sentence. Def. not advised of law, handled appeal *pro se in forma pauperis*, argued solely on merits. Wash. S. Ct. on own motion *dismissed* appeal for failure to give timely notice. In petition for rehearing, affidavits showing timely notice filed by Def. Wash. S. Ct. *granted* petition for rehearing; heard and submitted.

Wash. Chap., Am. Civil Liberties Union secured counsel: John J. Sullivan, Jr., Esq., Smith Tower, and Francis Hoague, Esq., 320 New World Life Bldg., both of Seattle.

And see: *Ark. ex rel. Atty. Genl. v. N. A. A. C. P.*, 204.7; *N. A. A. C. P., et al. v. Va. Atty. Genl. Patty*, 204.4; *Va. Legis. Comm. v. Brown*, 272.6; *Goshorn*, 571.16.

373. Indirect restrictions

373.1. *Re Gladstein*. (DC Hawaii.)*

373.2. *Re Bouslog*. (CA 9, #15,109.)*

373.3. *Re Bouslog*. (DC Hawaii, Misc. #649.)*

373.6. *Matter of Isserman*. (SD NY, #M 19-66.) (9 N. J. 269, 293; 348 U. S. 1.) Attorney *disbarred* in New Jersey state courts, based upon alleged misconduct as defense atty. in *Dennis*, 341 U. S. 494, although U.S.S.C.

held N. J. disbarment insufficiently grounded to warrant disbarment from U.S.S.C. SD NY held hearing on merits prior to N. J. ruling, held conduct on which N. J. ruling based did not warrant disbarment in SD NY. Jan. 28, 1958: after hearing, attorney *disbarred* from SD NY in action brought by Assn. of Bar of City of New York. Appeal pending.

Basil R. Pollitt, Esq., 52 Sidney Place, Brooklyn.

And see cases at 265.

380. Confrontation

381. Criminal cases

382. Civil cases

See *Coleman*, 251.10.

390. Jury Trials (see also 510)

400. Excessive Bail; Parole Conditions

401. Amount of bail

Law review note:

Special issue on Criminal Law Reform, XVII Lawyers Guild Rev. (Winter 1957):

Criminal Law Reform Comm., The setting of bail in minor criminal cases, 148-9.

Grand Jury, New York County, Ct. of General Sessions, Presentment on abuses of bail bondsmen, 149-151.

Roy M. Mersky, Bibliography on bail problems and statutes dealing with professional bondsmen, 151-2.

402. Conditions imposed

410. Cruel and Unusual Punishment

411. Criminal cases

411.2. *U. S. v. Green; U. S. v. Winston.* (U.S.S.C.)*

411.3. *Thompson v. U. S.* (SD NY.)*

411.5. *Thomas v. State of Florida.* (Fla. S. Ct.) For facts, see III DOCKET 14. Cite: 92 So. 2d 621.

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411.6. *Petitions of McCord and Nickanorka.* (D.C. Alaska.) (151 F. Supp. 132.) Two Indian Defs. in Alaska charged with statutory rape. May 15, 1957: DC *released* Defs. on ground statutory rape not listed as one of crimes under 18 U.S.C. 1153 for which Indian may be tried in U. S. courts if committed within "Indian country."

Russell E. Arnett, Buell A. Nesbett, Roger Cremo, Esqs., First Natl. Bank Bldg.; Stanley J. McCutcheon, Esq., 315 Fourth Ave.; Arthur D. Talbot, Esq., 523 Third Ave.; Clifford J. Groh, Esq., 227 Fourth Ave.; Wendell P. Kay, Esq., 604 Fourth Ave.; T. Stanton Wilson, Esq., 423 Fourth Ave.; Peter J. Kalamarides, Esq., Denali Bldg., all of Anchorage, Alaska.

412. Extradition

412.3. *New York ex rel. Reid v. Ruthazer, Warden.* (NY Ct. of App.)*

413. Civil cases

490. Miscellaneous Due Process

490.2. *U. S. v. Sharpnack.* (U.S.S.C.) Def. *convicted* in DC of a sex offense committed on U. S. Army Post in Texas. Offense had been made criminal in Texas subsequent to 1948. Issue: whether Assimilative Crimes Act of 1948 (providing that subsequent, as well as prior, state penal laws shall be incorporated by reference into federal law for purposes of regulating conduct at Army Posts located in each state) represents invalid delegation to the states of federal authority over Army Posts. U.S.S.C. (7-2) *affirmed* conviction, *upheld* delegation.

Joel Westbrook, Esq., San Antonio, Texas.

III. EQUAL PROTECTION (FOURTEENTH AMENDMENT) (500-599)

Law review articles:

The Fourteenth Amendment Reconsidered—the segregation question, 54 Mich. Law Rev. (June 1956).

Implementation of desegregation by the lower courts, 71 Harv. L. Rev. 486-504 (Jan. 1958).

Law review note:

The constitutionality of racial classification in morality tables, 11 Rutgers Law Rev. 757-763 (Summer 1957).

Report:

American Jewish Committee, *The people take the lead*, 1957 (386 Fourth Ave., NYC.)

500. Elections

501. Racial discrimination

501.2. *Ivy v. Cole, Registrar, Halifax Co.* (ED N. C., Wilson Div., #610-Civ.)*

501.3. *Lassiter, et al. v. Taylor.* (formerly entitled *Edwards, et al. v. Register, Northampton Co.*) (ED NC., #1019.) For facts, see II DOCKET 79. After suit filed, old N. C. statute repealed; new act, without grandfather clause or requirement that literacy be shown "to the satisfaction of the Registrar" enacted. Ct. *stayed* proceedings pending exhaustion of state administrative and judicial remedies, postponed decision on whether new voting requirements violated U. S. Const. because enacted pursuant to provisions of State Const. that themselves violated 14th, 15th Amendments.

Taylor and Mitchell, Esqs., 125 E. Harget St., Raleigh, N. C. and James R. Walker, Jr., Esq., Weldon, N. C.

501.6. *Alabama v. Tuskegee Civic Assn.* (Macon Co. Cir. Ct.)*

And see *Taylor*, 552.Va2.

502. Political discrimination

- 502.3. *Christian Nationalist Party, et al. v. Jordon, Calif. Secy. of State.* (Super. Ct., Los Angeles Co., #669214.)
and
- 502.4. *Socialist Party v. Jordan, Calif. Secy. of State.* (Calif. Sup. Ct.) For facts, see II DOCKET 61, III DOCKET 14. Calif. Sup. Ct. *affirmed, held* Election Code not unconstitutional though requiring over 500,000 signatures for state nominating petition. Carter, J. dissented.

510. Juries

511. Federal employees

512. Racial discrimination

- 512.1. *Reyes v. Arthur Tickle Eng. Works.* (NY Ct. of App.) (152 NYS 2d 698, 3 NY 2d 837, 166 NYS 2d 78, 144 NE 2d 723.) For facts, see I DOCKET 79. Jy. 3, 1957: Ct. of App. *affirmed* reinstatement of verdict, per curiam.
- 512.2. *Brewer v. Poteet.* (WD Mo.) Nov. 25, 1957: In action for brokerage commission involving sale of real estate, *verdict* for Def. *set aside* and new trial granted because of improper summation. Counsel for Def. had described negotiations by saying price had been "Jewed down" instead of "Jewed up" by vendor. (None of parties to suit, or to real estate transaction, were Jewish.) Ct. *held* this terminology had prejudicial effect, particularly in view of fact that three attorneys for Pl. were Jewish.
- 512.3. *Louisiana v. Edwards.* (La. Sup. Ct.) (94 So. 2d 674.) Def.-Negro appealed from conviction for rape on ground he was denied trial by his peers because one of jurors stated that, although he did not belong to White Citizens' Council, he believed in white supremacy. Apr. 1, 1957: La. Sup. Ct. *upheld* trial ct's. overruling of challenge for cause and finding this juror not prejudiced because of his explanation that his concept of white supremacy was limited to social relationships.
Noel L. Adams, Esq., 1st Natl. Bank Bldg.; Jack C. Wimbish and C. P. Brocato, Esqs., Ricou-Brewster Bldg., all of Shreveport, La.
- 512.4. *Louisiana v. Palmer.* (La. Sup. Ct.) (94 So. 2d 439.) Appeal from conviction for murder and death sentence on ground that Def.-Negro indicted in violation of 14th Amendment by Grand Jury from which Negroes were systematically excluded or, if included, were placed on jury in token number. Feb. 25, 1957: Appeal denied: record showed no systematic exclusion nor token inclusion but, on contrary, effort on part of jury commission to find Negro voters with qualifications for jurors. (Conviction reversed on other grounds.)
Milo B. Williams, Esq., Carondelet Bldg., New Orleans.
- 512.5. *Louisiana v. Eubanks.* (U.S.S.C., #40 Misc.) (94 So. 2d 262, 354 U. S. 934.) Appeal from conviction for murder and death sentence on ground that Def.-Negro indicted in violation of 14th Amendment by Grand Jury from which Negroes were systematically and unconstitutionally excluded. Feb. 25, 1957: La. Sup. Ct. *denied* appeal on ground record disclosed no

systematic exclusion of Negroes, since jury commissioners attempted to include names of Negroes without limiting their number to proportion of Negroes to total population. Oct. 14, 1957: U.S.S.C. *granted* motion for leave to proceed *in forma pauperis* and petition for certiorari.

Herbert Garon, Esq., Natl. Bank of Commerce Bldg., New Orleans.

- 512.6. *Lamkin v. Texas*. (U.S.S.C.) (301 S.W. 2d 922.) Appeal for murder conviction of Negro-Def. on ground Negro jurors systematically excluded from Grand Jury or limited in number. Feb. 20, 1957: Tex. Ct. of Crim. Appeals *denied* appeal on ground evidence disclosed no systematic exclusion: "The mere fact that no Negro was appointed on the jury commission is insufficient to show racial discrimination." Petition for certiorari pending in U.S.S.C.

Kenneth R. Lamkin, Esq., 815 San Marcos St.: Arthur Mitchell, Esq., 308 W. 11th St., both of Austin, Texas.

- 512.7. *Bailey v. Arkansas*. (Ark. Sup. Ct.) (302 S.W. 2d 796.) Appeal by Negro-Def. from conviction for rape on ground, among others, that trial ct. erred in overruling Def's. motion to quash jury panels for systematic exclusion of Negroes from jury panels. May 27, 1957: Ark. S. Ct. *denied* appeal on ground that repeatedly small number of Negroes on jury panel does not show intentional, systematic limitation. Ct. *held* accused not entitled to jury composed in part of members of his race nor to proportionate representation on jury panels.

Thad D. Williams, Esq., 809½ W. 9th St., Little Rock, Ark.

513. Economic discrimination

514. Political discrimination

515. Discrimination against women

520. Education

521. Challenge to unequal facilities

- 521.1. *Holland v. Bd. of Public Instruction*. (Palm Beach.) (CA 5.)*

522. Suits to enforce integration

- 522.Ark2. *Matthews, et al. v. Launius, et al.* (Bearden Dist.) (WD Ark., Civ. #570.)*
- 522.Ark3. *Aaron, et al. v. Cooper, et al.* (Little Rock.) (ED Ark.) For facts, see II DOCKET 23, 61, III DOCKET 15, and see *Re Faubus*, 523.Ark6; *Jackson*, 523.Ark7; *Thomason*, 523.Ark8.*
- 522.Ark3a. *Smith, et al. v. Gov. Faubus, et al, and Ark. Sovereignty Comm.* (Little Rock.) (ED Ark., #3415.)*
- And see *Smith*, 522.Ark3b.
- 522.Ark3b. *Smith, et al. v. Gov. Faubus, et al., and Ark. Sovereignty Comm.* (Little Rock.) (Pulaski Co. Cir. Ct.) For facts, see *Smith*, 522.Ark3a, III DOCKET 15. Suit by same Negro ministers who had filed *Smith* case in DC. Pls. seek test of constitutionality of Ark. State Sovereignty Comm. Pending.

And see *Aaron*, 522.Ark3; *Rector*, 523.Ark2; *Wilbern*, 523.Ark3; *Faubus*, 523.Ark6; *Jackson*, 523.Ark7; *Thomason*, 523.Ark8; *N. A. A. C. P.* cases, 204.5-204.14.

- 522.Dela1. *Jackson, et al. v. Buchanan, Members of Dela. Bd. of Educ. and Bd. of Trustees, et al.* (Christiana School Dist.) (DC Dela. Civ. #1815.)*
- 522.Dela2. *Evans, et al. v. Buchanan, et al.* (Milford.) (CA 3, #12,375.)
and
- 522.Dela3. *Holloman, et al. v. Buchanan, et al.* (Milton.) (CA 3, #12,378.)
and
- 522.Dela4. *Coverdale, et al. v. Buchanan, et al.* (Greenwood.) (CA 3, #12,377.)
and
- 522.Dela5. *Creighton, et al. v. Buchanan, et al.* (Laurel.) (CA 3, #12,379.)
and
- 522.Dela6. *Denson, et al. v. Buchanan, et al.* (Seaford.) (CA 3, #12,380.)
and
- 522.Dela7. *Oliver, Jr., et al. v. Buchanan, et al.* (Clayton.) (CA 3, #12,381.)
and
- 522.Dela8. *Staten, et al. v. Buchanan, et al.* (Milford.) (CA 3, #12,376.) For facts, see II DOCKET 23, III DOCKET 15-16. Basic issue on *appeal*: power of State Bd. of Educ. to plan for and effectuate desegregation in local school systems.
- 522.Dela9. *Dennis, et al. v. Baker, et al.* (Dover.) (DC Dela.) (formerly entitled *Pls. v. Dover Bd. of Educ.*)*
- 522.Fla1. *Florida ex rel. Hawkins v. Bd. of Control of Fla.* (DC Fla.)*
- 522.Fla2. *Gibson, et al. v. Dade Co. Bd. of Public Instruction, et al.* (SD Fla., #6978-M-Civ.) For facts, see II DOCKET 23, 61, III DOCKET 16. Dec. 16, 1957: heard and submitted to DC on Pls.' motions for summary judgment and desegregation beginning Feb. 3, 1958, and Defs.' motion to dismiss.
- 522.Ga2. *Hunt, et al. v. Arnold, Ga. State School of Business Adm.* (ND Ga., Atlanta Div., #5781.)*
- 522.Ga3. *Calhoun v. Jarrell.* (Atlanta.) (ND Ga., Atl. Div.) Jan. 12: Class action filed for 28 minors seeking temporary and permanent injunctions restraining Defs. from continuing to operate public schools on racially segregated basis.
E. E. Moore, Jr., Esq., Atlanta, Ga.; Thurgood Marshall, Esq., N. A. A. C. P. Legal Defense & Educ. Fund, 10 Columbus Circle, NYC.
- 40 —
- 522.Ky4. *Dishman, et al. v. Archer, Supt. Public Schools.* (Scott Co.) (ED Ky., Lexington, #1213.) For facts, see II DOCKET 45, 62. Jan. 13: Orders of discontinuance filed, showing compliance with Ct's. desegregation order.
- 522.Ky5. *Green, et al. v. Bd. of Educ.* (McCracken Co.) (WD Ky., Paducah Div., #903.)*
- 522.Ky6. *Wilburn, et al. v. Holland, Supt., Fulton City Schools, et al.* (WD Ky., Paducah Div., #910.) For facts, see II DOCKET 46, 62, III DOCKET 16.

- Oct. 4, 1957: Ct. *modified* Sept. 10, 1957 order, *enjoined* Defs. to admit Pls. or members of class of persons represented by Pls. as students at Fulton High School for school year 1958-59.
- 522.Ky7. *Grimes, et al. v. Smith, et al.* (Owen Co.) (ED Ky., Lex. Div.) Nov. 11, 1957: Pls. again requested Def.-School Bd. to discontinue racial segregation in Co. schools. Dec. 3: Def. officially rejected request. Dec. 23: Negro-Pls. filed suit for temporary and permanent injunction against Defs.' continuing to operate segregated schools. Pending.
- 522.La1. *Bush, Jr., et al. v. Orleans Parish School Bd., et al.* (CA 5.) For facts, see II DOCKET 23, 62, 79-80. Feb. 13: CA 5, for second time, *upheld* injunction by DC requiring Def.-Bd. to desegregate schools, with no definite time set for action to be accomplished.
- 522.La2. *Hall, et al. v. St. Helena Parish School Bd., et al.* (ED La., Civ. #1068.)*
- 522.La3. *Angel, et al. v. La. State Bd. of Educ., et al.* (ED La., Baton Rouge Div., Civ. #1658.)*
- 522.La4. *Davis, Jr., et al. v. E. Baton Rouge Parish School Bd., et al.* (ED La., Baton Rouge Div., Civ. #1662.)*
- 522.La5. *Tureaud v. Bd. of Supervisors, La. State Univ. and Agric. and Mech. Coll., et al.* (ED La., Baton Rouge Div., Civ. #1238.)*
- 522.La6. *Williams, et al. v. Prather, et al.* (WD La., 5000 Civ.)*
- 522.La7. *Ludley v. Bd. of Supervisors, La. State Univ.* (CA 5.)
and
- 522.La8. *Bailey v. La. State Bd. of Educ.* (CA 5.)
and
- 522.La9. *Lark v. La. State Bd. of Educ.* (CA 5.) For facts, see II DOCKET 62. Feb. 13: CA 5 *affirmed* DC decision requiring Def.-Bd. to desegregate La. State Univ., Southeastern, Southwestern and McNeese State Colleges.
- 522.Md2. *Moore, Jr., et al. v. Bd. of Educ.* (Harford Co.) (CA 4, #7552.) For facts, see II DOCKET 24, 46, 62, 80, III DOCKET 16. Issue: whether Pls. denied 14th Amendment rights by DC judgment permitting Def.-Bd. to defer desegregation of certain schools and grades for 1 to 3 yrs. and effectuate high school desegregation on "stairstep" basis where Bd. did not show necessity for such delays. Jan. 16: heard and submitted.
- 522.NC2. *Covington, et al. v. Edwards, Supt. of Schools, et al.* (Montgomery Co.) (MD N. Caro., Rockingham Div., Civ. #323.)*
- 522.NC3. *Royster, et al. v. Bradsher, et al.* (Person Co.) (MD NC, Durham Div., #194D.)*
- 522.NC4. *Weaver, et al. v. Bd. of Trustees of Chapel Hill Graded Schools, et al.* (MD N.C., Rockingham Div., #158-D.)*
Herman L. Taylor, Esq., 126 E. Hargett St., Raleigh; C. J. Gates, Esq., 428½ E. Pettigrew St., and Milton Johnson, Esq., Logan Bldg., both of Durham, N. C.
- 522.NC5. *Ward v. Bd. of Educ.* (Knoxville.) (ED Tenn., N. Div., #3158.) Class action for injunctive relief requiring Def.-Bd. to desegregate schools. Dec. 1957:

Pls'. again petitioned DC to set trial date soon. DC pointed out 3 members of Def.-Bd. elected in Nov. and needed time to help Bd. draft desegregation plan.

- 522.NC6. *Jeffers v. Whitley, N. C. State Supt. of Public Instruction, N. C. Bd. of Educ., et al.* (Caswell Co.) (MD N. C., Greensboro Div., #1079.) Dec. 1956: class action filed challenging constitutionality of all state statutes and constitutional amendments to preserve segregated schools. Jan. 1957: Defs. filed answers. Awaiting trial.
- 522.NC7. *Holt, Jr. v. Bd. of Educ.* (Raleigh.) (DC N. C.) Pl.-Negro applied for reassignment to white school. Def.-Bd. rejected application. Pl. seeks immediate admission to white high school and injunction against Def.-Bd. continuing segregation in city schools. Pending.
- 522.Okla2. *Brown, et al. v. Long, Pres. Morris Independent School Dist., et al.* (Okmulgee Co.) (ED Okla., Civ. #4245.)*
- 522.Okla3. *Simms, et al. v. Hudson, Pres. Preston Independent School Dist., et al.* (Okmulgee Co.) (ED Okla., #4246.)*
- 522.Okla4. *Bailey, et al. v. Hodge, Hall, Supt., Okla. School for Deaf, et al.* (WD Okla., #7441-Civ.)*
- 522.Pa1. *In re Girard's Estate.* (Pa. Sup. Ct.) For facts, see II DOCKET 62, 80, III DOCKET 16. Jan. 24: Pa. S. Ct. (4-1) *affirmed* Phila. Orphans Ct. ruling, *agreed* to substitution of private for public trustees. Musmanno, J. dissenting. Feb. 13: Pa. S. Ct. denied petition for reargument.
- 522.SC1. *Briggs v. Elliott.* (Clarendon Co.) (ED S. C. #2657.)*
- 522.Tenn1. *Kelly, et al. v. Bd. of Educ.* (Nashville.) (MD Tenn., Nash. Div., Civ. #2094.) For facts, see II DOCKET 25, 46, III DOCKET 16-17. Jan. 20: Def.-Bd. moved for dismissal of suit based on state's new Pupil Placement Law, proposed "voluntary integration" plan involving segregated schools for Negroes and whites and integrated schools, with annual census taken to learn which type of school parents want children enrolled in. Jan. 28: heard and submitted.
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- 522.Tex4. *Jackson, et al. v. McDonald, Pres., Lamar State College of Technology, et al.* (CA 5.)*
- 522.Tex5. *Borders, et al. v. Rippy, et al.* (Dallas.) (CA 5, #16483.) (247 F. 2d 268.) For facts, see II DOCKET 25, 46, III DOCKET 17. 27, 1957: CA 5 *reversed* DC order for integration in Feb. 1958; *held* CA's earlier decision set no date, required "all deliberate speed", Def.-Bd. must have sufficient time to prepare plan for integration.
And see *Dallas*, 523.Tex1.
- 522.Tex7. *Ross v. Rogers, Pres., Houston Independent School Dist.* (DC Tex., Houston, #10,444.) For facts, see II DOCKET 80. Oct. 15, 1957: DC *held* certain Texas school segregation statutes void, *enjoined* Defs. from requiring segregation "from and after such time as may be necessary for admission to schools on non-segregated basis".
- 522.Va1. *Allen, et al. v. County School Bd.* (formerly entitled *Davis v. Co. School Bd.*)

(Prince Edward Co.) (U.S.S.C., #698.) For facts, see II DOCKET 25, 46. CA 4 *reversed* DC, *held* Def.-Bd. must make "prompt and reasonable start" toward desegregation, *directed* DC to enter such an order. Dec. 31, 1957: Def's. petition for certiorari filed in U.S.S.C.

- 522.Va2. *Corbin, et al. v. School Bd.* (Pulaski Co.) (WD Va., Roanoke, #341 Civ.)*
- 522.Va3. *Atkins, et al. v. School Bd., et al.* (Newport News.) (DC Va., Norfolk.)*
- 522.Va4. *Beckett, et al. v. School Bd.* (Norfolk.) (DC Va., Norfolk.)*
- 522.Va5. *Allen, et al. v. School Bd.* (Charlottesville.) (WD Va., #51.)*
- 522.Va6. *Thompson, et al. v. School Bd.* (Arlington.) (CA 4, #7543.) For facts, see II DOCKET 26, 46, 63, III DOCKET 17. Feb. 12: CA *affirmed* DC order setting Sept. 1957 for admission of Pls. to schools to which they had applied for admission, *held* ruling "clearly proper" and a "milder course" than holding Def.-Bd. in contempt of earlier DC desegregation order. CA implied Negro students need not use Va.'s Pupil Placement Law and its application forms when seeking to change schools.
- 522.Va7. *DeFabio v. Richmond Placement Bd.* (Fairfax Co.) (Va. Sup. Ct. of App.) For facts, see II DOCKET 81. Dec. 2, 1957: Va. S. Ct. *upheld* state Pupil Placement Law and right of State Pupil Placement Bd. to assign pupils when race not a factor.
- 522.Va8. *Calloway, Jr., et al. v. Farley, et al.* (Richmond.) (DC Va., Richmond.) Sept. 1957: when school opened, 100 to 150 Negro children entered without parents having filled out pupil placement forms; some sent home, others continued under 15-day grace period. Sept. 14: 103 Pl.-Negro children brought suit attacking constitutionality of Va. Pupil Placement Law. Sept. 17: DC *granted* temporary restraining order against enforcement of Law, *ordered* pupils denied admission because of failure to present placement forms returned to school.
- 522.Va9. *Klein v. Falls Church School Bd.* (Va. Co. Ct.) Pl.-white parents refused to sign pupil placement form for son. Def.-Bd. refused him admittance to school. Pl. appealed for son's admission. Ct. *denied* petition, *held* Pupil Placement Act valid as to white students, no denial here of right or privilege because of race.
- 522.Va10. *Walden, et al. v. Farley, et al.* (Suffolk Co.) (DC Va., Norfolk.) Pls.-Negro children barred from enrolling in schools because parents refused to sign pupil placement forms. Sept. 29, 1957: DC *granted* temporary injunction restraining enforcement of Pupil Placement Act in Norfolk and Nansemond Cos.
- 522.Va11. *Estes, et al. v. Farley, et al.* (Norfolk Co.) (DC Va., Norfolk.) Facts, issues, and status similar to *Walden*, 522.Va10.
- 522.Va12. *Jordan, et al. v. Farley, et al.* (Nansemond Co.) (DC Va., Norfolk.) Facts, issues and status similar to *Walden*, 522.Va10.

523. Suits to prevent integration

- 523.Ark1. *Shackleford, et al. v. Vance, Ch., Hoxie School Bd., et al.* (Ark. Sup. Ct.)*
- 523.Ark2. *Ex parte Rector.* (Little Rock.) (Pulaski Chancery Ct., #108306.)*

- 523.Ark3. *Wilbern v. Blossom, Little Rock School Bd., et al.* (Pulaski Chancery Ct., #108316.)*
- 523.Ark4. *Arkansas v. N. A. A. C. P., Inc.* Now reported at 204.5.
- 523.Ark5. *Little Rock v. N. A. A. C. P., Bates, et al.* Now reported at 204.10.
- 523.Ark6. *Re: Gov. Faubus.* (Little Rock.) (CA 8.) For facts, see *Aaron*, 522.Ark3, III DOCKET 15. Appeal by Gov. Faubus, Adj. Gen. and Lt. Col. of Ark. Natl. Guard from injunction granted by DC Sept. 20 to prevent interference with integration in Central High School. Pending.
- 523.Ark7. *Jackson, et al. v. Col. Kuhn, Natl. Guard.* (Little Rock.) (CA 8.) For facts, see *Aaron*, 522.Ark3, III DOCKET 15. Pl.-mother of 2 students at Central High and vice-pres. of segregationist mothers' organization filed suit to reverse DC order permitting use of Fedl. troops to enforce integration order. Oct. 15: DC Judge Davies *dismissed* suit. Appeal pending in CA 8.
- 523.Ark8. *Thomason v. Cooper.* (Little Rock.) (Chancery Ct., Pulaski County, Ark., #108377.) Class action by white-Pl. for injunction against members of Def.-school bd. restraining them from requiring Pl's. child to attend integrated school and from enrolling Negro children in school formerly for white children alone. Pl. contends Defs.' action in violation of Act creating State Sovereignty Commission to guarantee sovereignty of state from Fedl. encroachment on operation of schools. Pending.
- And see *Aaron*, 522.Ark3; *Smith*, 522.Ark3a; *Smith*, 522.Ark3b; *Rector*, 523.Ark2; *Wilbern*, 523.Ark3; *Faubus*, 523.Ark6; *Jackson*, 523.Ark7; *N. A. A. C. P.* cases, 204.5-204.14.

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- 523.Ky1. *Grubbs, et al. v. Gov. Chandler, et al.* (Franklin Co. Cir. Ct.)*
- 523.NC2. *In re Applications for Reassignment.* (Greensboro.) (N. C. Sup. Ct.) Class action by white parents to restrain Bd. of Educ. from reassigning 6 Negro students to previously white schools. Sept. 4, 1957: Super. Ct. *denied* injunction because: (1) no showing Pupil Enrolment Act unconstitutional; (2) no showing Bd. exceeded its authority or acted arbitrarily or in bad faith; (3) Pls. not parties aggrieved, therefore not entitled to appeal; (4) rights conferred by Pupil Enrollment Act individual rights, not those of class or group. Appeal pending.
- Robert Moseley, Esq., Guilford Bldg.; Welch Jordan, Esq., Jefferson Bldg., both of Greensboro, N. C.

530. Housing

531. Public

- 531.1. *Queen Cohen v. Savannah Housing Authority, et al.* (CA 5.) For facts, see II DOCKET 26, 47, 81, III DOCKET 17. Jan. 29: heard and submitted.
- 531.5. *Eleby v. Louisville Municipal Housing Authority.* (WD Ky., Louisville Div., #3240.)*
- 531.6. *NY State Comm. Against Discrimination in Housing v. Pelham Hall Apts., Inc., Pompa, et al.* (White Plains Sup. Ct.) For facts, see II DOCKET 81, III DOCKET 17. After Def.-owners of luxury apt. house refused to comply with

SCAD order of Jy., 1957, SCAD sued for enforcement thereof. Jan. 16: Sup. Ct. Judge *upheld* constitutionality of 1956 NY law against discrimination in housing financed in part or entirely by public, *held* action "by legislative bodies to eliminate the practice of racial discrimination in affairs closely connected with the lives of our citizens is not only a reasonable but, in view of the changing times and circumstances, a required method of procedure in the interest of public welfare. The Legislature was authorized to proceed as it did in imposing a ban against discrimination in housing; that is, by gradual steps, beginning with provisions applicable to various classes of publicly owned and managed housing and, over a period of time, extending the provisions to specified classes of private housing projects inaugurated or carried out with governmental assistance ***."

532. Private

- 532.2. *Ming v. Horgan, et al.* (Calif. Super. Ct., Sacramento Co., #97130.)*
- 532.3. *Beddoe v. Southeast Realty Bd., et al.* (Calif. Super. Ct., Los Angeles, #SG C 1050.)*
- 532.8. *Pennsylvania v. Williams, et al.* (Levittown.) (Bucks Co. Com. Pleas Ct.) For facts, see III DOCKET 18. Dec. 1957: 3-day trial of Defs.' actions. Issues: whether Defs. conspired to deprive Myers family of rights under Fourteenth Amendment, Fedl. Civil Rights Law, Pa. Constitution. Decision awaited.
- 532.9. *Stratton v. Conway.* (Tenn. S. Ct.) (301 SW 2d 332.) Pl.-home owner sued former neighbor for selling property to Negro when surrounding property owned by whites. Trial Ct. *dismissed*. Apr. 1, 1957: Tenn. S. Ct. *affirmed, held* Def's. action lawful, no right of Pl's. violated, therefore Pl. not entitled to damages, even though his property may have depreciated in value as consequence of sale.
- 532.10. *Carmichael v. Christenson, and Village of Maywood.* (Chic. Super. Ct.) Pls.-Negro family moved into newlyconstructed home in Chicago suburb. Def.-Village officials refused to provide water for construction purposes, continued refusal after Pls. moved in. Nov. 13, 1957: Pls. sued for injunctive relief. Nov. 14: Super. Ct. *ordered* Defs. to supply water to Pls. until disposition of case on merits.
- And see *Teverbaugh*, 551.Cal4.

540. Transportation

541. Interstate

542. Intrastate

- 542.3. *Flemming v. S. Carolina Electric and Gas Co.* (CA 4.)*
- 542.4. *Evers, et al. v. Dwyer, Comm'r. of Public Service of City of Memphis, et al.* (WD Tenn., Civ. #2903.) For facts, see II DOCKET 28. Jan. 7: heard and submitted.
- 542.5a. *Garmon, et al. v. Miami Transit Co., Inc., et al.* (CA 5.) For facts, see II DOCKET 48. Defs'. appeal from DC holding that bus segregation ordinances

unconstitutional, pending.

G. E. Graves, Jr., Esq., 802 NW 2d Ave, Edwin Davis, Esq., 941 NW 2d Ave., both of Miami; F. Malcolm Cunningham, Esq., 500 Rosemary Ave., West Palm Beach, Fla.

- 542.7. *Virginia v. Ritter*. (Richmond Hustings Ct.)*
- 542.7. *Inter-Civic Council of Tallahassee, Inc., et al. v. City of Tallahassee*. (Cir. Ct., Leon Co., Law #8502.)*
- 542.8. *Georgia v. Rev. Borders, et al.* (Ala. Crim. Ct.)*
- 542.9. *Morrison v. Davis*. (CA 5, #16,886.) Pls.-Negros sought injunctive relief against enforcement of laws requiring segregated seating on New Orleans local buses. May 24, 1957: DC decided *for* Pls., *held* statutes unconstitutional. Jan. 16: heard and submitted to CA 5.
A. P. Tureaud, Esq., 1821 Orleans Ave., New Orleans.
- 542.10. *Simpkins v. Mayor Gardner, et al.* (WD La., Shreveport Div.) Dec. 16, 1957: Pls.-Negroes brought class action seeking injunctive relief from enforcement of La. laws requiring segregated seating on streetcars and buses in Shreveport. Pending.
- 542.11. *City of Montgomery v. Rev. Pleasure*. (Ala. Cir. Ct.) Def.-Negro exec. secy. of Montgomery Improvement Assn. convicted of disorderly conduct for refusing to give up seat beside white woman in taxi carrying passengers from airport. Appeal pending.

550. Miscellaneous Facilities

551. Recreational

- 551.Ala1. *Thomas, et al. v. Lanier, Bessemer City Bd. of Commrs., et al.* (DC Ala., Birmingham, #8818.) Pls.-Negroes sought injunctive relief requiring Def.-city officials to integrate city recreational facilities. Jan. 14: DC *dismissed* suit under *settlement* providing: Def.-City to construct swimming pool and bath house for Negroes ready for use June 1; City to develop Negro park until it has facilities equal to those in City's white park.
David H. Hood, Jr., Esq., 2001 Carolina Ave., Bessemer, Ala.
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- 511.Cal1. *McClain, by guardian ad litem v. City of S. Pasadena*. (Calif. Dist. Ct. of App., 2d Dist.) (155 ACA 483.) For facts, see II DOCKET 28. Dec. 1957: Ct. of App. *affirmed* decision for Def.
- 551.Cal3. *Peoples, et ano. v. Club Primadonna, et al.* (Super. Ct., San Francisco.) Def.-Co. advertises in city newspapers it will provide transportation to Reno and back by plane, train, bus. Pls. obtained reservations for trip in plane chartered by Defs. Sept. 8, 1957: Defs. refused to permit Pls. to board plane. Suit for \$50,000 damages. Issues: whether plane "place of public accommodation" under Calif. Civil Rights Act, Secs. 51, 52. Defs.' demurrer pending.
Edward S. Grogan, Esq., 1440 Broadway, Oakland.
- 551.Cal4. *Teverbaugh, et al. v. El Rey Trailer Parks, et al.* (San Diego Co. Super.

Ct., #215911.) Pl.-Negro Sergeant in Marine Corps denied accommodations for their trailer in each of 6 trailer parks. Suit for damages under Calif. Civil Code, secs. 51, 52, re "public accommodations"; trailers not listed specifically in statute. Feb. 10: Ct. *held* for Pls., under stipulation, as to 5 Defs.; *judgment* for \$1100. Trial date against sixth Def. Co. to be set.

Gostin, Katz and Porter, Esqs., 239 W. Broadway, San Diego.

551.Fla2. *Moorhead, et al. v. City of Fort Lauderdale.* (SD Fla., #6820-M-Civ.)*

551.Ill. See *Chicago v. Corney, et al.*, 51.1, III DOCKET 2, 22.

551.Fla3. *Ward, et al. v. City of Miami.* (SD Fla., #6821-M-Civ.)*

551.La1. *Detiege v. New Orleans City Park Improvement Assn.* (CA 5.) Pl.-Negro sought test of constitutionality of all La. laws denying equal use of city park facilities. May 27, 1957: DC *held* statutes unconstitutional under equal protection and due process clauses, Fourteenth Amendment. Feb. 13: CA *affirmed*.

A. P. Tureaud, Esq., 1821 Orleans Ave., for N. A. A. C. P. Legal Defense & Educ. Fund, 1821 Orleans Ave., New Orleans.

551.Mich1. *Bishop, et al. v. Hotels Statler Co., Inc., et al.* (ED Mich. S. Div., #16801.) For facts, see III DOCKET 18. Feb. 10: Defs'. motion to transfer case to Dallas heard and submitted.

551.NY2. *Re Green Witch Club.* (NY Nassau Co., Sup. Ct., Mineola.)*

551.NC1. *North Carolina v. Simkins, et al.* (N. C. Sup. Ct.) For facts, see II DOCKET 28, 63, III DOCKET 18. Criminal case: June 11, 1957: N. C. Sup. Ct. *reversed* convictions on technical ground without prejudice to new trial on proper warrants.

William A. Marsh, Jr., Esq., Box 125 and C. O. Pearson, Esq., Box 1428, both of Durham, N. C.; J. Kenneth Lee, Esq., Box 645 and Major S. High, Esq., Box 1196, both of Greensboro, N. C.

551.Va2. *Holley, et al. v. City of Portsmouth.* (ED Va.)*

552. Others

552.Cal2. *Lambert v. Mandel's of California.* (Los Angeles Super. Ct., App. Dept.) Pl.-Negro refused service in Def.-shoe store because of race. Dec. 13: Ct. *held* shoe stores included in term "other places of public accommodation" in Calif. Civil Rights Act, held *for Pl.* in damage suit.

Samuel C. McMorris, Esq., Los Angeles.

552.Mich1. *Russau, et ano. v. Restlawn Memorial Park Corp., et al.* (Grand Rapids Super. Ct., Law #5279.)*

552.Va1. *Bissell v. Virginia.* (Va. Ct. of App.)*

552.Va2. *State of Virginia v. Taylor.* (Arlington Co. Cir. Ct.) Def.-Negro *found* guilty, fined \$20 for sitting in section reserved for whites at political meeting. Jan. 13: Cir. Ct. *reversed, held* state segregated seating law unconstitutional under due process clause in Fedl. and state constitutions. David Carliner, Esq., Warner Bldg., Washington, D. C.

560. Family Matters

561. Marriage and divorce

562. Adoption

563. Custody

563.5. *Ondrejka v. Ondrejka*. (Wis. Sup. Ct.)*

564. Miscellaneous

570. Employment

571. Racial discrimination

Law review article:

Robert G. Meiners, Fair Employment Practices Legislation, 62 Dickinson Law Rev. 31-69 (Oct. 1957).

571.1. *Brooks, et al. v. School Dist. of Moberly, et al.* (ED Mo., #551.)*

571.2. *Dixon, et al. v. Barrows, et al.* (Mo. Cir. Ct., 13th Jud. Dist., #213220, Div. 5.)*

571.3. *Wise v. Gasaway, et al.* (ED Ark., Civ. #2736.)*

571.4. *Jeanpierre v. State Commission Against Discrimination*. (NY Sup. Ct., App. Div., 1st Dept.)*

571.8. *Franklin v. Trans World Airlines*. (NY State Comm. Against Discrimination.) For facts, see II DOCKET 82, III DOCKET 19. Feb. 10: new management of TWA pledged to hire Negro stewardess before date of adjourned SCAD hearing, May 12.

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571.9. *Oliphant, et al. v. Bro. Locomotive Firemen and Enginemen, et al.* (CA 6.) For facts, see II DOCKET 82, III DOCKET 19. Appeal pending.

571.10. *Richardson, et al. v. Texas and New Orleans Rr. Co., et al.* (DC Tex., Houston.)*

571.13. *Gaines v. Davis, Co. Probation Officer*. (Contra Costa Co. Super. Ct.)*

571.14. *Re Checker Cab Co.* (Mich. Fair Employment Practices Comm.) For facts, see III DOCKET 19. After hearing opened, consent *agreement reached* through conciliation. Cab. Co. has now hired approximately 20 Negro drivers, including 2 of complainants. Case closed.

571.15. *Conley, et al. v. Gibson, Bro. of Railway and Steamship Clerks*. (U.S.S.C., #7.) (138 F. Supp. 60, 229 F. 2d 436.) 1954: Tex. and New Orleans Railroad discharged or demoted 45 Negro workers, not actually abolishing jobs, but replacing with white workers. Def.-Union, bargaining agent covering Negro workers under Railway Labor Act, did nothing to protect Negro workers from discriminatory discharges, or to represent Negro workers generally. Pls.-Negro workers sought declaratory judgment and injunctive relief. DC *granted* Def's. motion to dismiss, *held* Congress had given Adjustment Bd. exclusive jurisdiction over such controversy. CA 5 *affirmed*. Nov. 18, 1957: U.S.S.C. unanimously *reversed*, Black, J.: 1) Adjustment Bd. has no power here; 2) Railroad not indispensable party; 3) complaint set forth claim.

Joseph C. Waddy, Esq., Washington, D. C.

- 571.16. *Goshorn v. Bar Assn. of District of Columbia.* (DC DC, Civ. #2393-56.) Pl.-Bar Assn. by-laws restrict membership to white persons. Amendment requires $\frac{2}{3}$ vote. May 8, 1956: chairman ruled voice vote showed necessary $\frac{2}{3}$ for change to admit Negroes. Pl.-Assn. sued to invalidate chairman's decision. June 7, 1957: DC *held for* Pl.-Assn.

Alfred F. Goshorn, Esq., 426 Fifth St., NW, Washington, D. C.

580. Civil Actions under Civil Rights Law Not Otherwise Covered

Law review note:

Federal jurisdiction—exhaustion of state remedies as prerequisite to invoking jurisdiction of Federal court under Civil Rights Act, 14 Wash. and Lee Law Rev. 266-273.

- 580.1. *Tynes v. Gojas.* (Muni. Ct. of App., D. C.) Pl. brought action for wilful tort, alleging Def. proprietor of combination restaurant and bar refused to allow him to dance with member of another race. Muni. Ct. *granted* motion to dismiss. Issue: does D. C. anti-discrimination law give rise to private right of action, as well as create misdemeanor? Appeal pending.

O. E. Stone, Esq., 1225 Vermont Ave., Washington, D. C.

590. Criminal Prosecutions under Civil Rights Law