Civic and Political Status

CIVIL LIBERTIES

The period from September 1956 to September 1957 saw a continuation of the trend, already clearly visible in the previous year, toward a more liberal interpretation of traditional rights. This was most evident in the decisions of the courts. These did not, on the whole, enunciate new principles of significance. But the courts applied established doctrines in areas where they had previously been largely ignored; they required the government to adhere to more rigid standards of proof in some fields than had been customary in the recent past; and they limited the effects of legislation by construing it strictly.

Administrative action showed a similar tendency, although in a less marked degree. To some extent—notably in the security and passport fields—this was largely a response to earlier court decisions. The decrease in the number of prosecutions initiated under anti-Communist legislation, and the dropping of some already begun, were probably primarily due to the same cause. But there were also some modifications, more often in practice than in formal policy, which appeared to reflect some change in the attitude of the executive. In the legislative field, the most notable development was a continued tendency toward caution in the adoption of new restrictive measures: none of the recommendations for legislation of this type advanced by congressional committees and other governmental sources were written into law during 1956–57.

As in other recent years, many of the major issues in the field of civil liberties arose in connection with Communists, persons suspected of being Communists, and persons accused of connections with Communist groups. But the bases on which court cases were decided were usually of much wider application. Moreover, a number of important problems arose out of the struggle over integration, the exposure of racketeering in some labor organizations, and other matters not connected with Communism.

Security Programs

Congress took no action on any of the proposals to nullify the Supreme Court's decision in the Cole case (see American Jewish Year Book, 1957 [Vol. 58], p. 83-84) by legislation establishing a new loyalty-security program for nonsensitive positions. Hence these remained subject only to normal civil service regulations. This meant that it was still possible to dismiss an employee from a nonsensitive position—and in most cases with rather less protection for his rights than existed under the loyalty-security program—but he could not be labeled as a "risk." Whether he was dismissed for Com-
munism or incompetence, the procedure was now the same. And there was no longer any effort to search out derogatory information in regard to the associations and activities of employees in nonsensitive positions. The government also decided not to appeal the action of the Ninth Circuit Court of Appeals, ordering the restoration of sailing papers without previous re-screening by the Coast Guard to some two thousand seamen who had previously been ruled security risks under the procedures outlawed by Parker v. Lester (see American Jewish Year Book, 1957 [Vol. 58], p. 85).

The industrial security program continued in effect. Some of the worst abuses appeared to have been eliminated by the establishment of a Defense Department personnel security office in July 1955. The Defense Department reported that in the first year of the new program's operation, 270 persons had been cleared, out of 418 for whom the three services had recommended that clearance be denied. One case in which the Defense Department's Personnel Security Review Board overruled an adverse recommendation by the Navy Department was that of Daniel Lenihan, an employee of the Sperry Gyroscope Company. He had been dismissed on January 27, 1954, and was reinstated in November 1956. The charges against him were never made public, but his attorney and Congress of Industrial Organization (CIO) representatives suggested that Lenihan's dismissal was due to his former membership in a Trotskyite group, and to his refusal to act as an undercover informant for the Federal Bureau of Investigation (FBI).

While the new industrial security clearance system appeared to be a definite improvement on the old one, there were still cases which raised serious questions as to the standards applied. Thus, in June 1957 Robert Webb, an employee of the Radio Corporation of America, went into court to challenge the hearing procedures; he had already been denied security clearance before the hearing. The statement of charges presented to him by the Defense Department asserted:

Information available to the screening board of the Defense Department reveals that you are maintaining a close continuing association, even though separated by distance, with your mother, who has engaged in Communist activities, who has had and still has a sympathetic interest in Communism, and has been or who still may be a member of the Communist Party. Even though you and your mother are separated by distance, circumstances indicate a renewal of the association is probable.

The armed forces continued to insist on their right to condition the type of discharge given a draftee on his political activities both prior to induction and during the seven years in which, after completing his military service, he nominally remained in the inactive reserve. In December 1957 the right of the government to exercise this form of control over the civilian activities of draftees was before the United States Supreme Court in the case of Harmon v. Brucker.

In Service v. Dulles the Supreme Court ordered the reinstatement of John Stewart Service on the ground that his dismissal on security grounds by former Secretary of State Dean Acheson had involved a violation of the pro-

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177 S. Ct. 1152.
cedures which the Department of State had itself established, and therefore constituted a violation of due process. The Service case had no bearing on the loyalty-security program as a whole, since Acheson had discharged Service under a special provision—no longer in force—giving the secretary of state an absolute right of dismissal.

Wright Report

The long-awaited report of the Commission on Government Security, under the chairmanship of Lloyd Wright, was published on June 24, 1957. The commission recommended certain procedural changes—notably the establishment of a central security office and a training program for security personnel, and the substitution of professional trial examiners for the present system of hearing boards. Dudley B. Bonsal, chairman of the special committee of the Association of the Bar of the City of New York which had prepared an exhaustive report on the various security programs a year earlier, criticized the Wright report for the hearing procedures it recommended, and for not proposing an adequate screening procedure to eliminate unwarranted charges (The New York Times, July 14, 1957).

The Wright report also proposed the reestablishment of a security program for nonsensitive positions, the extension of security procedures to employees of the legislative and judicial branches of the government, and the establishment of a new security program for civil air transport. Of these proposals, which were diametrically opposed to those of the bar association committee (see American Jewish Year Book, 1957 [Vol. 58], p. 84-86), Bonsal wrote: "If the programs were limited rather than extended, they would not only be more tolerable to our people but would be more effective in protecting our national security."

Perhaps the feature of the Wright report which aroused the sharpest criticism was the proposal that any person who knowingly published classified information should be subject to criminal penalties. Most newspapers felt that this represented a serious threat to the freedom of the press, in view of the extent to which secrecy classifications were used on material which had no noticeable relation to national security. James Reston (The New York Times, June 25, 1957) pointed out that the Teapot Dome and Dixon-Yates disclosures had involved the unauthorized publication of "secret" documents. Wright did not win any significant support when, in defense of his recommendations, he released a statement listing fifteen instances of the publication of classified information "seriously affecting the national security." Since his examples involved several of the leading newspapers and magazines of the country, and journalists generally regarded the information concerned as properly belonging to the public, his statement only confirmed the opposition of the press. The reception of Wright's proposals probably suffered also from the fact that the report appeared during the court-martial of Colonel John C. Nickerson, Jr., for revealing classified information on what he considered to be mistakes in the country's policies on the development of guided missiles. In the course of the Nickerson court-martial, the Army's chief missile expert, Wernher von Braun, testified on June 26, 1957, that
Army security policies were so strict that they actually impeded the national security. Meanwhile the House Subcommittee on Government Information, under the chairmanship of Representative John E. Moss (Dem., Calif.), continued to batter at the walls of excessive secrecy. Its activities, and the protests of the press, were probably responsible for the Commerce Department’s announcement on June 26, 1957, that it was abolishing its Office of Strategic Information. This office had been charged with attempting to censor unclassified information.

JENCKS CASE

The issue of official secrecy was also involved in the Supreme Court’s decision in the case of Clinton E. Jencks handed down on June 4, 1957. Jencks had been convicted of filing a false non-Communist affidavit under the Taft-Hartley Act. The principal witnesses against him had been Harvey Matusow and J. W. Ford, both of whom had been paid Federal Bureau of Investigation (FBI) informants within the Communist Party. The trial judge had denied a defense motion for the production and inspection of the reports submitted by Matusow and Ford to the FBI, so that these might be used on cross-examination to impeach their testimony. The court held that Jencks had been entitled to an order to the government to produce “all reports of Matusow and Ford in its possession . . . written and, when orally made, as recorded by the FBI touching the events and activities as to which they testified at the trial.” It also held that the documents must be submitted to the defense, without previous selection by the trial judge. The court declared:

Because only the defense is adequately equipped to determine the effective use for purposes of discrediting the government’s witness and thereby furthering the accused’s defense, the defense must initially be entitled to see them to determine what use may be made of them. Justice requires no less. The practice of producing Government documents to the trial judge for his determination of relevancy and materiality, without hearing the accused, is disapproved. Relevancy and materiality for the purposes of production and inspection, with a view to use on cross-examination, are established when the reports are shown to relate to the testimony of the witness.

In reply to the claim that the production of the documents in question would be deleterious to the public interest, the court declared that, while the government might claim privilege in respect to the production of documents in a case between third parties, the privilege was forfeited when the government elected to initiate a criminal prosecution. The decision did not appear to enunciate any new or startling principles; it merely established as a general rule what had until recently been the normal practice of the Federal courts. The court carefully limited its ruling to documents bearing on testimony given in court, and made it clear that it was not authorizing “any broad or blind fishing expedition.” Justice Harold Burton, in a separate

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concurring opinion, upheld the reversal because he felt that the trial judge's charge to the jury on the definitions of "membership" and "affiliation" had been incorrect. But he held that examination of the documents by the trial judge, rather than the defense, would have been the proper procedure. The sole dissenter was Justice Tom Clark, who declared:

Unless the Congress changes the rule announced by the Court today, those intelligence agencies of our government engaged in law enforcement may as well close up shop, for the court has opened their files to the criminal, and thus afforded him a Roman holiday for rummaging through confidential information as well as vital national secrets.

Some legislators and publicists promptly took Justice Clark's position, but others found difficulty in recognizing the majority decision in his description. Under pressure from the administration, Congress eventually passed legislation providing that the government would only be required to produce reports if they contained "substantially verbatim" reproductions of the witnesses' statements, thus apparently exempting FBI summaries, and then only after the witnesses had testified in court; this relieved the government of any necessity of giving notice as to the witnesses it would call, or the subject of their testimony, while sharply limiting the opportunity for the defense to prepare its cross-examination on the basis of the documents. It remained to be seen whether the courts would regard this limited access as satisfying the requirements of due process. This bill, signed by President Dwight D. Eisenhower on September 3, 1957, was the only major Federal legislation in the field of civil liberties during the year, except for the Civil Rights Act (see p. 43).

The government decided not to retry Jencks, since the recantation of its principal witness, Harvey Matusow, had in the interim made a conviction on retrial highly problematical. (On September 26, 1956, Matusow was sentenced to five years imprisonment for perjury—not for his testimony on behalf of the government in various cases, which he asserted had been perjurious, but for claiming that he had lied at the suggestion of Roy M. Cohn, then an official of the Department of Justice.) In a number of other cases convictions were subsequently reversed, either on the initiative of the courts or at the request of the government, because the trial procedure had not met the requirements established by the decision in the Jencks case. Among the cases in this category were those of Claude Lightfoot and Junius Scales, the first two persons to be convicted under the membership section of the Smith Act. Their cases had been expected to furnish a test of the constitutionality of that provision, but before the United States Supreme Court could act on them, the government requested that they be returned for new trials on the basis of the Jencks decision.

The Supreme Court had earlier reversed the conviction of Ben Gold of the United Fur and Leather Workers Union for filing a false affidavit under the Taft-Hartley act; this case had no general significance, since reversal was based on the fact that the FBI had investigated members of the jury in connection with another case while the trial was in progress. And in two uni-

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mous opinions the court held that the filing of false non-Communist affidavits by union officers did not—even if the union members knew the affidavits to be false—deprive the union of any of its rights under the Taft-Hartley Act.

SMITH ACT CASES

In two cases the Supreme Court reversed convictions under the Smith Act. On October 10, 1956, the court reversed the conviction of Stephen Mesarosh (Steve Nelson) and four other Communist leaders on the ground that the testimony of an FBI informant, Joseph Mazzei, "has poisoned the water in the reservoir and the reservoir cannot be cleansed without first draining it of all impurity." The government had asked the court to remand the case to the trial judge for an evaluation of Mazzei's testimony, stating that while it believed his testimony in the current case to be truthful, his testimony elsewhere had made his credibility suspect.

In the second and more important Smith Act case, the court on June 17, 1957, directed the acquittal of five California Communist leaders, and ordered a new trial for nine others. The reversal was based on two main grounds. The more important of these was that the judge's charge to the jury—as contrasted with that of Judge Harold Medina in the Dennis case—had made it appear that advocacy of the doctrine of forcible overthrow of the government was sufficient ground for conviction. The court held that it was necessary for the prosecution to prove that the defendants had advocated specific actions leading to the violent overthrow of the government, even if at some distant time. This significantly restricted the effect of the decision in the Dennis case. The court also held that the term "organize" in the Smith Act should be interpreted as applying only to the initial organization of a subversive group, rather than to its continued administration, and that the counts charging the defendants with "organizing" had therefore been improperly included in the indictment. This part of the decision, of course, involved no constitutional issue, and Congress remained free to extend the meaning of the word if it felt that the court had misinterpreted its intentions. Justice Clark dissented from the decision as a whole, and Justice Burton from the court's interpretation of "organize." Justice Clark was especially critical of the court's action in weighing the evidence and ordering the acquittal of five defendants on the ground that the evidence against them was clearly inadequate to justify a conviction. The court's action in this respect seemed, however, to have made no real difference; on weighing the evidence available to it, the Department of Justice decided not to retry the nine others either, since it felt that it lacked adequate proof under the standards which the court had set. While a number of Smith Act cases remained before the courts, it seemed likely that the difficulty of obtaining proof meeting the requirements of the Yates decision would lead to a sharp drop in prosecutions.

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In another case, the court reversed the convictions of three persons charged with hiding a fugitive Communist leader after his Smith Act conviction, on the ground that the FBI had illegally searched the defendants' cabin without a warrant, seizing its contents, and that articles thus seized had been offered in evidence at the trial.

Congressional Investigations

In the cases of John Watkins (see AMERICAN JEWISH YEAR BOOK, 1957 [Vol. 58], p. 88) and Paul Sweezy, the Supreme Court ruled on Congressional and state investigative powers. In the first of these cases, it held that the area which a Congressional committee was to investigate must be clearly delineated by the Senate or House, that the committee could compel the testimony of witnesses only on matters relevant to a legislative purpose, and not solely for purposes of exposure, and that it must be prepared to indicate the relevance of a question to a witness who challenged it. The court declared that it would be difficult to imagine a less explicit resolution than that authorizing the House Un-American Activities Committee, whose questions as to the Communist affiliations of others Watkins had refused to answer. The court therefore held that Watkins was "not afforded a fair opportunity to determine whether he was within his rights in refusing to answer," and reversed his conviction for contempt. While recognizing that the courts could not dictate to Congress in regard to its procedures, the decision held that the requirements of due process must govern the actions of Congress, if it wished to invoke the aid of the courts to enforce them. The effect of the Watkins case was to make it necessary for Congress either to establish committees and conduct investigations carefully and in accordance with clearly outlined legislative purposes, or to undertake to enforce its own decisions without the aid of the courts. (Such direct Congressional punishment for contempt had been the customary procedure in the early days of the republic, and still was in the British Parliament; it was not, however, suitable to the mass punishment of contumacious witnesses.) While compliance with the Watkins decision might involve a certain amount of care, and hinder the activities of committee chairmen accustomed to operating altogether without restraint, there seemed no reason to believe that it would significantly limit the effectiveness of Congressional investigative bodies—particularly since little information of significance had ever come from hostile witnesses.

In the case of Paul Sweezy, who had lectured at the University of New Hampshire and subsequently refused to answer questions put to him by the attorney general of New Hampshire, the court raised but did not answer the relative claims of "liberties in the area of academic freedom and political expression" and the right of the state to investigate. Instead, it held that Sweezy's right to due process had been violated because the attorney general had not been authorized by the New Hampshire legislature to ask the questions. The court thus did not decide where the limits of state investigative

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power lay. Justices Burton and Clark dissented. Both the Supreme Court and lower Federal courts subsequently reversed a number of other contempt convictions on the basis of the *Watkins* and *Sweezy* cases.

A number of cases involving the use of the Fifth Amendment, and the interpretation to be placed on it, came before the courts. The most important of these, that of Max Halperin, involved testimony before a grand jury rather than a Congressional committee, but established a general precedent. In this case the court held that Halperin had been improperly convicted, because when he had testified in his own behalf at his trial on corruption charges, the prosecutor had cross-examined him on the fact that, before the grand jury, he had refused on grounds of possible self-incrimination to answer questions on the same matters on which he now asserted his innocence. Justice John M. Harlan's opinion held that, since Halperin had been without counsel before the grand jury, his testimony there could not be used to impeach him. In a concurring opinion, Justices Earl Warren, Hugo L. Black, William J. Brennan, Jr., and William O. Douglas asserted that they could not think of any "special circumstances which would justify the use of a constitutional privilege to discredit or convict a person who asserts it."

On July 15, 1957, the Tenth Circuit Court of Appeals ordered a new trial for Maurice Travis, an official of the International Union of Mine, Mill, and Smelter Workers, who had been convicted of filing a false non-Communist affidavit, because he had been cross-examined at his trial on his use of the Fifth Amendment before the Senate Internal Security Subcommittee.

Both the Senate Internal Security Subcommittee and the House Un-American Activities Committee received a certain amount of publicity as a result of suicides. On March 14, 1957, the Senate group released the transcript of secret testimony by a United States diplomat, John K. Emmerson, in respect to the Canadian ambassador to Egypt, E. Herbert Norman. There was nothing in Emmerson's testimony derogatory to Norman, but at the hearing the committee counsel, Robert Morris, read other matter into the record. This included a paraphrase of what he described as material from "quite a few security reports which have a great deal of information to the effect" that Norman "is a Communist." On March 18 the Canadian Government protested what it described as irresponsible charges which had been investigated and disposed of in 1951. On April 4, Norman committed suicide. The Canadian press and public reacted violently.

The Un-American Activities Committee held televised hearings in San Francisco in June 1957 on Communist "intellectual infiltration" in the Bay area. One of the witnesses called was William K. Sherwood, who had some years earlier been employed by the National Labor Relations Board, and whom testimony at previous committee hearings had linked with the Communist Party. In 1957 Sherwood was a graduate student at Stanford University, doing research in cancer. On June 16, the day before the hearings began, Sherwood killed himself, leaving notes that indicated that he had done so rather than face the prospect of being pilloried before television cameras. On hearing of the incident, House Speaker Sam Rayburn declared that he

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had specifically forbidden all committees of the House to hold televised hearings. When Representative Francis Walter, chairman of the Un-American Activities Committee, insisted on having the hearings televised in spite of Rayburn's instructions, a number of witnesses refused to answer questions on that ground, rather than on any of the more usual ones. The committee had already had another misadventure in California; in December 1956 it had held hearings in Los Angeles which had evoked widespread indignation. Four attorneys had been ejected from the hearings for attempting to defend the interests of their clients in ways of which the committee members did not approve. One member of the committee suggested that state and national bar associations should initiate disbarment proceedings against the lawyers involved. Instead, the Board of Governors of the California Bar Association denounced the committee for denying witnesses the right of counsel and insulting and ejecting the attorneys. (In contrast to the House committee, the Senate Internal Security Subcommittee adjourned its hearing on June 18 to give an attorney for witnesses time to study the Watkins decision.)

One case arising from the Senate investigation of labor racketeering seemed to involve a question of civil liberties. This investigation was initiated by the investigating subcommittee of the Senate Government Operations Committee, under the chairmanship of Senator John McClellan (Dem., Ark.). But a number of those called before the committee challenged its jurisdiction over labor; at the same time, the Senate Labor Committee was preparing plans for a similar investigation. As a result, the Senate decided to set up a special Select Committee on Improper Activities in the Labor and Management Field, also under the chairmanship of Senator McClellan, and drawn from the membership of both the standing committees concerned. A teamster leader, Frank Brewster, refused on the advice of counsel to testify or produce union records before the Government Operations subcommittee, on the ground that the investigation was beyond its authority. He subsequently testified freely before the Select Committee, whose authority he did not question. Nevertheless, Brewster was prosecuted for contempt of Congress on the basis of his initial refusal to answer.

On June 26, 1957, Judge John J. Sirica of the United States District Court for the District of Columbia found Brewster guilty, ruling that his subsequent testimony had not purged him of his original contempt. Judge Sirica held that the Government Operations subcommittee had been fully justified in conducting the investigation, because the Taft-Hartley Act required labor unions to file financial statements with the Department of Labor; the "adequacy and accuracy" of these reports thus came within the scope of "government operations." This ruling appeared to give a much broader scope to the committee's investigative powers than these would have appeared to have under a number of recent decisions relating to its activities under the chairmanship of the late Senator Joseph McCarthy (Rep., Wis.). And the action of the government in carrying through a contempt proceeding against a witness who had already testified in full, when interrogated by a committee whose authority was clear, seemed likely to establish an uncomfortable precedent.

Another case which seemed to many to pose a threat to civil liberties arose
in connection with a New York State legislative investigation into the circumstances surrounding the parole of Joseph Lanza. While Lanza was held in the Westchester County jail, the prison authorities secretly made tape recordings of conversations between him and his visitors, including his attorney. These recordings came into the possession of the New York State Joint Legislative Committee on Government Operations, which was conducting the parole investigation. Lanza sued for an injunction to prevent the committee from disclosing the recorded conversations, on the ground that they were confidential and had been illegally obtained. By a 4-3 majority, the New York State Court of Appeals ruled on May 24, 1957, that there was no basis for an injunction.

For the majority, Judge Charles W. Froessl held that while the interference with Lanza's right to confer privately with his counsel would have been adequate ground for reversing any conviction, there had actually been no trial, present or prospective. Hence he held that Lanza's constitutional rights had not in fact been violated; moreover, he said, the court had no authority to interfere with the legislature. But Judges Charles S. Desmond and Stanley H. Fuld, in their dissenting opinions, stressed that whether or not the court could enjoin a legislative committee, it could certainly enjoin the legislators and their counsel as individuals from illegal acts. Justice Fuld also emphasized that it was not just a case of ordinary eavesdropping, but that the state had actually invited Lanza to confer with his attorney in the facilities provided, and had then surreptitiously recorded the conversations between them. And in his separate dissent, Judge Marvin R. Dye held that, although a conversation in the presence of a third person was not privileged, an electronic device was "not a third person in any sense of the word." (Lanza v. N. Y. State Joint Leg. Com., 3 N. Y. 2d 92, May 24, 1957.)

Military Trials

On June 10, 1957, the United States Supreme Court reversed its 5-3 decision of June 10, 1956, in the cases of Clarice B. Covert and Dorothy Krueger Smith, convicted by courts-martial of murdering their soldier husbands overseas (see AMERICAN JEWISH YEAR BOOK, 1957 [Vol. 58], p. 83-84). In 1956 Justices Earl Warren, William O. Douglas, and Hugo L. Black had dissented from the majority view that Congress had the power to subject civilian dependents of servicemen and civilian personnel employed by the armed forces overseas to the jurisdiction of military courts, as it had tried to do in the Uniform Code of Military Justice. In 1957, when the court reconsidered the case, Justices Warren, Douglas, and Black were joined by Justice Felix Frankfurter, who had reserved decision in 1956; Justice William J. Brennan, who had replaced Justice Sherman Minton, a member of the previous majority who had since retired; and Justice John Marshall Harlan, who reversed his previous position. Justices Harold H. Burton and Tom C. Clark dissented. For himself and Justices Warren, Douglas, and Brennan, Justice Black wrote:

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12 Reich v. Covert, 77 Sup. Ct. 1222.
When the Government reaches out to punish a citizen who is abroad, the shield which the Bill of Rights and other parts of the Constitution provide to protect his life and liberty should not be stripped away just because he happens to be in another land. This is not a novel concept. To the contrary, it is as old as government. It was recognized long before Paul successfully invoked his right as a Roman citizen to be tried in strict accordance with Roman law.

He held that Congress could, if it so wished, extend the jurisdiction of the civil courts to cases such as those before the court. Justices Frankfurter and Harlan limited their concurrence to the case of crimes, such as those before the court, which might be punished by death; on other cases they did not commit themselves. However, since the constitutional provisions involved applied equally to "capital and other infamous crimes," it seemed likely that the government would assume that the court would decide similarly in any case involving a felony, and would not attempt to subject civilian defendants in such cases to military courts.

**Girard Case**

The Supreme Court also decided an indirectly related question in the widely publicized case of William S. Girard, an American soldier on duty in Japan. Girard had killed a Japanese woman while he was on duty, and the United States had agreed that he should be tried by a Japanese court, since Japan denied that he had acted in performance of his duty. Under an administrative Status of Forces agreement between the United States and Japan, American authorities in Japan had consulted with Washington, and at the direction of the Defense Department had waived jurisdiction. Lawyers acting on Girard's behalf had obtained an injunction in Federal District Court forbidding the Defense Department to transfer Girard to Japanese custody. The issue was certified directly to the Supreme Court, which heard arguments on July 8, 1957, and on July 11 ruled unanimously that the Status of Forces Agreement was valid—and that if it had not existed, Japan would in any case have had jurisdiction. For, said the court: "A sovereign nation has exclusive jurisdiction to punish offenses against its laws committed within its borders, unless it expressly or impliedly consents to surrender its jurisdiction." The Girard case made it clear that the Covert case created no vacuum in respect to the punishment of crimes committed by civilian dependents and employees of the armed forces overseas; pending action by Congress to subject such persons to United States civil courts, the government was free to permit their trial in the courts of the nations where the crimes had been committed.

**Other Federal Cases**

In several cases, the Supreme Court applied and thereby clarified principles which it had already asserted on various previous occasions. The most widely publicized of these was that of Caryl Chessman, whose case had been before the courts on various appeals since 1948, when he had been con-


14 *Chessman v. Teets, 77 Sup. Ct. 1127.*
victed in California on a charge of attempted rape and kidnapping, and sentenced to death. The court ruled on June 10, 1957, that Chesman had not had a proper hearing, because neither he nor his attorney had been present when a Federal court ruled on his challenge of the correctness of the trial record on the basis of which his appeals had been rejected. (The original court stenographer had died before completing the transcription of his notes, and the task had been completed by an uncle by marriage of the deputy district attorney in charge of the case.) For the five justices in the majority, Justice Harlan wrote:

We must be deaf to all suggestions that a valid appeal to the Constitution, even by a guilty man, comes too late, because courts, including this court, were not earlier able to enforce what the Constitution demands. The proponent before the court is not the petitioner, but the Constitution of the United States.

On the same day the court ruled unanimously, in the case of a Teamsters' Union official, Joseph Curcio, that a witness before a grand jury could not be required to answer questions as to the location of records in his custody, if he pleaded possible self-incrimination—although he could still be required to produce the records in question in response to a subpoena. In a narcotics case the court held, with only Justice Clark dissenting, that the government must furnish the identity of a confidential informant when the latter was the only person other than the defendant who was supposed to have participated in the crime. For the majority, Justice Burton wrote: "Where the disclosure of an informer's identity . . . is relevant and helpful to the defense of an accused, or is essential to a fair determination of a cause, the privilege must give way." In a District of Columbia case and a state case, the court reversed the convictions of defendants who had been sentenced to death on the basis of confessions obtained while the police had held them incommunicado for several days prior to arraignment.

Deportation

Two Supreme Court decisions circumscribed the operation of the provisions of the McCarran-Walter Act relating to persons against whom deportation orders had been issued, but whose deportation had not yet been feasible. (In general, this occurred when the country of the individual's origin refused to accept him, and he was unable to secure admittance elsewhere.) In one case, it held that the power of the attorney general to require the alien to give information under oath was limited to matters relating to his availability for deportation, although the law referred to "nationality, circumstances, habits, associations, and activities, and such other information whether or not related to the foregoing." On this basis the government had

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18 Fikes v. Alabama, 77 Sup. Ct. 281.
sought to compel answers in regard to Witkovich's Communist connections. But for the majority of the court Justice Frankfurter held that since the law would be of doubtful constitutionality if Congress had meant what it said, the meaning of the language must be restricted in order to save the law. Justices Burton and Clark dissented. In another case,\(^{20}\) the same majority held that the attorney general did not have power to subject an alien awaiting deportation to regulations intended to keep him from Communist activity and associations.

**Passports**

No cases relating to passports were decided by the Supreme Court during its term which began in October 1956. It seemed likely, however, that it would be called on to review a 5-3 decision of the Court of Appeals for the District of Columbia, handed down on June 27, 1957, which upheld the refusal of the Department of State to grant passports to Rockwell Kent and Walter Briehl because of their refusal to sign non-Communist affidavits. The same court ruled, on July 3, 1957, that the State Department must reconsider its denial of a passport to Donald Ogden Stewart, who had filed an affidavit denying any Communist connections within fifteen years, but had refused to say whether he had been a Communist at some previous period. The government decided not to appeal this case, and Stewart eventually received his passport.

A major controversy over the question of passports to Communist China had still not received any final decision at the time of writing (December 1957), although the position of the State Department had become considerably less rigid. The issue became acute when the Chinese government offered to admit a number of American correspondents, and the State Department refused to grant them passports. In December 1956, two correspondents, William Worthy and Edmund Stevens, nevertheless entered China without State Department permission. In December 1956, two correspondents, William Worthy and Edmund Stevens, nevertheless entered China without State Department permission. After Worthy's return to the United States, the State Department rejected his application for a renewal of his passport, because he refused to pledge that he would not again go to any country without State Department permission. Worthy's demand that the State Department be compelled to issue him a new passport was before the courts at the end of 1957.

Meanwhile, the State Department reversed its original refusal to permit any correspondents to go to China, and announced that passports would be validated for representatives of a small group of newspapers, magazines, and news-gathering agencies. It still maintained, however, that it had the power to restrict the issuance of passports to newsmen as an instrument of national policy. The Chinese now refused to issue visas to the reporters whom the State Department's policy had selected.

In another case, the State Department agreed to issue a passport valid for Communist China to Abraham Lincoln Wirin, counsel for John and Sylvia Powell, charged with sedition in the publication of a Communist propaganda organ in Shanghai during the Korean war. Wirin wished to secure

\(^{20}\) *Barton v. Sentner*, 77 Sup. Ct. 1047.
affidavits from Communist Chinese sources as to "germ warfare" and other charges which the Powells had made against the United States in their publication, in order to show that they had acted in good faith in the belief that their statements were true. Judge Leo Goodman, in the Federal District Court in San Francisco, threatened to dismiss the charges unless Wirin received a passport, and the State Department capitulated.

Censorship

The Supreme Court decided a number of cases on censorship during 1956–57, but the permissible bounds of Federal, state, and local action in this field remained vague. In one case, Justice Frankfurter held, for a unanimous court, that a Michigan statute forbidding the possession, publication, or sale of anything "tending to incite minors to violent or depraved or immoral acts" was invalid, because it was unreasonable to restrict the adult population to reading matter fit for children.21

On November 13, 1956, the court refused to review a decision of the Court of Appeals for the District of Columbia forbidding the Post Office Department to stop any mail addressed to persons charged with putting out obscene publications, unless the mail specifically related to those publications; it had been the Department's practice, in such cases, to stop all mail for the parties in question, thus effectively putting them out of business by administrative action.22

But on June 24, 1957, the court upheld the constitutionality of the Federal law against sending obscene matter through the mails,23 and of a California statute making it a crime to write, advertise, or distribute indecent literature.24 Justices Douglas and Black dissented in both cases, and Justice Harlan in the Federal case. For the majority, Justice Brennan declared: "Obscenity is not expression protected by the First Amendment." In his dissent, Justice Douglas charged: "The test of obscenity the Court indorses today gives the censor free range over a vast domain. . . . To allow the state to step in and punish mere speech or publication that the judge or jury thinks has an undesirable impact on thoughts but that is not shown to be part of unlawful action is drastically to curtail the First Amendment." On the basis of its decisions in the Roth and Alberts cases, the court at the same time upheld a Newark ordinance directed against the strip-tease.25

On the same day, by a vote of 5-4, the court upheld a New York law authorizing courts to enjoin distribution of obscene printed matter. Here Justices Douglas and Black were joined in dissent by Justice Brennan and Chief Justice Warren, whose separate concurrence in the other two decisions had criticized their broad scope.26

As usual, most censorship controversies during 1956–57 occurred on a state and local level; often they never reached the courts, or were settled in lower

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courts and not appealed. This was true of a number of incidents involving political censorship. Thus on November 21, 1956, the Dallas Public Library announced that it was eliminating two works of the artist Pablo Picasso from an exhibition in order to avoid "a lot of controversy"—presumably because Picasso was a Communist. On November 20, 1956, the Sewanhaka High School of Floral Park, Long Island, N. Y., canceled a planned lecture by Professor Henry Steele Commager, because he was "too controversial." But on the same day another Long Island community, Levittown, turned down a proposal to establish a veterans' committee to review educational materials used in the schools—though it left in force a previous resolution "inviting" veterans' organizations to set up such a group. And in New York's Westchester County, the School Board of Briarcliff on November 14, 1956, mailed out to every household in the district a letter denouncing the local American Legion post for trying to force cancellation of an experimental course in abstract thinking. (The legion had alleged that the course was the result of the influence of the Fund for the Republic, and objected to the fact that it would receive financial help from the Ford Foundation's Fund for the Advancement of Education.) Numerous other cases of this type, as well as others involving local censorship based on alleged obscenity, occurred during 1956-57.

There were also a number of cases involving private "censorship"—e.g., the demand of a television sponsor that reference to Sacco and Vanzetti be eliminated from a proposed performance of the play *The Male Animal*, and numerous controversies over the rulings of the Motion Picture Code Authority and the Legion of Decency. As in previous years, the United States Information Agency was also charged with censorship on various occasions.

State and Local Action

State and local authorities were also active in other fields than those of censorship. The most significant state and local actions affecting civil liberties occurred in the South, where the integration controversy led to numerous laws and ordinances directed against the National Association for the Advancement of Colored People and similar groups. Thus, Florida, Georgia, Mississippi, South Carolina, Tennessee, and Virginia adopted so-called antibarratry statutes, designed to prevent the NAACP (or any other organization) from sponsoring or supporting suits by individuals to enforce their civil rights. In Alabama, Louisiana, and Texas a similar result was sought through court action under existing statutes. In the Alabama case, attorney general John Patterson, charging that the NAACP had violated the laws governing out-of-state corporations, obtained a temporary injunction on June 1, 1956, prohibiting it from conducting any activities in the state—including action to comply with the law under which the suit was brought. In the course of this case, Judge Walter B. Jones ordered the production of NAACP membership and other records. When the NAACP refused to comply, he levied a fine of $100,000 against it, effective July 30, 1956. He also refused to permit the NAACP to contest the injunction until it did produce the records, so that this "temporary" order was still in effect at the end of 1957. Louisiana obtained a permanent injunction against NAACP activity within the state.
on April 24, 1956, on the ground that it had failed to file annual membership lists, as required by a law of 1950. (On November 26, the State Court of Appeals held this injunction invalid on procedural grounds but did not formally dissolve it.) At the end of 1956, the various branches of the NAACP in Louisiana did file membership lists, and they subsequently continued their activity. In Texas, the state obtained a temporary injunction on October 24, 1956, banning all NAACP activity within the state on various charges, including illegal practice of law and operating without a permit. On May 15, 1957, Judge Otis T. Dunagan, who had issued the temporary ban, replaced it with a permanent injunction under which the NAACP was allowed to operate—but forbidden to institute or finance any court action—if it complied with certain conditions, one of which was keeping its records open for inspection by the state. At the end of 1957, these cases were all being appealed to higher state or Federal courts.

A number of states and localities also attempted to interfere with NAACP activity by passing laws and ordinances requiring all organizations, or all which fell in certain categories carefully defined to include the NAACP, to file membership lists. While these measures were intended primarily to facilitate the victimization of individual NAACP members, they were also capable of being used—and in some cases were used—against other organizations such as unions. Other state laws, e.g., in Mississippi and South Carolina, were designed to facilitate the dismissal of NAACP members from all public employment. A number of cases dealing with the various statutes under these several categories were before the Federal courts at the end of 1957.

A large number of individuals were also victimized either for supporting integration or for being inadequately enthusiastic about segregation. A few cases are worth mentioning because they were unusual in that there was significant local resistance to the action taken.

Thus, on September 17, 1956, the Georgia State Board of Education cut off the state's portion of the salary of Mrs. Colleen M. Wiggins, a teacher who had refused to sign an oath to support segregation, and who had told her class: "I want my little girl to marry whomever she chooses, and his race does not matter to me so much as the type of person he is and whether she loves him truly." But on October 22 the Gwinett County Board of Education announced its refusal to dismiss Mrs. Wiggins despite the state action. And 408 local residents signed a petition supporting her, as compared with 124 who signed a petition against her. In October 1956, when the County Commissioners of Madison County, Fla., forced out a local health officer, Dr. Deborah Coggins, because she had eaten lunch with a Negro nurse, their action was condemned by Florida's Governor Leroy Collins.

In varying degrees, the states continued active against what they regarded as subversion. The Supreme Court's ruling in the Nelson case (see American Jewish Year Book, 1957 [Vol. 58], p. 88-89) prevented any further sedition prosecutions; on November 20, 1956, a court in Louisville, Ky., accordingly dismissed indictments against Carl Braden and six others. But loyalty oaths and security procedures remained a field in which states and localities were free to act. New York City was particularly active in this respect. In December 1957 the city administration had appeals before the courts from a de-
cision of the state commissioner of education that the Feinberg Law did not authorize New York City to dismiss teachers who were former Communists for refusing to inform on others. The city was also appealing various decisions of the State Civil Service Commission banning the dismissal of employees as security risks when they held nonsensitive posts in departments which the commission had designated, in accordance with state law, as "security agencies."

Maurice J. Goldbloom

CIVIL RIGHTS

CIVIL RIGHTS refer to those rights and privileges which are guaranteed by law to each individual, regardless of his membership in any ethnic group: the right to work, to education, to housing, to the use of public accommodations, health and welfare services, and facilities; and the right to live in peace and dignity without discrimination, segregation, or distinction based on race, religion, color, ancestry, national origin, or place of birth. They are the rights which government has the duty to defend and expand.

The two major civil rights events of the period covered by this review (October 1, 1956, through September 30, 1957) were: the enactment by the Congress of the first civil rights legislation in eighty-two years; and the developments in Little Rock, Ark., following the decision of the local school authorities to bow to a Federal district court order and to admit nine Negro children to Central High School in accordance with the desegregation decisions of the United States Supreme Court.1

Civil Rights Act of 1957

Cloture

The opening gun in the battle to enact civil rights legislation during the first session of the Eighty-fifth Congress was fired on November 22, 1956, when six Democratic senators announced their intention to move on January 3, 1957, the opening day of the new Congress, for the Senate to adopt new rules of procedure. This strategy, tried unsuccessfully at the beginning of the Eighty-third Congress, was based on the theory that the Constitution vests in each branch of the national legislature the right to determine the rules by which it shall be governed. The newly elected senators were, therefore, entitled to participate in the formulation and adoption of rules, and general parliamentary procedure was in effect until specific rules were adopted to govern the Senate of the Eighty-fifth Congress. This implied that on the opening day, and before the Senate actually commenced to function under the rules which had governed the preceding session, a majority of the senators present and voting could adopt new rules. These rules could include a

The six Democratic Senators who organized the anti-filibuster fight were: Paul H. Douglas of Illinois, Hubert H. Humphrey of Minnesota, Wayne Morse and Richard L. Neuberger of Oregon, James E. Murray of Montana, and Patrick V. McNamara of Michigan. They were later joined by Democratic Senators Clinton P. Anderson of New Mexico and Joseph S. Clark of Pennsylvania. Three Republican Senators—Irving M. Ives of New York, Clifford P. Case of New Jersey, and Thomas H. Kuchel of California—subsequently announced their support of the anti-filibuster forces.

On January 3, 1957, after the anti-filibuster forces had opened the session with a demand that the Senate adopt rules to govern its conduct and deliberations, Senate Majority Leader Lyndon B. Johnson moved to table the proposal. The next day Senator Humphrey asked Vice President Richard M. Nixon, the presiding officer of the Senate, to decide under what “rule” the Senate was then operating. The Vice President ruled that in his opinion the Senate was a “continuing body” under the Constitution, but that no prior Senate could deny to the membership of a future Senate “the power to exercise its constitutional right to make its own rules.” In effect, the Vice President had voiced the opinion that at the beginning of any Senate session, a majority of the members could accept or reject the rules in operation at the conclusion of the prior session. This ruling indicated how an effective attack could be mounted against the cloture rule, and had a very significant influence upon the subsequent debate in the Senate on the civil rights bill.

Civil Rights Debate

On March 18, 1957, the House Judiciary Committee, under the chairmanship of Representative Emanuel Celler (Dem., N. Y.), favorably reported H.R. 6127, which generally incorporated the civil rights proposals of President Eisenhower. After a determined, but unsuccessful fight by the Southern Representatives to weaken the bill, the House by a 286 to 126 vote on June 18, 1957, passed H.R. 6127 virtually as it had been reported by the Judiciary Committee. As the bill went to the Senate, it provided for the establishment of a six-member commission to investigate alleged violations of voting and other civil rights and to study the need for additional Federal action to protect civil rights. The commission would terminate its operations two years after passage of the law. The bill provided for the appointment of an additional assistant attorney general who would head a civil rights division in the department of justice. Finally, and most important, the bill would authorize the United States attorneys to bring actions in Federal district courts for injunctions to prevent violations of voting and other civil rights. If a court order were secured and ignored, the offender could be punished for civil or criminal contempt of court.2 If the government were a party to

*Civil contempt is invoked by the court for the purpose of securing compliance with the court's decree. The defendant can purge himself by obeying the court order. Criminal contempt is punishment of the defendant for having disobeyed a court decree. He cannot purge himself.
a criminal contempt proceeding, the defendant would be tried by a Federal
district court judge without a jury. It was this last provision that was the
subject of the determined attack by the Southern Representatives. On four
different occasions the House voted down proposals by Southern congress-
men to amend the bill to require jury trials in criminal contempt actions
arising under the proposed civil rights law. Attorney General Herbert
Brownell, Jr., and President Dwight D. Eisenhower voiced their opposition
to such proposals because they would destroy the effectiveness of the bill
and because traditionally, the court is empowered to punish for contempt
without the necessity of empaneling a jury to determine disputed questions
of fact.

On June 20, 1957, under the direction of Senate Minority Leader William
F. Knowland, with a heavy supporting vote from Republican Senators, the
Senate voted by 45 to 39 to place the House-passed civil rights bill on the
calendar. This move avoided the customary procedure of referring such bills
to the Senate Judiciary Committee, because it was then under the chairman-
ship of Senator James O. Eastland (Dem., Miss.), a determined foe of all
civil rights legislation. On July 16 the Senate voted by 71 to 18 to make
H.R. 6127 the pending business of the Senate. Significantly, the two senators
from Texas (Majority Leader Lyndon B. Johnson and Ralph W. Yarborough)
and the two from Tennessee (Estes Kefauver and Albert Gore) deserted their
Southern Democratic colleagues on this vote.

Senator Richard B. Russell (Dem., Ga.), the leader of the Southern op-
position, attacked the bill because it would prohibit interference with the
right to vote “and other civil rights” as a “cunning strategem,” a “force bill”
designed to impose desegregation of the public schools upon the South by
the use of Federal troops. Russell won substantial support in the Senate and
in the nation’s press for his proposal to limit the scope of the bill to the
protection of voting rights alone.

Hardly had the procedural vote been taken to bring the bill up for de-
bate, when Senators Clinton P. Anderson (Dem., N. M.) and George D.
Aiken (Rep., Vt.) moved to amend the bill to strike from its provisions the
feature most adamantly resisted by the Southerners. Their amendment would
have limited the operation of the proposed law to the protection of voting
rights and would have eliminated all provisions to enforce public school
integration or “other civil rights.”

There followed several weeks of floor debate and cloakroom negotiations
between the proponents of the Administration’s moderate civil rights pro-
posals and the Southern block, which was basically opposed to any legislation
in this field. No filibuster, however, was attempted. Agreement was reached
to strike from the bill any reference to the protection of civil rights other
than the right to vote for Federal officers. The Senate also added to the bill
an amendment to repeal a Reconstruction period statute which authorized
the President to use Federal troops to enforce certain specified civil rights
laws. Finally, the Senate voted to require a trial by jury in any action to
punish for criminal contempt of court, whether the statute being enforced
by such contempt order was the Civil Rights Act or any other Federal law.
This amendment, which would have had a devastating effect upon the en-
forcement of a number of Federal statutes, caused the Administration to issue thinly veiled hints that the bill, if it reached the White House in that form, might be vetoed. The Senate passed the bill, as amended, on August 7, 1957, by a vote of 72 to 18.

Since the Senate had made a number of changes in the bill, it had to be returned to the House for concurrence or compromise. Following a series of intricate maneuvers by the majority and minority leaders of both houses, agreement was reached on August 27, 1957, that all of the Senate changes would be accepted by the House except the jury trial amendment. This amendment would be limited to the civil rights bill, and it would be modified to provide that a defendant in a criminal contempt action would be entitled to a jury trial only if the punishment imposed upon conviction exceeded $300 fine or a jail term of forty-five days. As so modified, the House repassed the bill on August 27, 1957, 279 to 97, and referred it back to the Senate for concurrence.

At this point Senator J. Strom Thurmond (Dem., S. C.) secured the floor and conducted a record one-man filibuster for twenty-four hours and eighteen minutes. He received no support from the other Southern Democrats, who feared that the use of the filibuster might result in an amendment of the cloture rule to facilitate the restriction of unlimited debate. Finally, on August 29, 1957, by a 60 to 15 vote, the Senate passed the first civil rights bill in eighty-two years and sent it to the White House for President Eisenhower's signature. The first session of the Eighty-fifth Congress adjourned the following day.

Provisions of Civil Rights Act

On September 9, 1957, the President signed the bill into law. The Civil Rights Act of 1957, as finally passed, was divided into five parts. Part I established a six-member Temporary Commission on Civil Rights, which was required to submit a final report not later than September 9, 1959. The commission was authorized to investigate sworn complaints that citizens had been denied the right to vote because of race, religion or national origin; to "study and collect information" concerning legal developments constituting a denial of the "equal protection of the laws"; and to evaluate the laws and policies of the Federal government concerning "equal protection of the laws."

Part II of the law provided for the appointment of an additional assistant attorney general in the department of justice. Although not expressly stated, it was understood that the new assistant attorney general would be in charge of a civil rights division of equal status with the other divisions of the department.

Part III of the law authorized Federal district courts to entertain law suits brought under the Federal civil rights statutes, and repealed a post-Civil War statute under which the President was authorized to use Federal troops to enforce certain specified civil rights statutes.

Part IV of the law prohibited interference with the right of any person to vote in a Federal primary or general election. More importantly, it provided that the United States attorneys might institute actions in the Federal district
courts to prevent violations of the voting rights protected by the act. Another subdivision of Part IV made it unnecessary to go through a lengthy administrative appeals procedure before invoking the aid of the Federal district courts in typical voting violation cases.

Part V of the law provided that in criminal contempt cases under the Civil Rights Act of 1957, the punishment might be a fine of $1,000 or imprisonment for six months, or both. However, if upon conviction, a fine of more than $300 or a jail sentence of more than forty-five days was imposed, the defendant could demand a new trial at which a jury would determine the facts.

**Education**

With the reopening of the public schools in September 1957, the seventeen Southern and border states and the District of Columbia which had required racial segregation in their public schools prior to May 17, 1954, presented a varied and complex picture. Desegregation was moving ahead with few setbacks in Delaware, Maryland, Missouri, Oklahoma, West Virginia, and the District of Columbia. There was considerable variation in the patterns to be found in such border states as Arkansas, Kentucky, Tennessee, and in Texas in the Southwest. The intransigent eight states, which one year earlier had stood united in their "massive resistance" to and total defiance of desegregation, lost one of their members, North Carolina, which commenced desegregation in three cities. Until Governor Orval E. Faubus of Arkansas ordered the state militia and police to surround Central High School in Little Rock and forceably prevent a group of Negro children from attending the school, it looked as though September 1957 would witness a reasonably quiet return to school in the Southern and border states. Governor Faubus's action, however, introduced a new challenge and a major constitutional crisis into the desegregation picture.

According to the October 1957 issue of *Southern School News*, the official publication of the Southern Education Reporting Service, there were 751 desegregated school districts of 2,985 districts known to have pupils of both races in the seventeen Southern and border states. A summary of the major developments in each of those states and in the District of Columbia follows.

**Alabama**

The public schools and colleges of Alabama began their fall 1957 terms with complete segregation of Negro and white students. On August 20, 1957, nine Negro families petitioned the Birmingham Board of Education to transfer their children to white schools close to their respective homes. Four petitioners subsequently withdrew their names from the petitions. The remaining petitions paved the way for the first legal test of the 1955 Alabama Pupil Assignment Law.

On September 9, when Reverend F. L. Shuttlesworth, a Negro minister and one of the petitioners, escorted his two daughters, Fredricka, 12, and Patricia Ann, 14, to the white Phillips High School, he was set upon and
beaten by a group of men who were apparently awaiting his appearance. No further attempt was made to enroll any Negro children in white schools in Alabama.

The final act in the Authorine Lucy case[^3] took place on January 24, 1957, when Federal district court Judge Hobart Grooms ruled that the board of trustees of the University of Alabama had not acted arbitrarily or on the basis of race or color in expelling Miss Lucy.[^4] Arthur D. Shores of Birmingham, Miss Lucy's attorney, announced on March 26, 1957, that the case would not be pursued further.

**Arkansas**

As September 1957 approached, five Arkansas cities, including the three largest in the state, prepared to join Hoxie, Fayetteville, Charleston, Hot Springs, and Bentonville in desegregating their public schools. At Little Rock, a gradual integration plan, proposed by the school board and upheld by the Federal district court and the United States court of appeals,[^5] contemplated desegregation of the tenth, eleventh, and twelfth grades in September 1957. The school board of Fort Smith, the second largest city, voted unanimously on June 24, 1957, to begin its program of desegregation by enrolling children without regard to race in the first grade in September 1957, and to continue the process by desegregating each subsequent first grade until the whole school system had been integrated. No pupil would be required, however, to attend a school in which his race was in the minority; such a student could elect to go to the school nearest his home in which his race predominated. On June 21 the school board of North Little Rock, the state's third largest city, announced its plans to begin desegregation in September at the twelfth grade level. Provision was made for limited voluntary transferring of students. The board planned to review the results after one year to determine at what speed and at what levels to continue the process.

Van Buren, adjacent to Fort Smith, was under a Federal district court order[^6] to desegregate its high school grades in September 1957, and Ozark had voluntarily undertaken to admit all pupils to its high school without regard to race.

**Little Rock**

In preparation for desegregation of the high school at the beginning of the fall semester, the board of education and the public school authorities of Little Rock had made complete and comprehensive plans. Policy statements were prepared and issued. The superintendent of schools, Virgil T. Blossom, and other school officials met on a number of occasions with parents and teachers, to discuss the moral, educational, and legal aspects of their problem. In fact, the readiness of the community for the contemplated step was evidenced in March 1957 when two pro-integration candidates were...
elected to the school board by a vote of almost two to one over two segregationist candidates.

Pro-segregation spokesmen and groups addressed a number of requests to the school authorities, without success, asking for delay in implementing the desegregation plans. On August 29, 1957, Judge Murray O. Reed of the Pulaski County Chancery Court enjoined the Little Rock school board from implementing its plans to desegregate Central High School on September 3. The injunction was based on testimony from Governor Orval E. Faubus and the secretary of the segregationist Mothers League of Central High School that violence would accompany desegregation. The following day, Federal district court Judge Ronald N. Davies declared the state court injunction void and issued a Federal court order enjoining all persons from interfering with the school board's plans to integrate Central High School.

As the opening day approached, seventeen Negro children were expected to attend the high school. They were a carefully selected and screened group of intelligent and well-adjusted children. Superintendent Blossom conferred with Little Rock Mayor Woodrow W. Mann and the chief of police, and the local authorities were confident that "everything was ready for the school opening." Benjamin Fine, education editor of The New York Times, reported from Little Rock on September 2, 1957:

On the eve of a start on racial integration in its public schools this city was seemingly calm. Careful preparations have been made for the mixing of races tomorrow in the schools of the largest city of Arkansas. Every possible step has been taken by the Police Department and the school officials to prevent violence. All police days off have been cancelled. However, there is an undercurrent of unrest and fear. Governor Orval Faubus has warned that violence is likely.

During the night of September 2, Governor Faubus announced over television that he had ordered the National Guard and state police to Central High School for the purpose of preventing disorder and violence. At first it was not clear whether the function of the guard would be to protect the right of the Negro children to attend public school or to prevent the plans of the school authorities from being carried out. Superintendent Blossom asked the Negro children not to try to cross the soldiers' picket lines. The following day, with 270 armed guardsmen surrounding the school property, the school board appealed to Federal district court Judge Ronald N. Davies for instructions. He ordered the school authorities to "proceed forthwith with integration." On September 4, nine Negro children sought to join the white students at Central High School, but they were barred by the state militia while a crowd of some 400 white men and women stood unmolested across the street shouting jeers and threats at the Negro students. Judge Davies called upon United States Attorney General Herbert Brownell, Jr., to investigate the situation at Little Rock and report to him as quickly as possible. Governor Faubus telegraphed President Eisenhower to ask that Federal investigative and law enforcement agents cease their activities at
Little Rock, while Mayor Mann characterized the Governor's action in calling out the National Guard as a "hoax," having the effect of creating "tensions where none existed."

The Negro children did not attempt to enter the school on September 5, and the school board returned to Judge Davies's court to ask for a delay in executing its integration plan until the tense situation was relieved. Meanwhile the President, in reply to Governor Faubus, wired that "the Federal Constitution will be upheld by me by every legal means at my command," and that he expected full cooperation from Governor Faubus, other state officials, and the National Guard "which is, of course, uniformed, armed and partially sustained by the [Federal] government."

On September 7th, Judge Davies dismissed the school board's plea for delay, characterizing the arguments and testimony as "anaemic." Two days later, after receiving the report from the Federal investigative officers, the judge directed the United States attorney to institute an action for an injunction against Governor Faubus, Major General Sherman T. Clinger, adjutant general of the Arkansas National Guard, and Lieutenant Colonel Marion E. Johnson, unit commander. The injunction was to prevent continued interference with and obstruction of the carrying out of the previously issued orders of the Federal district court. Thus, a direct clash between Federal and state authority was presented.

Governor Faubus wired President Eisenhower on September 11 that he had accepted service of a summons to appear in the Federal district court on September 20, and that he thought it "advisable for us to counsel together in determining my course of action as chief executive of the state of Arkansas." The President responded with an invitation to Governor Faubus to visit him at his vacation quarters at Newport, R. I. Following a private conference on September 14, statements were issued by both the President and the Governor pledging the upholding of the Constitution and the Federal law; but neither statement made it clear whether the state militia would be removed from Central High School.

On September 19, on the eve of the hearing in the Federal district court and while the troops were still enforcing segregation, Governor Faubus filed a request with Judge Davies asking him to disqualify himself because he had "a personal prejudice" against the Governor, and hence would be "unable to conduct a fair and impartial trial and render a decision . . . that would be free from prejudice." The judge dismissed the motion as "not legally sufficient."

At the hearing on September 20, Governor Faubus' attorneys moved to dismiss the proceedings because the court did not have jurisdiction over an attempted action against the sovereign state of Arkansas or an action which called into question the judgment or discretion of the Governor of Arkansas in the performance of his duties under the constitution and laws of the state. When the court denied the motion to dismiss, the Governor's attorneys withdrew from the case. After hearing several of the government's 105 prospective witnesses, Judge Davies granted the petition and enjoined the Governor and his military aides
Governor Faubus ordered the withdrawal of the National Guard that evening, a move hailed by President Eisenhower. On September 23, the police of Little Rock were stationed in the neighborhood of the school to maintain order. Nine Negro children arrived and entered the school through a side entrance while a mob of about one thousand people milled around in front of the school shouting insults and obscenities. Small groups of white students walked out of the building to join the mob. At about noon, the school authorities bowed to the mounting fury of the white supremacists and escorted the Negro children home.

That same evening, September 23, President Eisenhower issued a statement and proclamation from Newport, R. I., in which he reiterated his intention to "use the full power of the United States, including whatever force may be necessary to prevent any obstruction of the law and to carry out the orders of the Federal court." The proclamation, after describing the "assemblages, combinations and conspiracies" as illegal attempts to obstruct the enforcement of Federal district court orders, commanded "all persons engaged in such obstruction of justice to cease and desist therefrom, and to disperse forthwith."

When the mob again congregated in front of the school on September 24, the President took drastic action. He ordered the Arkansas National Guard "federalized," thereby removing the militia from the jurisdiction and authority of the state officials, and one thousand troops of the 101st Airborne Division of the United States Army were rushed to Little Rock. When Central High School opened on September 25, 1957, the troops were on guard at the school with fixed bayonets, the segregationists were not permitted to congregate across the street from the building, and the Negro children were escorted into the school and conducted from class to class.

The reaction from the South was generally critical of the President. The rest of the country took the position that it was regrettable that Federal troops had to be used to enforce the court orders, but there was little else that the President could have done, in view of the provocation and conditions brought about by the intervention of Governor Faubus.

By the end of the reporting period (September 30, 1957), no crowds were gathering around the high school and, except for the presence of the troops, things were relatively quiet in Little Rock.

LEGISLATIVE AND OTHER JUDICIAL ACTION

At the general election on November 6, 1956, Arkansas voters adopted an amendment to the state constitution which directed the legislature to "nullify" the United States Supreme Court decisions on racial segregation. At the same time they passed Initiated Act No. 2, which vested authority in local school districts to assign students to particular schools; they also voted a resolution which proclaimed "interposition" of the sovereignty of the state against en-
croachment upon its reserved powers. Arkansas thus joined the other “inter-
posing” and “nullifying” states (see Table, p. 69).

In February 1957 the state legislature passed, and Governor Faubus signed,
four bills intended to maintain racial segregation in the public schools. One
law created a state sovereignty commission with investigative powers; a second,
required registration and periodic reports from persons and organizations
advocating racial integration; a third, relieved children of the legal require-
ments of compulsory attendance in racially mixed public schools; and the
fourth, authorized school districts to retain legal counsel to defend their
board members and school officials.

On October 25, 1956, the United States court of appeals affirmed a decision
of Federal district court Judge Albert L. Reeves. Judge Reeves's decision en-
joined a number of pro-segregation individuals and organizations from inter-
fering with the efforts of the local school authorities to operate the public
schools on an integrated basis in accordance with the principles established
by the Supreme Court in the school desegregation cases (see AMERICAN JEWISH
YEAR BOOK, 1957 [Vol. 58], p. 99). The three-judge appellate court said:

Plaintiffs [school authorities] are under a duty to obey the Constitution.
They are bound by oath or affirmation to support it and are mindful of
their obligation. It follows as a necessary corollary that they have a federal
right to be free from direct and deliberate interference with the perform-
ance of the constitutionally imposed duty. The right arises by necessary
implication from the imposition of the duty as clearly as though it had
been specifically stated in the Constitution.7

Delaware

September 1957 found the public schools of Delaware reopening without
any substantial progress or change from the year before in desegregation.
All schools in Wilmington, the state's largest city, were operating on a de-
segregated basis, as were a large number in New Castle County. A suit was
pending in the Federal district court against the board of education of Dover,
seeking to have the board's desegregation plan expanded to include children
in the seventh and eighth grades.8 It was likely, however, that the Dover case
would await the outcome of a case pending in the United States court of
appeals in which the state board of education was appealing a decision of
Federal district court Judge Paul Leahy. The decision ordered the submission of

a plan of desegregation providing for the admittance, enrollment, and
education on a racially non-discriminatory basis, for the Fall Term of 1957,
of all pupils in all public school districts of the State of Delaware which
heretofore have not admitted pupils under a plan of desegregation ap-
proved by the State Board of Education.9

Judge Leahy had also ordered the state board of education to send a copy
of the proposed plan, at least fifteen days before submission to the court,

“to each member of the school board in all public school districts” which had not been admitting pupils on a desegregated basis. Thus, the ground was prepared for a state-wide desegregation order.

Other developments in Delaware included publication in January 1957 of a study by the state department of public instruction, of Negro and white teachers’ training and salaries outside of Wilmington. The study disclosed that the Negro teachers had more college training than the white teachers, but that the median salary for white teachers was slightly higher than that for the Negro teachers. Also, in February 1957 the former president of the Delaware Congress of Parents and Teachers, returning from a conference of the National Congress of Parents and Teachers held in Savannah, Ga., criticized the Negro Parent-Teachers Association (PTA) leaders in Delaware for not having taken advantage of an open invitation for Negro units of the PTA to join the formerly all-white state Congress of Parents and Teachers.

District of Columbia

The public schools of the District of Columbia opened in September 1957 with the largest enrollment on record as the fourth year of desegregation began. There were 110,000 pupils, with some 6,000 in part-time attendance because of classroom shortages. School authorities estimated that approximately 70 per cent of the children in the district’s public schools were Negroes.

On December 27, 1956, the Special House District Affairs Subcommittee issued its report on the public school conditions in the City of Washington (see AMERICAN JEWISH YEAR BOOK, 1957 [Vol. 58], p. 100). The two non-Southern members of the subcommittee, Representatives DeWitt S. Hyde (Rep., Md.) and Arthur L. Miller (Rep., Neb.), refused to sign the report, which they charged dealt only with “sordid headline items.” The report charged that the schools had been integrated too rapidly, with a consequent damage to the Washington school system and an accelerated movement of white residents to the suburbs. An “appalling” rate of juvenile delinquency and a rise in sex offenses were also attributed to the rapid desegregation of the public schools. The majority of the subcommittee, all pro-segregationist, Southern congressmen, recommended, as an addendum to the report, that the district schools be returned to racial segregation. In addition to the minority of the subcommittee, members of the board of education and a committee of thirty-one civic and church leaders organized as the Washington Committee for the Public Schools, attacked the report.

Two studies of the District of Columbia school integration program published in February 1957 refuted the report of the House subcommittee and labeled the Washington experience a “miracle of adjustment.” One study, written by Carl F. Hansen, assistant superintendent of schools in the District of Columbia, was published by the Anti-Defamation League of B’nai B’rith as one of its “Freedom Pamphlets.” The second study, written by Ellis O. Knox, professor of education at Howard University, was published by the Washington branch of the National Association for the Advancement of Colored People.
Florida

As well over 900,000 children prepared to return to the public schools in September 1957, Florida retained rigid segregation in its school system from kindergarten through postgraduate schools. There were, however, three law suits pending in which various aspects of the educational segregation pattern were being challenged.

In one action a group of parents of Negro children sought to compel the school board of Dade County to admit their children to public schools without regard to race or color. On November 29, 1956, Federal district court Judge Emett C. Choate dismissed the petition for a declaratory judgment on the ground that the plaintiff had failed to allege that the Negro children had sought admission to a particular public school and been denied such admission because of their race. An appeal was taken to the United States court of appeals, which, on July 23, 1957, reversed and remanded the case to the district court. The appellate court unanimously held that it was not necessary to show that admission to a particular school had been sought and denied where it was established that the state officials had adopted an over-all policy of noncompliance with the Supreme Court's desegregation decisions.

In the second law suit, a Negro child in Palm Beach applied for a transfer to a different school alleged to have physical facilities superior to the school which he was attending, although the new school was a greater distance from his home. The transfer request was denied under the state's "Pupil Assignment Law" (see American Jewish Year Book, 1957 [Vol. 58], p. 102), and an action was commenced in the Federal district court for the southern district of Florida. The case was tried on May 8, 1957; on July 5 Federal district Judge Choate dismissed the action on the ground that the transfer had been denied as a matter of administrative discretion based on the crowded condition of the school and not on the ground of race. The decision was being appealed to the United States court of appeals.

The third legal action involved the latest steps in the eight-year struggle of Virgil D. Hawkins to win admission to the school of law of the University of Florida (see American Jewish Year Book, [Vol. 58], p. 101). The United States Supreme Court had decided that Hawkins was entitled to "prompt admission," and that the factors considered as justifying slower implementation of the desegregation decision at the public school level did not obtain at the college level. After this decision, the highest court of Florida on March 8, 1957, refused to follow the United States Supreme Court, on the ground that the admission of Hawkins might result in "violence." This was the first instance of a state supreme court's unqualified flouting of the order of the United States Supreme Court. Hawkins again appealed to the United States Supreme Court, which, on October 14, 1957, advised him to seek relief in the Federal district court in Florida.

In his inaugural address in January 1957, Governor LeRoy Collins said...
that integration was the supreme law of the land and racially mixed schools were "inevitable." He believed, however, that Florida had found a way through its legislative enactments of forestalling desegregation for the "foreseeable future." The Southern School News reported an increase in the activities of the pro-segregationists following Governor Collins' address (see p. 107).

In April 1957 the Florida legislature passed an interposition resolution which Governor Collins opposed because it "stultifies our state."

**Georgia**

Complete segregation continued to be the pattern in Georgia as almost one million public school children of both races returned to school in September 1957. A five-year legal attempt to breach the wall of racial segregation at the professional school level ended in failure when the Federal district court dismissed the complaint in *Ward v. Regents of the University of Georgia* on February 12, 1957. Judge Frank A. Hooper held that Ward had been refused admission to the law school of the University of Georgia because he had failed to furnish the university authorities with all of the required information concerning his qualifications, and not because he was a Negro.

A second action, in which four Negroes alleged a refusal by the Georgia State College of Business Administration in Atlanta to admit them because of their race, survived a motion to dismiss in June 1957. Federal district court Judge Boyd Sloan refused to require the plaintiffs to secure a certificate of residence from the Fulton County ordinary as a condition precedent to maintaining the law suit, notwithstanding the fact that the admission requirements called for such a certificate. The judge noted that "under the existing policy" the ordinary did not sign such certificates for Negroes.

In another in the series of attacks by Southern states on the National Association for the Advancement of Colored People (NAACP), the Georgia Department of Revenue sought to examine the records, including the membership lists, of the NAACP's state organization. In December 1956, when these were not readily produced, Fulton superior court Judge Durwood Pye in Atlanta threatened to jail John H. Calhoun, Atlanta NAACP branch president, for a period of one year, and imposed a fine of $25,000 upon the NAACP for contempt of court. When Calhoun agreed to turn over the local records, he was released.

**Kentucky**

"Best estimates" from the state department of education indicated that schools in 105 of Kentucky's 217 districts would reopen in September 1957 with desegregation varying from "complete" to "token." About 80 per cent of Kentucky's Negro students resided in those 105 school districts. In the towns of Clay and Sturgis, where the state militia was needed in September 1956 to maintain order (see American Jewish Year Book, 1957 [Vol. 58], 18 2 Race Rel. Law Rep. 369.
p. 103), desegregation proceeded with a minimum of disturbance. While some crowds gathered and some state troopers patrolled around the high school on the opening day of 1957, by September 5, *The New York Times* reported, "Eighteen Negroes attended Sturgis High School today virtually without incident." There were no reports of any difficulties at Clay.

Five county, and one city board of education were subject to Federal district court orders to desegregate beginning in September 1957. District Judge Henry Brooks on February 8, 1957, had ordered desegregation of all public schools in Hopkins\(^{16}\) and Webster\(^{17}\) Counties and of the high schools in Union County,\(^{18}\) all in Western Kentucky. (Clay is located in Webster County and Sturgis in Union County.) Federal district court Judge Hiram C. Ford on January 17, 1957, ordered complete integration of the school system of Scott County beginning with the fall 1957 semester.\(^{19}\) Scott County is located in the central section of the state. On September 10, 1957 Federal district court Judge Roy M. Shelbourne ordered the school board of Fulton City, in the southwestern tip of Kentucky, to desegregate its high school "immediately."\(^{20}\)

In contrast to those school districts that acted under the compulsion of court orders, Caverna district in Hopkins County and Lebanon district in McCracken County voluntarily adopted plans to desegregate their elementary and high schools, respectively, as of September 1957.

There was additional evidence of the substantial progress being made in Kentucky toward eventual compliance with the United States Supreme Court's desegregation decisions when the Kentucky (Negro) Teachers Association voted itself out of existence on April 12, 1957, and urged its members to join the Kentucky Educational Association, which until 1954 had been restricted to white educators.

**Louisiana**

September 1957 found some 625,000 public school children returning to schools in Louisiana as completely segregated as they had been the year before. Nor had the year wrought any very substantial change at the college and postgraduate levels. There were still only four state institutions of higher learning attended by both whites and Negroes. The period 1956–57 saw the voters approve a constitutional amendment designed to frustrate desegregation efforts, and two significant Federal court decisions holding similar legislative devices unconstitutional.

In the November 1956 elections Louisiana voters were given the opportunity to approve or disapprove two proposed amendments supported by segregationists: one would have discouraged Negroes from registering to vote by making the administrative appeals procedure more involved and time-consuming, while the other would block law suits against public school boards by requiring such actions to be brought against the state. The first


\(^{19}\) *Dishman* v. *Archer*, 2 Race Rel. Law Rep. 597.

proposal was defeated by 190,410 to 178,883; the second carried by 233,015 to 143,703.

On March 1, 1957, the United States court of appeals upheld the Federal district court decision ordering the Orleans Parish public schools to desegregate "with all deliberate speed" (see AMERICAN JEWISH YEAR BOOK, 1957 [Vol. 58], p. 104). The appellate court held that the state's constitutional and statutory provisions requiring racial segregation in the schools as an exercise of the "police power" were an attempt to deprive the Negro plaintiffs of their constitutional rights, and hence invalid. In addition, the court held that the so-called "Pupil Assignment Law" was a transparent effort "to stave off the effect of the Supreme Court's school decisions"; the court condemned it "as part of the illegal legislative plan." On June 17, 1957, the United States Supreme Court refused to review the court of appeals decision.

The second case involved two laws passed by the Louisiana legislature in 1956 to discourage Negroes from attending state institutions of higher learning. One law required each applicant for admission to file a certificate of eligibility and good moral character signed by the applicant's high school principal and superintendent. The second statute provided for the removal of any permanent teacher or supervisor who performed any act tending to bring about desegregation of public schools or colleges. On April 15, 1957, Federal district court Judges J. Skelly Wright and Herbert Christenberry handed down decisions and an opinion in a series of three cases challenging these statutes. The two laws, considered separately or together, were declared void under the Federal Constitution, because the Fourteenth Amendment was held to nullify "sophisticated as well as simple-minded modes of discrimination." 22

Maryland

In September 1957 children of both races were in attendance in approximately 275 of Maryland's 1,000 public schools. No new school districts had been desegregated since 1956. St. Mary's County in southernmost Maryland was scheduled to join the thirteen counties which had desegregated their schools since May 1954, but the four Negro children whose transfers had been approved by the local school board failed to appear on the opening day of school. The only disorder occurred in Talbot County on the eastern shore where about thirty segregationists gathered on September 5, 1957, in front of the Hanson Street School in Easton and organized a feeble picketing effort. When two of the protesters refused to "move on" as fast as the local police thought they should, they were arrested. A third man was taken into custody for profanity. The demonstration then ended, and the six Negro children continued in attendance at the formerly white school without further incident.

More than forty public schools in Maryland were reported by Southern School News as having bi-racial faculties. Twenty-nine of these were located

in Baltimore City, where Negro faculty members were assigned in some twenty white or predominantly white schools.

A plan for gradual desegregation in Hartford County was challenged when Negroes were denied admission to any but the first three grades of formerly white schools. An NAACP-sponsored suit was filed in the Federal district court on behalf of twelve Negro plaintiffs; the plaintiffs were advised by Judge Roszel C. Thomsen on November 23, 1956, that they were required to exhaust their administrative remedies before seeking Federal court assistance.\(^{23}\) The plaintiffs then appealed to the state board of education to review and reverse the refusal of the Hartford County school officials to grant their requests for transfer from the Negro to the white schools. While that appeal was pending, the local school authorities amended their desegregation plan to permit applications for transfer to specific grade school classes which were not overcrowded, and to provide for the gradual admission of students to schools on a nonracial basis, so as to complete the desegregation process by 1963. The state board of education then dismissed the Negro plaintiffs' pending appeal. The application to the Federal district court was renewed. After reviewing the local plan for desegregation and expressing some reservations about certain aspects of it, the court, on June 20, 1957, found that the county board of education was making a "good faith" attempt to comply with the Supreme Court's desegregation decisions. Two of the plaintiffs, however, were ordered admitted immediately on the same basis as whites, the school board's plan was approved, and the court retained jurisdiction to assure "good faith" compliance on the part of the school authorities with the proposed plan.\(^{24}\) The NAACP announced its intention to appeal to the United States court of appeals, on the ground that the plan subjected Negro children to burdens not imposed upon white children seeking admission to the public schools.

A series of four lawsuits were commenced in Anne Arundel, Carroll, Howard, and Talbot Counties by a pro-segregation group calling itself the Maryland Petition Committee; the purpose of the suits was to force the local school boards to establish and maintain racially segregated schools. All of the four cases were dismissed upon motion of the school authorities. On May 10, 1957, the court of appeals of Maryland ruled that it was bound by the decisions of the United States Supreme Court, and consequently it would not even examine the merits of the contention that the Fourteenth Amendment was not properly ratified by the requisite number of states.\(^{25}\)

**Mississippi**

Approximately 280,000 white and 275,000 Negro children returned to their strictly segregated schools in September 1957, with no school districts being petitioned or sued to admit Negro children to white schools. At the college level the same segregated pattern prevailed. The Negro fight for civil rights

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\(^{23}\) *Moore v. Bd. of Ed. of Hartford County*, 146 F. Supp. 91.


and equality of opportunity in Mississippi centered around winning the right to register and vote in political elections.

On March 7, 1957, Alcorn A. and M. College, Mississippi's eighty-six-year-old land grant Negro college, was the scene of a mass student walkout as a protest demonstration against a published statement in the Jackson *State-Times* by history Professor Clennon King. Professor King charged that the NAACP had established "thought-control over Negroes." Normal operations were restored at the college at the end of the month, when President J. P. Otis was discharged by the college board for asserted "acquiescence" in the student walkout, and some of the "striking students" were expelled for refusing to return to classes.

The 1953 "equalization program," intended to bring about more equal facilities and opportunities in the public educational institutions used by whites and Negroes, ran into difficulties; "tight money" and the demand for high interest rates on offerings of school bonds slowed the building program and forced the authorities "to stick strictly to the essentials."

**Missouri**

Desegregation of the public elementary and high schools of Missouri was virtually completed as the children returned to school in September 1957. Out of a total of 244 school districts in the state, 209 had begun or completed desegregation. Almost 60,000 of Missouri's 67,000 Negro pupils were reported by the *Southern School News* to be in "integrated" schools. In fact, the state educational authorities had ceased keeping statistics by race, thus making the gathering of accurate totals more difficult. The only concentration of segregated elementary schools was in the several counties in the boot-heel section of southeastern Missouri. Even in some of these counties desegregation of the high schools had begun.

There were two law suits, one in the circuit court of St. Louis County and the other in the Federal district court. These suits charged racial discrimination in the selection of Negro teachers for discharge as a result of the desegregation program. In February 1957 Circuit Judge Douglas L. C. Jones dismissed the first case when the plaintiff failed to file answers to the defendant's motion to dismiss. The second suit, against the Moberly board of education, was pending before Federal district court Judge Roy W. Harper.

**North Carolina**

While rigid segregation was the pattern in the public schools of North Carolina in September 1956, one year later found three cities, Charlotte, Greensboro, and Winston-Salem, commencing desegregation as school board policy. Although taunts, jeers, crowds, and some violence accompanied the entrance of ten Negro children into formerly all-white schools in North Carolina, major violence was avoided. In Charlotte there were some potentially serious disturbances at Harding High School on September 4, 1957, when Dorothy Counts appeared to attend her first day classes. A crowd of

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26 Dixon v. Webster Groves Bd. of Ed.
several hundred male students and a few members of the local White Citizens Council greeted her with hooting and screaming and menacing gestures. Dorothy disregarded the threats and walked straight ahead into the school building. The local police arrested two young people for throwing rocks and creating a disturbance. Three other Negro students entered junior and senior high schools in Charlotte without incident. Dorothy Counts was subjected to insults and jeering while attending Harding High School; on September 11, her father, an instructor in religion at Johnson C. Smith University, announced that his daughter was withdrawing from the public high school and was being sent to a boarding school.

At Greensboro, amid jeers and catcalls, but without violence, five Negro pupils were admitted to two schools—one pupil to the Greensboro High School, and four to the Gillespie Park elementary and junior high school. One Negro student was admitted to the Reynolds High School at Winston-Salem. She was not molested in any way.

As a last-ditch effort to prevent desegregation at Charlotte and Greensboro, a group of white parents applied to the state superior court for temporary restraining orders against the school boards of the respective cities. The applications were denied by superior court Judges L. Richardson Preyer and J. Will Pless on August 29, 1957, and the three North Carolina municipalities moved ahead in accordance with their plans.

Integration also made progress at the college level. Sixteen additional Negro students were enrolled in three branches of the University of North Carolina: eight students at the North Carolina State College in Raleigh, six at the University of North Carolina at Chapel Hill, and two at Women's College in Greensboro. They brought to twenty-eight the number of Negroes attending the three units of the state university.

Segregationist Frederick John Kasper, who had caused so much trouble at Clinton, Tenn., in August 1956 (see American Jewish Year Book, 1957 [Vol. 58], p. 110-11), appeared and made speeches in Charlotte, Greensboro, and Winston-Salem prior to the opening of school. He spoke to a mixed audience of about 200 whites and Negroes at the courthouse square at Winston-Salem, where he was heckled. Kasper was received with little more enthusiasm in Greensboro where there were no statistics on the number of the recruits whom he mustered. In Charlotte he founded a Citizens Council that disbanded within a few days after his departure. In no small measure, the failure of Kasper and other segregationists to stir up feelings may be attributed to a statement issued by Governor Luther Hodges in advance of a state-wide radio and television speech on August 29, 1957. He said:

Without judging whether recent actions by some local school boards are right or wrong in accepting or rejecting Negro applicants, I want to emphasize that the State and the people of North Carolina will not tolerate any lawlessness or violence in connection with the problem.

In response to a question from a reporter as to whether he would call out the National Guard to maintain order, the governor replied that "it would be the responsibility of the state to do whatever was necessary."

The North Carolina state legislature adjourned on June 12, 1957, without
passing two administration-sponsored measures designed to hamper the NAACP. One bill would have required anti- and pro-segregation organizations to file annual financial reports listing their dues-paying members and contributors. The second bill would have defined the crime of "barratry" to include the "stirring up of litigation" by persons not parties to the lawsuit. Both measures passed the House but were killed in the Senate in the closing days of the session.

A lawsuit commenced prior to the May 17, 1954, decision of the United States Supreme Court was finally brought to a conclusion on March 25, 1957 when the Supreme Court refused to review a decision of the Court of Appeals for the Fourth Circuit. The lower court on November 14, 1956, had sustained a ruling of Federal district court Judge Wilson Warlick that the plaintiffs were required to exhaust their administrative (as distinct from judicial) remedies under the state's Pupil Enrollment Act before seeking federal court relief. The court of appeals had refused to find the state law "unconstitutional on its face," and rejected the assumption that it would be administered in an unconstitutional manner. On the other hand, the court refused to be bound by the state law with respect to the number of parties who could join in a Federal action to safeguard their constitutional rights, or with respect to the judicial appeals procedure established in the state law.

Oklahoma

Oklahoma was moving rapidly toward complete desegregation of its public school system, with the "Little Dixie" counties in the southeastern corner of the state making somewhat slower progress than the rest of the state. The collection of statistics was made more difficult by the virtual end of racial enrollment figures. *Southern School News,* however, estimated that as of September 1957 approximately 214 of a total number of 243 bi-racial school districts in the state had desegregated in compliance with the Supreme Court decisions. On this basis, Oklahoma was about 88 per cent desegregated. The enrollment reports showed 495,664 white and 36,390 Negro school children in the state, with unofficial "estimates" indicating 247,541 whites and 24,817 Negroes in "integrated situations." Two-thirds of the state's colleges (twenty-two of a total of thirty-three) had racially mixed classes.

On January 23, 1957, Federal district court Judge W. R. Wallace issued a permanent injunction against the Earlsboro Independent School District requiring the admission of four Negro children at the formerly white high school. The school authorities told the court that they planned complete desegregation of the elementary and high schools in September 1957.

On September 21, 1957, Federal district court Judge Eugene Rice ordered Negro students admitted to formerly white high and elementary schools in...

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28 *Carson v. Warlick,* 238 F. 2d 724.
Morris and Preston in Okmulgee county. Five students were admitted, without incident, following the entry of the court orders.

In a series of articles in The New York Times, Benjamin Fine reported from Tulsa on May 17, 1957, that integration gains were marked since the desegregation program was initiated in Oklahoma, and that many school-sponsored extra-curricular activities in Tulsa were bi-racial. These activities included visits to community institutions, participation in school dances, bands, and newspapers, and in athletic games and contests. The students frequently collided, however, with the discriminatory and exclusionary patterns of public accommodations and facilities in the general community of Tulsa when they attempted to eat or go to the movies in bi-racial groups.

**South Carolina**

South Carolina was the fifth Southern state untouched by desegregation at any level of public education (Alabama, Florida, Georgia and Mississippi were the other four.) The children returned to their strictly segregated schools in September 1957. The sole exception to the strict segregation pattern of education in South Carolina was the attendance of a white Hungarian refugee at Allen University, an African Methodist Episcopal Church college. The state board of education decided on September 9, 1957, to withhold certification of Allen University graduates for teaching positions, ostensibly because three faculty members had refused to resign when requested to do so by President Frank R. Veal.

There were two lawsuits of significance during 1956–57. The first was brought by State Senator Shepard K. Nash against a Sumter NAACP group. Senator Nash asked $120,000 damages for an alleged libel in the newspaper report of a controversy over the withdrawal of petitions for the admission of Negro children to the two Sumter county school districts. After two days of trial before Sumter county circuit court Judge Steve C. Griffith and a jury, the case was settled on October 6, 1956, by an agreement to pay $10,000 damages to the plaintiff. The money to pay the judgment was advanced by the Presbyterian Church, U.S.A. It was later raised by local fund-raising activities of the NAACP and repaid. Dr. Eugene Carson Blake was given a "standing ovation" at the Ninety-second General Assembly of the Presbyterian Church in Omaha, Neb., for his action in advancing the $10,000 to the South Carolina NAACP officials. Senator Nash offered to return the money, if he were provided with a list of the names of the donors and assurance that no lawsuits would be filed in Sumter county seeking desegregation of the public schools. However, his offer was not accepted by May 20, 1957, the deadline he had set.

The second action, brought by seventeen public school teachers, was to enjoin school officials from enforcing the state statute which made it unlawful for any local school district of the state to employ members of the NAACP.

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22 Nash v. Sharper.
in any capacity (see American Jewish Year Book, 1957 [Vol. 58], p. 109). On January 22, 1957, a three-judge Federal district court stayed the proceedings until the plaintiffs had exhausted their state administrative and judicial remedies. An appeal was docketed in the United States Supreme Court on April 23, 1957. On the following day, Governor George Bell Timmerman, Jr., signed H. 1462, which repealed Act No. 741 of the Acts of 1956—the law requiring the discharge of NAACP members being challenged in the lawsuit. On June 24, 1957, the United States Supreme Court dismissed the appeal as "moot," and remanded the case to the district court in order to permit the plaintiffs "to safeguard any rights that may have accrued to them by virtue of the operation of the repealed Act or to set forth a cause of action based on the operation of the new Act." Other laws passed by the South Carolina legislature and signed by Governor Timmerman were: S. 197, which recodified the governor's existing authority over the militia and law enforcement agencies, and authorized him to take over "any transportation or other public facilities"; S. 25, defining barratry, and imposing strict penalties on persons or organizations convicted of promoting litigation with which they were not directly concerned; and H. 1560, which required any organization which "has as its policy equal rights for members of any race, color, or creed" to file the name and address of each of its members with the county supervisor, if the organization met within the county. H. 1462, which repealed the 1956 anti-NAACP law, also required applicants for public employment to record on their written application forms the names of all organizations and associations to which they belonged.

Early in August 1957 the Board of Trustees of Clemson College rejected a Federal grant for nuclear development and expansion at the college, because the funds would be available only if the school agreed "that no person shall be barred from participation in the educational and training program involved or be subject to other unfavorable discrimination on the basis of race, creed, color, or religion."

Tennessee

The 1957-58 school year commenced in Tennessee with racial segregation in effect in all of the state's 152 school districts except Oak Ridge (the "atomic city"), Clinton (see American Jewish Year Book, 1957 [Vol. 58], p. 110), and Nashville. In Nashville almost twenty Negro six-year-olds appeared on September 8, 1957, at six previously white elementary schools to attend classes under a desegregation plan adopted by the board of education of Nashville on October 29, 1956, and approved by the Federal district court. The Nashville plan provided for desegregation of the first grade beginning in September 1957, with a limited right of transfer. The court, while approving the plan in part as a "prompt and reasonable start" toward integration, directed the school board to submit before December 31, 1957, a

complete plan to abolish segregation in all of the remaining grades and "a
time schedule therefor."

An eight-point program was initiated by Nashville's school superintendent
W. A. Bass in the spring of 1957 to prepare the community for gradual de-
segregation. The program called for study groups, talks to parents, lectures
for teachers, and meetings with school superintendent Omer Carmichael of
Louisville, Ky. Despite the program, September 1957 saw sporadic racial in-
cidents, protesting crowds, picketing, and threatening demonstrations in the
neighborhood of the six schools which admitted Negroes for the first time.
Police were on hand, and there were several scuffles between the peace officers
and the demonstrators. Then, shortly after midnight of September 10, an ex-
plosion heavily damaged the newly constructed $500,000 Hattie Cotton gram-
mar school, which had admitted one Negro first grader. Seventy-one per cent
of the children attending the six desegregated schools were kept home from
school the next day. Police chief Douglas E. Hosse told his officers: "This
has gone beyond a matter of integration. These people have ignored the laws
and they have shown no regard for . . . any citizen." The police then erected
barricades a block from each school and began to handle sternly any person
who could not justify his presence near the public schools. All demonstrations
were immediately dispersed, and some twenty-five whites and Negroes were
arrested.

At the height of the tension following the dynamiting, segregationist Freder-
eick John Kasper was arrested by the Nashville police and charged with
disorderly conduct, vagrancy, and loitering. He was fingerprinted and re-
leased under a $2,000 bond. As he left the police station he was rearrested
for illegal parking. He posted another bond in the amount of $500. Less
than twelve hours later he was arrested a third time, charged with inciting
to riot, and held without bond pending an investigation. On September 11,
while in the custody of county officials, Kasper was "borrowed" by the city
officials to stand trial on the disorderly conduct and vagrancy charges. City
court Judge Andrew Doyle found him guilty as charged and fined him $200.
When Kasper paid the fine, he was returned to the county jail. On Septem-
ber 13 the grand jury indicted Kasper on the charge of inciting to riot. Cri-
nal court Judge Chester K. Hart set bail at $2,500. Meanwhile, the
Federal district court issued a temporary injunction to restrain Kasper and
nine others from interfering with the orderly desegregation of Nashville's
public schools. Kasper was finally released from county jail by posting the
$2,500 bond, and left Nashville under police escort. Trial on the incitement
charge was set for November.

By mid-September 1957, attendance at the six desegregated elementary
schools had returned to normal. That part of the Hattie Cotton grammar
school which had not been damaged by the explosion was being used for
classes, and repairs were under way to restore the damaged sections of the
building. But Patricia Diane Watson, the Negro child, had been transferred,
at her mother's request, to a segregated school.

The violence and disorders which had erupted at Clinton in August and

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September 1956 (see American Jewish Year Book, 1957 [Vol. 58], p. 110), continued to bear fruit during 1956–57. On December 4, 1956, the Clinton High School was temporarily closed as a result of an assault on the Reverend Paul W. Turner, a Baptist clergyman who had accompanied several of the Negro children to the school. Another factor contributing to the temporary closing of the school was the attempt made by a group of white children to harass and intimidate the Negro students by various acts within the school. A thirteen-member community delegation, including the Reverend Turner, whose face still bore the bruises and cuts inflicted by his assailants, visited the United States attorney's office in Knoxville on December 4, and then the chambers of Federal district court Judge Robert L. Taylor. The following day Judge Taylor issued an order of attachment against sixteen persons for contempt of court in violating the court's order of January 4, 1956, prohibiting interference with the orderly desegregation of the Clinton High School.87

On February 25, 1957, Judge Taylor, upon the petition of the United States attorney, issued an amended order of attachment, directing the United States marshal to bring in Frederick John Kasper and John Gates to stand trial with the sixteen other defendants on the charge of contempt of court.88 The trial for contempt was opened on July 8, and concluded on July 23, 1957, with the conviction of seven of the defendants, including Kasper. One defendant had died, and the judge had dismissed the charges against a sixteen-year-old student who had left school and was serving a term in the state reformatory for burglary. Before the case went to the jury, Judge Taylor had directed a verdict of acquittal for four of the named defendants. The others were found not guilty by the jury.89

Kasper also lost in his appeal from his contempt conviction on August 31, 1956, which resulted from his activities in Clinton. The United States court of appeals, on June 1, 1957, affirmed the conviction holding that freedom of speech did not extend to an incitement of illegal action.90 The appellate court believed that a situation necessitating the use of 667 state militiamen, with fixed bayonets and tear gas, fell “within the narrowest limits” of the clear and present danger test. In addition, the court rejected Kasper's motion to strike the appearance of the United States as a party in interest. The court held that the appearance of the United States attorney, upon the invitation of the Federal District Judge, “approximated that of an amicus curiae.” The United States Supreme Court denied certiorari on October 14, 1957.91

In the wholesale litigation that resulted from the Nashville desegregation plan, the Federal district court on September 6, 1957, invalidated a 1957 act of the Tennessee legislature. This act authorized boards of education to provide separate schools for white and Negro children whose parents elected for them to attend such schools.92 The law, signed by Governor Frank G.
Clement on January 25, 1957, was one of several proposals submitted by the Governor to the legislature on January 9, 1957, to delay racial integration in the public schools. The other proposals included: a school placement statute; an amendment to existing laws to permit the transfer of pupils from one school system to another; authorization for the joint operation of school facilities; and an amendatory law dealing with the transportation of students to and from schools. These bills were all passed by the legislature on January 22, and signed into law by Governor Clement on January 25, 1957.

The Supreme Court of Tennessee joined the highest state courts of four other Southern states (Florida, North Carolina, Oklahoma, and Texas) in declaring that the United States Supreme Court's desegregation decisions had voided all state statutes which previously had required racial segregation in the public schools.48

The United States court of appeals on January 14, 1957, once again refused to permit state institutions of higher learning to delay the admission of qualified Negro applicants, on the theory that the factors justifying such delay at the public school level were equally applicable at the college level.44 The case, involving the application of Ruth Booker for admission to Memphis State College, was remanded to the Federal district court for action in accordance with the appellate court's opinion. The United States Supreme Court denied the state's petition for certiorari on May 20, 1957.45

Amid all the excitement in Tennessee, two unsensational but nonetheless important events went almost unnoticed. The first year of desegregation at Clinton High School ended on May 17, 1957, the third anniversary of the United States Supreme Court's desegregation decision, with Bobby Cain among the members of the graduating class. Bobby was one of the original twelve Negro students admitted to the school in August 1956 when Governor Clement had to call out the militia to maintain peace and order in the community. The second significant event was the opening of Clinton High School in September 1957 "without incident." The beginning of the second year of desegregation was in striking contrast to the beginning of the first year in Clinton.

Texas

There was no violence reported anywhere in Texas as public schools reopened in September 1957, nor was there any substantial progress in the desegregation of the school system. The Southern School News reported 122 of a total of 1,845 school districts desegregated, as compared with 100 reported in September 1956; but not one of the added districts had taken the step since August 22, 1957, the effective date of a new law designed to slow down the desegregation process (see below). Of the 254 counties in the state, 65 had some integrated schools. It was estimated that 3,600 Negro children, of a total of 250,000, were attending classes with approximately 300,000 whites in September 1957. Some 21,000 additional Negro students, while in "inte-

45 Booker v. Tennessee Board of Education, 240 F. 2d 689.
46 Tennessee Board of Education v. Booker, 77 S. Ct. 1050.
grated situations,” continued to attend segregated schools, as a matter of “choice."

Two new laws, sponsored by segregationist legislators, were signed on May 23, 1957, by Governor Price Daniel, to become effective August 22. The first, HB 231, was a Pupil Assignment Act similar to those enacted by Florida, North Carolina, and Tennessee. The second, HB 65, prohibited future desegregation, upon threat of loss of state aid funds, unless it was approved by a majority at a school district election. While the act had no effect upon districts which had desegregated prior to August 23, 1957, Galveston, Port Arthur, Stamford, and several other communities abandoned plans to begin desegregation in September 1957.

Litigation involving the Dallas school system headed toward a conclusion during 1956–57. On September 16, 1955, Federal district court Judge William H. Atwell had ruled on an application to compel the school board of Dallas county to admit Negroes to its public schools. He had interpreted the United States Supreme Court's implementation decision of May 31, 1955 (see AMERICAN JEWISH YEAR BOOK, 1956 [Vol. 57], p. 143) as requiring a plan of action approved by the school officials and Federal district court as a condition precedent to actual desegregation. On appeal, the United States court of appeals on May 25, 1956, held that there was no basis in the evidence or in law for the action taken by the district court; the court reversed Judge Atwell and remanded the case for trial on its merits. When the case was returned to Judge Atwell, he dismissed the action on December 19, 1956, holding that it would be a “civil wrong” to white pupils to admit Negroes to already crowded white schools. Once again an appeal was taken to the United States court of appeals. On July 23, 1957, the appellate court unanimously reversed and remanded the case with directions to enter a decree requiring the school officials of Dallas to desegregate the schools “with all deliberate speed.” The court also stated that the plaintiffs had exhausted their administrative remedies when the school officials refused to admit them upon demand. The school officials then petitioned the court of appeals for a rehearing, on the ground that a recently enacted Texas statute (see above) would deprive a school district of state aid funds if it desegregated its schools without first getting an affirmative vote in an election held for that purpose. The court denied the petition for a rehearing, holding that state legislation could not relieve either Federal or state officials of their duty to uphold the United States Constitution. Finally, on September 5, 1957, Federal district court Judge Atwell ordered the Dallas school board to desegregate its public schools beginning in February 1958. The school board announced its intention to appeal, on the theory that Judge Atwell had no authority to fix a definite date for desegregation.

Another desegregation case was pending decision in Texas. Parents of two

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49 Brown v. Rippy, 233 F. 2d 796.
51 Borders v. Rippy, 247 F.2d 268.
52 2 Race Rel. Law Rep. 984.
Negro children had commenced an action for an injunction against the school authorities of Houston for refusing to desegregate the public schools of that city. Hearings were begun on May 20, 1957, and lasted for four days before Federal district court Judge Ben Connally, who had not rendered any decision at the close of the reporting period, September 30, 1957.52

On January 9, 1957, the United States court of appeals reversed and remanded a desegregation case involving the school district of Wichita Falls. The Federal district court had dismissed the petition when it found that a "good faith" start had been made by the school authorities in their program to desegregate the public schools. The court of appeals held that notwithstanding the finding of a *bona fide* start, the district court should have retained jurisdiction over the case to supervise the implementation of the desegregation plan.53 The United States Supreme Court refused to review the case on April 22, 1957.

A case involving segregation of children of Mexican descent was decided by the Federal district court on January 11, 1957. The plaintiffs objected to the practice of the school officials of Driscoll in placing children of Mexican descent in separate classes for the first and second grades and keeping them there for a period of four years. This was attacked as discrimination on the basis of ancestry and a deprivation of rights under the Fourteenth Amendment. The school officials attempted to justify the segregation on the basis of the inability of some of the beginning school children to speak or understand English; the officials counterclaimed for an order restraining the parents of the children involved in the lawsuit from speaking any language other than English in the children’s presence. The court held that the grouping of pupils on the basis of ancestry was arbitrary and unreasonable, but it permitted the school authorities to group the children on the basis of their ability to speak and understand the English language. The counterclaim was dismissed.54

On May 8, 1957, Texas district court Judge Otis T. Dunagan issued a permanent injunction against the NAACP barring it or its branches or officers from engaging in the practice of law or financing lawsuits in which they had no direct interest, engaging in lobbying or political activities in violation of state law, soliciting lawsuits, or hiring or paying any litigant to bring, maintain, or prosecute a lawsuit. The court also found that the NAACP was a nonprofit organization, and hence not required to obtain a permit to operate within the state. It was, however, required to pay a franchise tax and to file franchise tax reports.55 Although the local NAACP leaders believed that the injunction was no more than a restatement of the existing law, and that it would not affect the activities of the NAACP on behalf of the civil rights of Negroes in Texas, a decision was made to appeal the injunction "as a question of policy."

Virginia

In Virginia four school districts were under court orders to desegregate their school systems beginning with the September 1957 semester. However, Virginia's 750,000 public school children returned to their classrooms in the fall of 1957 with no break in the state's traditional pattern of strict racial segregation. Arlington county was directed by a Federal district court order as late as September 14, 1957, to admit seven Negro children to specified white schools as of September 23, 1957. The critical test was postponed, possibly for another year, when Federal district court Judge Albert V. Bryan on September 18 suspended his desegregation mandate pending appeal by the school board to the United States court of appeals.58

The Arlington case had previously resulted in a United States court of appeals holding on December 31, 1956, that students need not comply with the requirements of Virginia's Pupil Placement Act (see AMERICAN JEWISH YEAR BOOK, 1957 [Vol. 58], p. 115) before seeking the aid of a Federal district court. The opinion held that the state's announced policy of continuing racial segregation made such application futile, and the court would not require the plaintiffs to do a futile thing as a condition precedent to granting relief. The opinion of the court of appeals served to throw some added light on the meaning of "deliberate speed" which the United States Supreme Court had said should be exercised in complying with its mandate. The school board's failure, despite repeated demands, to take any affirmative action in the two years since the second Supreme Court decision in the School Segregation Cases, was not "deliberate speed."57 On March 25, 1957, the United States Supreme Court refused to review the court of appeals decision. (A similar lawsuit, against the school board of the City of Charlottesville, was consolidated with the Arlington case.)58 When the Arlington case was returned to the Federal district court, Judge Bryan on July 27, 1957, directed the admission of all school children on a racially nondiscriminatory basis beginning in September 1957. The seven Negro students were again denied admission to white schools in Arlington county because they had failed to apply to the state's Pupil Placement Board for transfers; the September 14, 1957, injunction mentioned above, was then signed by the judge.

Meanwhile, the Charlottesville case was also remanded to the Federal district court. When the plaintiffs moved for a mandate ordering desegregation to commence in September 1957, the school board asked the court to suspend its decree pending the outcome of an appeal to the United States Supreme Court in another case where the constitutionality of the Virginia Pupil Placement Act was claimed to be at issue. Judge John Paul granted the school board's request on July 26, 1957, and stayed the operation of his injunction.

The other case referred to in the Charlottesville litigation involved lawsuits in Norfolk and Newport News challenging the local school authorities

57 County School Board of Arlington County v. Thompson, 240 F. 2d 59, cert. denied 77 S. Ct. 667.
58 School Bd. of the City of Charlottesville v. Allen.
for their refusal to admit Negro children to formerly white schools. The school boards moved to dismiss the actions, because the children of the plaintiffs had not exhausted the administrative remedies provided in the Pupil Placement Act. The two cases were consolidated for a hearing on the motion to dismiss, and on January 11, 1957, Federal district court Judge Walter E. Hoffman held the Pupil Placement Act to be unconstitutional "on its face." The opinion said that the mere fact that the law "makes no mention of white or colored school children is immaterial when we consider the clear intent of the legislative body." Nor did Judge Hoffman deem it significant that the plaintiffs were provided with an administrative process to test the law. The court pointed out that this process was so lengthy that there were grave doubts whether it could be completed in time to obtain judicial review within a single school term, thus raising a serious question as to whether the pupil would not be required to start again to seek admission to the next higher grade in the school of his choice for the next term. Moreover, under the state appropriation acts, the admission of a Negro child to a white school would promptly lead to the closing of the public schools in the area.59

When the two cases came on for hearing on the merits, Judge Hoffman found that in both cases the school boards had indicated no intention to begin a good faith compliance with the Supreme Court's desegregation mandate. The judge issued injunctions directing the schools to be opened without regard to race or color beginning with the September 1957 term.60 The cases were again consolidated on appeal to the United States court of appeals, which, on July 13, 1957, held the district court decrees to be reasonable under the circumstances, and affirmed.61 An application for certiorari was made to the United States Supreme Court; it was for the outcome of that application that Federal district court Judge John Paul agreed to stay the operation of his injunction in the Charlottesville case.62

In another case, involving Virginia's compulsory school attendance law, the state supreme court of appeals on January 21, 1957, upset the conviction of a Negro parent. The parent had refused to send his daughter to a segregated school where the facilities were clearly inferior to those of a nearer white school to which the pupil had applied and been denied admission. The court held that the compulsory school attendance law was constitutional, but that it could not "be applied as a coercive means to require a citizen to forego or relinquish his constitutional rights." 63

**West Virginia**

In September 1956 there were only two counties left in the state of West Virginia where no action had been taken to comply with the May 17, 1954, decision of the Supreme Court. In October 1957, when these last two counties

60 2 Race Rel. Law Rep. 334, 337; Feb. 11, 1957 and Feb. 12, 1957, respectively.
61 246 F. 2d 325.
62 The U.S. Supreme Court refused certiorari on October 21, 1957, 78 S. Ct. 83.
admitted Negroes to formerly white schools, the *Southern School News* credited West Virginia with being the first state of those in which racial segregation had been required in the public schools prior to May 17, 1954, to complete the desegregation process.

This did not mean that every public school in the state was open to Negro students. It meant that every county had at least commenced the desegregation process by opening one or more of its public schools to all students. Actually, the county summary showed twenty-four counties fully desegregated, nineteen partially desegregated, and twelve with no Negro students. Approximately 10,000 of the 25,000 Negro school children in the state were actually attending desegregated schools. The remaining Negro students were attending all-Negro schools as a matter of "choice." West Virginia had approximately 400,000 white public school children.

There were two incidents worthy of note in September 1957. On September 25, seventy-five students walked out of the Beaver High School in Bluefield as a protest against desegregation. By the close of school on September 26, the protest was over, and the attendance at the school was back to normal. A similar demonstration was staged by some 400 students at the Welch High School on September 26. The pleas of the school principal and the town mayor were disregarded by the demonstrating students. However, all but a handful of the demonstrators were back in their classrooms by the close of school on September 27.

A special survey of desegregated school districts in May 1957 revealed that the elimination of compulsory racial segregation had brought about substantial savings by eliminating the requirement that separate school facilities be maintained. Kanawha County, the most populous in the state, estimated that its savings ran to $250,000 in its 1957 budget of $11,000,000. Nor was there any evidence that educational standards had been adversely affected by the desegregation move. Negroes were accepted in all extracurricular activities on the basis of complete equality with whites. They were elected to class offices, worked on school newspapers, played on the athletic teams, and participated in school dramatics. Only at school social events was segregation still noticeable.

In March 1957 the legislature abolished the Bureau of Negro Welfare and Statistics by refusing to appropriate any funds for its continued operation.

**Northern States**

The Supreme Court decision outlawing compulsory racial segregation in the public schools of the South had a distinct effect upon many Northern communities as well. Although generally segregation in the public schools of northern cities was the result of residential patterns and occasional illegal gerrymandering of school district zones, there was considerable agitation to end or reduce racial segregation in several Northern states.

**Illinois**

Suggestions were made in Chicago by the NAACP that racial integration would be promoted by establishing school district lines that ran from East
### Major Types of Legislation Adopted in Eleven Southern States Since 1952
Designed to Prevent or Control Desegregation

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* Reprinted from the *Southern School News*, September 1957.
to West instead of from North to South. This was similar to proposals in at least one other northern city (see New York below) that the school authorities had an affirmative responsibility to integrate white and Negro children wherever practicable, by establishing boundaries of school zones which would have the effect of encouraging, instead of disregarding, racial integration.

On August 26, 1957, in the southern Illinois town of Colp, white pupils boycotted a previously all-Negro grade school. Some forty-five white pupils had been ordered to attend classes with sixty Negro students, but none of the whites showed up on the opening day of the fall term.

**New York City**

In the spring of 1957, the commission on integration (see AMERICAN JEWISH YEAR BOOK, 1957 [Vol. 58] p. 117) submitted two reports which provoked considerable controversy. One report proposed that the New York City school board should use race as a “cardinal principal of zoning” so as to bring about integrated schools wherever possible. This was a recommendation to abandon the traditional policy of considering only distance from school in establishing school district lines, unless modification was required to avoid serious traffic hazards. The second report proposed that experienced teachers be assigned to schools that were all-Negro or Puerto Rican, or predominantly so, since these were generally the schools which were “difficult” and hence staffed by a large number of substitute and probationary teachers. The resulting instability of the faculty, it was argued, caused these schools to be educationally “underprivileged.”

The proposals of the commission won the general approval and support of the pro-civil rights groups and agencies in the city, but several of the teachers’ organizations voiced doubts and reservation about the proposal to “force” teachers to accept assignments in the so-called “underprivileged” schools. Spokesmen for several Negro organizations accused the New York City Board of Education of presenting the recommendations of the commission on integration in the worst possible light, and of “dragging its feet” with respect to implementing the recommendations, which had been accepted by the board. On August 23, 1957, Superintendent of Schools William Jansen reported that “definite progress” was being made in integrating the New York City schools, but that the school system was “meeting some disappointments and expected difficulties.” Edward S. Lewis, executive director of the Urban League of Greater New York, one of Jansen’s severest critics on the integration issue, said that he was “gratified” to hear of the progress being made, but suggested that “Dr. Jansen should make public a checklist, showing when and how the various proposals of the Commission on Integration have been implemented by the school system, and when the other proposals will be implemented.”

**Pennsylvania**

On May 14, 1957, the State Department of Public Instruction released the results of a survey of 849 school superintendents and principals to determine whether there was illegal racial segregation in the public schools of the commonwealth. The report, which was submitted to Governor George M. Leader,
found that three school districts continued to segregate children on the basis of race notwithstanding a 1939 state law which prohibited the practice. The three districts were later named as the Coatesville and the Kennett consolidated school districts, both near Philadelphia, and the Steelton-Highspire joint district, near Harrisburg. Governor Leader threatened to cut off state funds and other state benefits from the three districts, unless they eliminated the illegal segregation by October 1, 1957.

On April 29, 1957, the United States Supreme Court, without receiving briefs and without hearing oral arguments on the merits of the case, reversed the Supreme Court of Pennsylvania which, on November 12, 1956, had upheld the right of Girard College to exclude Negro applicants under the terms of the will of Stephen Girard.\textsuperscript{64} (See \textit{American Jewish Year Book}, 1957 [Vol. 58], p. 117). The United States Supreme Court said:

The Board which operates Girard College is an agency of the State of Pennsylvania. Therefore, even though the Board was acting as a trustee, its refusal to admit Foust and Felder to the college because they were Negroes was discrimination by the State. Such discrimination is forbidden by the Fourteenth Amendment.\textsuperscript{65}

The case was remanded to the Pennsylvania courts for appropriate action.

When the case again reached the Orphans Court of Philadelphia, on September 11, 1957, that court ordered the removal of the city officials as trustees of the Girard College Trust. This act would take the case out of the reach of the Fourteenth Amendment's ban on "state action," and thereby preserve Girard's 1851 testamentary directive that the college was to admit only "poor white male orphans."

\textbf{Legislative Action}

Bills concerning discrimination or segregation in education were introduced in 1957 in the state legislatures of California, Connecticut, Illinois, Massachusetts, Oregon, and Pennsylvania. A bill to bar fraternities and sororities which restricted their membership on the basis of race or religion, from the campuses of state institutions of higher education was permitted to die in the California assembly's committee on education. The legislature, however, passed a law to authorize the state board of education to establish a commission to assist and advise local school districts in problems relating to racial, religious, or other discrimination in the employment of certificated school employees. The Connecticut legislature adjourned on June 5, 1957, without taking any action on two bills which would have prohibited discrimination in educational institutions on the grounds of race, color, religion, or national origin, and would have vested enforcement jurisdiction in the existing Connecticut Commission on Civil Rights. On May 1, 1957, the Illinois House by a vote of 131 to 8 passed a bill which would have authorized boards of education to consider the race, color, and nationality of children in establishing school district lines so as to achieve integrated public schools. The Senate, however, defeated the measure. In Massachusetts, the

\textsuperscript{64} \textit{In re. Estate of Stephen Girard}, 386 Pa. 548.
\textsuperscript{65} \textit{Pennsylvania v. Bd. of Directors of City Trusts of Philadelphia}, 77 S. Ct. 806.
House rejected a bill which would have banned fraternities or sororities from the University of Massachusetts, if they discriminated against students on the grounds of race, creed, or color. While the Oregon legislature refused to enact a bill which would have prohibited discrimination in all institutions of higher education, it did amend the 1951 Vocational, Trade and Professional Schools Act to authorize the revocation or suspension of licenses of schools upon submission of proof that any such institution had violated the act's non-discrimination provisions. Despite strong support from Governor George M. Leader, the Pennsylvania legislature refused to pass a bill which would have prohibited discrimination in the admission of students to colleges and universities and would have set up a Pennsylvania equal educational opportunities commission to enforce it.

Housing

A series of articles in five national magazines—the Saturday Evening Post (October 12 and 19, 1957), Scientific American (October 1957), U. S. News and World Report (August 23, 1957), House and Home (October 1957), and Fortune (September 1957)—warned that the major cities of the North were threatened with social, economic, and political decay because of the rapidly increasing racial imbalance resulting from residential segregation. Increased migration of Negroes from the South to the northern metropolitan areas, and the exodus of whites to the suburbs, from which Negroes were almost completely excluded, were creating neighborhoods in the central cities which were occupied primarily by nonwhite groups living in rigid residential segregation. Several of the articles predicted increased tensions and antagonisms as the pressure of the growing Negro population to break out of the "ghettos" and "black belts" increased.

Figures from several major cities provided striking evidence that public housing was tending to become "Negro housing." In Detroit, Mich., almost 90 per cent of the current applicants for public housing were Negroes. In Chicago, Ill., more than 80 per cent of the tenants of public housing were Negroes, as were four out of every five applicants. In New York City eight applicants out of every nine were Negroes. San Francisco, Calif., reported that white occupancy of public housing projects declined 17 per cent from 1953 to 1956, while Negro occupancy increased 85 per cent in the same period. White families made up 23 per cent of the occupants of public housing developments in Los Angeles, Calif., in 1953, but only 16 per cent in 1956. On the other hand, Negro tenancy had grown in the same period from 43 to 69 per cent. While 2,000 additional public housing units were added to the supply in that period, 2,700 new Negro tenants moved into public housing. Sixty-five per cent of the current applicants were Negroes.

Community Action

Levittown, Pa.

On Sunday, August 11, 1957, William Myers, Jr., began to move his family and effects into a four-year-old ranch-type home which he had purchased in...
Levittown, Pa., a new development of single family homes near Philadelphia. Myers, a Negro veteran of two and a half years service in Europe during World War II, was employed in nearby Trenton, N. J.

On the day of the move-in, the local newspaper reported that the first Negro family had come to live in Levittown, and printed the address of their new home. By evening a crowd of several hundred adults and teenagers was milling around in the area, jeering and shouting insults. Several stones were thrown and two windows in the home were broken. The small detail of local police failed to break up the demonstrations in their early stages and were soon faced with crowds numbering up to five hundred. After several police officers were hit by hurled objects, firm action was taken to ban all street gatherings of three or more persons and to keep from the area people who had no real business in the neighborhood of the Myers’ home. Periodic incidents occurred for the next few weeks to annoy and harass the Myers, but the democratic elements in the community began to assert themselves in defense of the rights of the new owners to live where they wished and for the preservation of law, order, and decency in the community. A citizens committee for Levittown was organized, and a group of religious leaders published a “Declaration of Concern” in the local newspaper. By the end of the reporting period, after a Bucks county judge had issued a broad injunction banning all types of harassment, intimidation and violence, and after some two dozen arrests had been made, tensions had abated, and a measure of calm descended upon the neighborhood.

GARDEN GROVE, CALIF.

Garden Grove, in Orange County, near Los Angeles, Calif., was a rapidly growing community of about 45,000 persons. Families of all minority groups except Negroes had been living in Garden Grove since 1954. In that year Dr. Sammy Lee, famed Korean-American athlete, was able to acquire a home in the community notwithstanding an earlier rejection. On January 10, 1957, Captain Gene Schwartz, U.S.A.F., sold his home to Lieutenant Harold Bauduit, U.S.A.F., and a Negro graduate of Annapolis. A hostile group of some fifty people gathered in front of Lieutenant Bauduit’s new home the following day to encourage the efforts of four representatives of a hastily formed home owner’s association to purchase the house from the Air Force lieutenant. The sheriff’s deputies dispersed the group before it could become ugly.

On January 12 and 13, the Orange County Council for Equal Opportunity and the local ministerial union went into action to mobilize the community leaders in support of Lieutenant Bauduit. The immediate neighbors of the Bauduit family published a statement that they would support and welcome the new residents. Plans were made for a welcoming committee of housewives to assist the Bauduits to move in and win acceptance in the community. Meanwhile, Dr. Sammy Lee threatened to sue two members of the home owners association for slander—they had asserted that Dr. Lee’s home was the source of noisy parties and “brawls”—and the influential Garden Grove Daily News published a sober, restrained editorial refuting the claims that property values deteriorated when Negroes moved into a neighborhood. By
January 18, the move-in date, a steady stream of well-wishers was flowing to Lieutenant Bauduit's new home, bringing gifts and tokens of welcome. The Daily News headlined its January 18, 1957, edition “Racial Row Ends Happily as Negro Family Moves In.”

TRUMBULL PARK, CHICAGO

On February 1, 1957, three and a half years after the first Negro family moved into the Chicago housing authority’s development at Trumbull Park, the special police detail was removed. The area had been the scene of racial conflict and tension since July 1953, when some 1,200 police were assigned to maintain order and guard the Negro residents. The size of the police detail had been reduced gradually until only fifty officers and men were on special duty in the region when all extraordinary precautions were ended on February 1.

NEW YORK STATE

Charles Abrams, chairman of the New York State Commission Against Discrimination (SCAD), in an interview with Charles Grutzner of The New York Times on December 24, 1956, cited slow and cautious progress toward integration in scattered localities throughout the state. Private builders were beginning to sell and rent to Negroes in developments of the type formerly restricted to whites. Commissioner Abrams said:

The important thing is that developers have found that they can accept Negroes into predominantly white communities without friction or loss of values. Their sales or rentals to white families have not suffered after acceptance of the first Negro families.

Legislative Action

Various proposals to enact laws banning discrimination and segregation in housing were considered by the legislatures of fourteen states during the spring of 1957. Bills were introduced in California, Connecticut, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, and Washington. The bill introduced in the New York legislature would have banned discrimination and segregation in all multiple dwellings and in private dwellings of ten or more contiguous units. However, only Massachusetts, New Jersey, Oregon, and Washington passed statutes prohibiting discrimination in the sale or rental of publicly assisted housing. All four states vested jurisdiction over these new anti-discrimination measures in their existing commissions against discrimination. Minnesota, while failing to enact a law prohibiting discrimination in publicly aided housing, passed a bill which declared discrimination in housing to be contrary to the public policy of the state, and created a commission to study and investigate discrimination in the sale or rental of housing accommodations. The new laws passed in New Jersey, Oregon, and Washington went even further than New York's model Metcalf-Baker law (see AMERICAN JEWISH YEAR BOOK, 1956 [Vol. 57], p. 154), by omitting all limitations on the size of the private developments or the date on which they were constructed.
Both of these factors served to limit the applicability of the New York law. New Jersey and Washington also included in their statutes provisions prohibiting lenders from discriminating in making housing loans.

On June 19, 1957, Mayor Norris Poulson of Los Angeles, Calif., signed an ordinance banning racial or religious discrimination in housing located in redevelopment projects. The new law required all deeds, leases, or contracts for the transfer of any real property in a redevelopment project in Los Angeles to contain a clause barring discrimination or segregation based on race, creed, color, national origin, or ancestry.

A bill sponsored by New York City Council majority leader Joseph T. Sharkey, minority leader Stanley M. Isaacs, and Harlem Democrat Earl Brown, to prohibit discrimination in the sale or rental of private housing, was introduced in the council on May 21, 1957. The bill covered rentals or sales of apartments in multiple dwellings and sales of private homes in developments of ten or more contiguous units. As the proposed ordinance was originally introduced, it would have provided criminal sanctions for violators. In the middle of June, when the bill was on the calendar for city council action, the real estate boards of the five boroughs attacked the proposed ordinance as a "deprivation of the right to choose your neighbors." The supporters of the bill—a cross-section of some fifty civic, religious, labor, and pro-civil rights groups in the city—were surprised by the force and viciousness of the attack. The city council's committee on general welfare decided on June 18, 1957, to lay the Sharkey-Brown-Isaacs bill over indefinitely, while attempts were made to work out several proposed compromises. Proposals were made to exempt all cooperatives from the bill, and to remove the criminal sanctions. Another suggestion was to vest the city's intergroup relations commission with an investigative and conciliative role, before enforcement by court action would be turned over to the office of the corporation counsel.

Court Rulings

Following the finding of the Connecticut Commission on Civil Rights that the McKinley Park Homes came within the statutory description of "publicly assisted housing" and the entry of a cease and desist order (see AMERICAN JEWISH YEAR BOOK, 1957 [Vol. 58], p. 119), the respondent appealed to the superior court of Hartford County. Judge John Cotter of that court, on November 5, 1956, without considering the question of whether the housing corporation involved was within the statutory definition of publicly assisted housing, ordered the complaint dismissed for "insufficient evidence" to justify the finding of discrimination.66

The United States Court of Appeals for the fifth circuit considered the effect of the school desegregation decisions on the renting policies of the Federal public housing administration and a local housing authority. On October 21, 1955, the Federal district court had dismissed an action brought by Negro citizens of Savannah, Ga., asking for an injunction against the

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Federal and local housing authorities to prevent their restricting public housing projects to white tenants. On November 30, 1956, the court of appeals reversed the district court and held that the complaint should not have been dismissed without a trial of the issues raised by the pleadings. The court quoted the United States Supreme Court:

In view of our decision that the Constitution prohibits the States from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal government.

On December 21, 1956, Federal district court Judge W. Wallace Kent, sitting in the western district of Michigan, handed down his decision in an action brought by a group of Negroes against the Benton Harbor housing commission for refusing to admit them to certain public and veterans' housing projects because of their race and color. The plaintiffs moved for summary judgment when the housing authority cited as its only justification the claim that it had followed "custom and usage" in establishing racially segregated units within the housing projects under its jurisdiction.

Judge Kent said:

If segregation in education is per se a denial of equal protection, then certainly segregation in public housing solely on account of race is likewise a denial of the equal protection of the laws.

The court concluded from the pleadings that there was no issue of fact remaining to be resolved by a trial, and that such a trial would be "a complete waste of time and money." The defendants were therefore enjoined from continuing to discriminate against or segregate Negroes in the assignment of public or veterans' housing units.

In an interesting case in Kentucky, a Federal district court judge applied the "all deliberate speed" formula of school desegregation to a housing case. Negroes in Louisville had brought an action against the municipal housing authority and other city officials to require assignment of tenants to public housing projects without regard to race or color. At a pre-trial conference, Federal district court Judge Henry L. Brooks indicated that, under the law, Negroes should be admitted to public housing projects on a nondiscriminatory basis. The housing commission thereupon proposed that it be given time to integrate its projects, which would be done when certain buildings then under construction were completed. The court gave the housing commission one year in which to put its plan into operation, and retained jurisdiction of the case to supervise the progress of the plan.

The Supreme Court of Tennessee held on April 1, 1957, that the owner of real property had no cause of action against the former owner of an adjacent piece of property for damages alleged to result from the sale by the latter to a Negro family. No right of action could result, the court said, from a sale which the defendant had the legal right to make.

68 Heyward v. Public Housing Administration, 238 F. 2d 689.
71 Stratton v. Conway, 301 S.W. 2d 332.
In October 1956 the Rhode Island State Commission Against Discrimination announced the conclusion of an agreement with the Providence Housing Authority under which racial discrimination in that city's public housing projects would be ended. Desegregation was to be accomplished in three major steps:

1. In projects where nonwhites had been segregated by buildings or areas, they would be given opportunities to move to other sections of the same projects as vacancies occurred, before new applicants were considered;
2. Families living in all-Negro projects that had originally expressed preference for some other project would be given an opportunity to transfer;
3. On all new placements, available apartments would be assigned on a "first come, first served" basis, without any racial, religious, or ethnic preference or discrimination. The agreement brought to an end a six-year struggle against the segregation policies of the Providence Housing Authority.

Four out of six formerly segregated public housing projects operated by the Baltimore housing authority were racially integrated without incident in the two-and-a-half-year period since June 1954, when the authority adopted its new policy. In January 1957 the authority announced that nonwhite families constituted from 22 to 32 per cent of the tenants in the four formerly all-white projects. The remaining two projects continued to be all-Negro.

On February 14, 1957, the Federal Housing Administration (FHA) announced a revision of its procedure to assist New York in the enforcement of its Metcalf-Baker law. This law prohibited discrimination in housing that received aid from local, state, or Federal governments. Under the new policy, which culminated six months of negotiations between the New York State Commission Against Discrimination (SCAD) and the FHA, any builder cited by the state for violating the Metcalf-Baker law would be denied Federal mortgage insurance on all his projects. Charles Abrams, chairman of SCAD, hailed the agreement as an example of what could be done if the Federal and state agencies worked together to enforce state civil rights statutes.

On December 13, 1956, Norris Shervington filed a complaint with SCAD charging that he had been denied an apartment in a building in New Rochelle, a suburb of New York City, because he was a Negro. The commission investigated the complaint and found probable cause to credit the charge of discrimination. Efforts to adjust the matter by conference, conciliation, and persuasion failed; on May 20, 1957, the investigating commissioner ordered a public hearing before three other members of SCAD.

Although they offered three defenses, the respondents did not deny the allegation of discrimination. Two of the defenses challenged the constitutionality of the law giving the commission jurisdiction over discrimination in publicly assisted housing; the third defense was that the apartment house operated by the respondents was not "publicly assisted housing" within the definition of the law.

The hearing board rejected all three defenses, and since the respond-
ent failed to deny the discrimination charged, SCAD issued a cease and
desist order on July 2, 1957. The Pelham Hall Apartments, Inc., announced
that an appeal would be taken to the courts challenging the legality and
constitutionality of the SCAD action.

A study of thirteen principal urban and suburban communities of Con-
nnecticut was released by the State Civil Rights Commission on February 7,
1957. The commission’s research division had conducted field interviews with
219 Negro families and 390 of their next-door neighbors. The report em-
phasized the fact that Negro families had been living for more than eight
years in predominantly white neighborhoods, which remained stable and at-
tractive for new white purchasers. Other findings were that social and com-
nunity acceptance of Negroes had grown, although it was not yet achieved
completely; that interracial social activity was greatest among young children,
decreased sharply at the "teen age level, and was lowest among adults. The
survey found, however, that there was a "very serious problem" of discrimi-
nation in the sale and rental of private housing in the state. Only about 4
per cent of the Negro population of Connecticut resided in private, non-
segregated areas. The remaining nonwhite population lived in public de-
velopments or in predominantly Negro neighborhoods.

Rulings by State Attorneys General

On February 6, 1957, John J. O'Connell, attorney general of the state of
Washington, advised the chairman of the judiciary committee of the state
House of Representatives, that the provisions of a bill which would bar dis-
crimination based on race or creed in publicly assisted housing were consti-
tutional. The attorney general cited the specific provisions in the national
housing law stating that nothing in the law should deprive any state of its
jurisdiction over property used for Federal housing, and then concluded his
ruling:

Clearly, under these acts, each state is allowed to exercise control over the
protection of the civil rights of its citizens in matters relating to federally
assisted housing.

A state representative queried the constitutionality of an Oregon bill to
prohibit discrimination because of race, religion, color, or national origin in
housing built with the assistance of financing guaranteed by Federal or by
state agencies. Attorney General Thornton ruled on March 19, 1957, that
the state might validly include Federally financed housing in a law banning
discrimination in state or Federally aided housing, since there was no conflict
between the Federal laws governing this subject and the proposed state
legislation.

But Thornton expressed doubts as to the propriety of the legislature's
classifying such housing differently from other private housing. He pointed
out that under the state police power the legislature might bar discrimination
in all private housing and that there was no question of the propriety of

72 Shervington v. Pelham Hall Apartments, Inc.
73 "Private Interracial Neighborhoods in Connecticut," Connecticut Commission on Civil
Rights, February 7, 1957.
such a ban as a condition of granting state aid to such housing. However, the attorney general questioned the propriety of singling out federally aided housing for a ban on discrimination, while at the same time indirectly sanctioning such discrimination in housing which received no Federal or state assistance. Thornton argued that this was an improper classification having no relationship to the evil against which the legislation was directed.

EMPLOYMENT

During the period from July 1, 1956 to June 30, 1957, the contracting agencies of the Federal government examined the employment practices and policies of more than 500 plants of business concerns holding government contracts. This survey was undertaken as part of a compliance review program initiated by the President's Committee on Government Contracts, the agency charged by Executive Order 10479 with policing compliance with the nondiscrimination clause required to be in all contracts entered into by government agencies for materials and services.

The survey indicated

that although equal job opportunity is being extended in production work and the skilled trades, less progress has been made in the white-collar areas, and particularly in professional-technical and clerical jobs. Although Negroes held nearly 9 per cent of the jobs in the plants surveyed in detail, their representation in the white-collar work was strikingly lower.

Twenty-one assembly plants of two of the nation's larger automobile manufacturers disclosed that while Negroes constituted nearly 12 per cent of the total work force in these plants, they held less than one-fifth of one per cent of the 5,171 professional-technical and clerical positions in the twenty-one plants.

The committee reported "encouraging" figures for the number of Negroes receiving apprenticeship or on-the-job training in some 257 plants offering such training. Approximately 7 per cent of the trainees were Negroes, whereas the national average of Negro employment in the same crafts was 4.2 per cent.

The New York SCAD reported on November 25, 1957, that the employment policies of 78 per cent of the state's largest employers had been "scanned" by SCAD as a result of complaints received during its twelve-year existence. The commission had dealt with 318 companies, each employing more than 1,000 persons, within the state. The result of these dealings and negotiations, Charles Abrams, SCAD chairman, said, "had been to widen opportunities for minority groups."

The Bureau on Jewish Employment Problems (Chicago) reported on a study of job orders placed by 1,285 companies in the Chicago area. Of the total number of companies in the sample, 528 (41 per cent) specified religious preference in job orders placed with one or more employment agencies. The

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74 August 13, 1953.
bureau also sampled some 30,000 job openings reported to it in 1956-57. Twenty per cent barred consideration of Jews, Catholics, and persons of various nationality groups. Only 10 per cent specified that qualified persons of any religious faith would be considered. Seventy per cent of the job openings specified no preference for or against qualified persons on the basis of religion or nationality. Ninety-eight per cent of the job openings excluded consideration of nonwhites. Among the business and industry groups most responsible for discrimination in white collar employment in the Chicago area were banks and other financial institutions, electronic and electrical manufacturing companies, advertising agencies, insurance companies, trade associations, management consulting firms, book and publications companies, chemical manufacturers, and paper products firms. A total of some 1,500 companies were identified in the records of the Bureau on Jewish Employment Problems as responsible for placing discriminatory job orders on the basis of religion and nationality.

The Anti-Defamation League (ADL) of B'nai B'rith charged early in August 1957 that racial and religious discrimination was being practiced by more than 200 Los Angeles business firms in hiring clerical personnel. Twenty-seven of the firms were characterized as "major national corporations." Negroes, Orientals, Mexican Americans, Jews, and Roman Catholics were reported as among those excluded. Since some 20-odd firms of the 200 held government contracts, a complaint was filed by the ADL regional office with the President's Committee on Government Contracts.

In 1955 the General Assembly of Iowa had requested the governor to appoint a commission to study the extent of employment discrimination in the state. The commission in January 1957 reported:

that there is definitely discrimination against members of racial and religious minority groups in the state of Iowa in the matter of employment applications and hiring and upgrading and promotion. The group which receives the main brunt of such discrimination is the Negro population of Iowa. The report also found "relatively little testimony dealing with discrimination against Jews." 76

Legislative Action

Proposals to enact new or strengthen existing fair employment practice (FEP) laws were introduced in California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Maryland, Missouri, Nebraska, New Hampshire, New Mexico, New York, Ohio, and Wisconsin. Colorado and Wisconsin strengthened their existing FEP laws, while California, Illinois, and New York passed laws intended to discourage discrimination in employment in certain narrow fields.

On March 13, 1957, Governor Stephen L. R. McNichols of Colorado signed a law extending the enforcement provisions of the existing FEP measure so that private employers, who had previously been exempt from its provisions, were now subject to the same standards as public employers. Governor

Vernon W. Thomson affixed his signature on June 28, 1957, to a bill which had passed both houses of the Wisconsin legislature unanimously. It provided enforcement machinery for the state's educational-type nondiscrimination law. Wisconsin thus became the thirteenth state with an enforceable FEP law applicable to public and private employment.

The Wisconsin FEP law, however, contained one ambiguous provision. The legislature provided that if any order issued by the industrial commission was "unenforceable against a labor organization in which membership is a privilege, the employer with whom such labor organization has an all-union shop agreement shall not be held accountable under this chapter, when such employer is not responsible for the discrimination." The scope and importance of this provision would have to await judicial interpretation.

In August 1957 Governor William G. Stratton signed a measure into law which denied state aid to any public school district in Illinois which failed to certify that it did not discriminate in the employment of teachers. Governor Goodwin Knight of California on July 10, 1957, signed a bill authorizing the State Board of Education to establish a commission to assist and advise local school districts with respect to the elimination of racial, religious, and other discrimination in the employment of licensed teachers and supervisors. On April 19, 1957 Governor Averell Harriman signed an amendment to the New York State labor law prohibiting discrimination on the grounds of race, creed, color, or national origin in the apprenticeship training programs under the joint sponsorship of labor unions and trade management groups.

The New York Legislature adjourned on March 30, 1957, without acting on a bill which would have authorized SCAD to initiate complaints on its own motion. Instead, the legislature passed a bill appropriating $100,000 for the creation of a civil rights bureau in the office of the state's attorney general to file complaints involving discrimination with SCAD. Governor Harriman vetoed this bill on the ground that it might "whittle down the authority" of SCAD.

On July 1, 1957, the Board of Supervisors of the city and county of San Francisco, Calif., passed a fully enforceable FEP ordinance. It was signed into law by Mayor George Christopher on July 10, and became effective on August 9, 1957. The ordinance prohibited discrimination in hiring, tenure, compensation, promotion, discharge, or any other terms, conditions, or benefits of employment on the grounds of race, color, religion, ancestry, national origin, or place of birth. Discriminatory questions on application forms were likewise prohibited, except that after employment, employers might, if approved by the commission, make a record of information concerning the employees' race, color, ancestry, national origin, or place of birth. Employment agencies, labor unions, and employers of five or more employees were covered. Also covered were all departments, offices, agents, or employees of the city and county of San Francisco, and all contractors and subcontractors engaged in the performance of any contract entered into with the city or county. A seven-member commission on equal employment opportunity was appointed by the mayor on August 12, 1957, to implement the ordinance.

Immediately after passage of the ordinance, the Yellow Cab Company announced that Negro drivers would be hired for the first time in San Fran-
The Negro community had been boycotting the company for several years because of its discriminatory policy.

The city of Bakersfield, Calif., enacted an ordinance on September 3, 1957, modeled closely after the San Francisco law.

The city of East Chicago, Ind., amended its FEP ordinance on June 10, 1957, to increase the membership of the commission from nine to eleven members, and to give the body additional investigative and enforcement powers, including authority to receive, initiate, and investigate complaints alleging violations of the law, and to certify cases to the city attorney for prosecution.

**Court Action**

The circuit court of Milwaukee county refused to order the Bricklayers Union of that city to admit two Negroes to membership, notwithstanding a prior finding by the Wisconsin industrial commission that the union had violated the state's FEP code. The court recognized "the serious economic and social problem which confronts the plaintiffs," and added that "discriminatory practices invoked by any individual or group of individuals is morally wrong." However, Judge Robert C. Cannon in his November 30, 1956, opinion found that the Wisconsin FEP code vested no enforcement powers in the commission other than that of publicizing its findings, and concluded that the plaintiffs' complaint had to be dismissed as having no legal basis. An appeal was taken to the Supreme Court of Wisconsin, which affirmed the lower court on April 9, 1957. In the state's highest court, the majority opinion, written by Justice Brown for six members of the bench, held that the legislature had announced the public policy of the state as being opposed to discrimination in employment, but had not authorized the industrial commission to issue enforceable cease and desist orders. The court held that it could not create a legal right where the state legislature had failed and refused to do so. The majority found support in the legislative history of the FEP code for its conclusion that the legislature did not intend to create enforceable rights when it passed the act. The opinion also pointed to legislative efforts in recent years—so far without success—to amend the law by granting the commission enforcement powers.

The opinion then considered the case in the light of the equal protection clause of the Fourteenth Amendment to the Federal Constitution. The court held that under decisions of the United States Supreme Court, this clause provided protection against "state action" only, whereas "the present discrimination is by private persons acting privately."

Justice Fairchild dissented. He argued that a labor union should not be treated like a group of people forming a voluntary association for purely social or fraternal purposes. The courts should rather adhere to the principle that unions did not have the right to exclude people from membership solely on grounds of race or religion. He continued:

We are engaged in a struggle to make equality and freedom realities for all Americans. In addition to political equality, the full availability to

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everyone of education and full opportunity for employment to the extent of his capacity are generally considered the basic essentials in order to erase from America anything which could be termed "second class" citizenship.78

It was as a result of this decision that the Wisconsin legislature amended the state's FEP law, to vest enforcement powers in the commission (see above). On February 5, 1957, St. Paul municipal court Judge J. Jerome Plunkett finally disposed of a complaint brought against the F. W. Woolworth Company by the St. Paul Fair Employment Practice Commission. The company had been found guilty of violating the St. Paul FEP ordinance, because one of its interviewers noted in a company book that an applicant was a Negro and the applicant was thereafter denied employment. The court had continued the case until February 5 so that it could ascertain whether the store would take remedial action to prevent future violations. Pursuant to the court's direction, the executive secretary of the St. Paul FEP reported to the court that the company had put into effect a ten-point program of education and policy on FEP. Judge Plunkett thereupon suspended the sentence of $100 fine or ten days in jail, with the understanding that the suspension was conditional upon the firm's living up to its commitments to comply with the St. Paul FEP ordinance. In suspending the sentence, Judge Plunkett emphasized the educational value of the case.79

In New York State, the Jeanpierre case (see AMERICAN JEWISH YEAR BOOK, 1957 [Vol. 58], p. 125) reached the Appellate Division of the Supreme Court which, by a 3 to 2 decision on May 7, 1957, held that the law against discrimination did not contemplate court review of the action of a commissioner in dismissing a complaint "for lack of probable cause."80 Notice of appeal to the Court of Appeals was filed by the complainant.

Administrative Agency Action

President's Committee on Government Contracts

In its 1956-57 Annual Report on Equal Job Opportunity, the President's Committee on Government Contracts reported that it had received eighty-eight complaints during the twelve-month period from July 1, 1956, to June 30, 1957, charging discrimination by firms holding contracts with the various agencies and departments of the government. The committee asked all government contracting agencies, before awarding contracts to companies that had not previously held government contracts, to examine the employment policies of each such firm to determine "whether it has a record which indicates it will be able to comply with the requirements of the nondiscrimination clause." In February 1957 the committee sponsored a Youth Training-Incentives Conference in Washington to consider ways to stimulate more of the youth of minority groups to acquire the maximum training within their individual capacities. The conference was attended by leaders of business and labor and the superintendents of schools from sixteen cities having

78 Ross v. Ebert, 82 N.W. 2d 315.
large minority group populations. The committee also asked the leaders of more than fifty major business firms to include an equal job opportunity emblem in recruitment advertising in newspapers and periodicals as a device to alert members of minority groups to employment opportunities available to them. The committee opened a midwestern regional office in Chicago to serve the states of Illinois, Indiana, Michigan, and Wisconsin.

**Michigan**

On October 14, 1956, after one year of operations, the FEPC of Michigan issued a summary of "progress, problems and conditions encountered in this first year." Public acceptance of the act and the FEPC was reported as "very good." The preponderance of complaints had related to hiring, while race had been the "overwhelming basis of the alleged discriminatory act." About six out of every ten cases filed with it had been dismissed by the commission for "insufficient proof."

The Michigan FEPC faced the first challenge to its authority when a complaint was filed by a former Negro employee of the Detroit Water Board charging that he had been fired because of his race or color and the board refused to make its personnel records available to the commission for inspection. An application was made to circuit Judge Victor J. Baum for an order directing the water board to produce its records, and in March 1957 Judge Baum ordered the records to be produced.

**Minnesota**

On January 4, 1957, the Minnesota FEPC requested Governor Orville Freeman to appoint a board of review to hold the first public hearing on a case involving charges of employment discrimination.

The case arose when a bus boy, employed by a restaurant in Minnesota, charged that he had been denied a promotion to waiter because he was a Negro. The FEPC charged that the restaurant in question refused to reemploy the complainant because he had filed a complaint with the commission.

**New York**

In November 1956 the New York SCAD announced the conclusion of an agreement under which some eighteen major airlines undertook to accept the principle of nondiscrimination in the hiring and upgrading of labor. Merit was stated to be the sole basis for employment and promotion, in all categories of work, and without regard to race, creed, color, or national origin. As a direct corollary, the airlines indicated that there would be no solicitation of applicants from employment agencies or training schools which practiced discrimination in job placements. The first concrete result of the agreement was the hiring of a Negro flight crewman in March 1957 by the New York Airways, the city's helicopter airline.

SCAD reported in November 1957 that 682 new complaints had been filed during the first nine months of the calendar year.* Of this number, 573

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*The preliminary report did not indicate what percentage of these complaints charged discrimination in employment, in public accommodations, and in housing. It is assumed, however, that the majority of them involved charges of employment discrimination.
(563 Negroes) charged discrimination because of color; 43 (39 Jews) cited creed as the cause of discrimination; 56 (31 Puerto Ricans) were based on national origin. Eighty-five per cent of the complaints came from New York City and the surrounding suburbs.

Ohio

In July 1957, for the first time Negroes were admitted to membership in Cleveland's Local 38 of the International Brotherhood of Electrical Workers (IBEW). A Negro electrician, refused admission to the union, which had a fifty-four-year history of exclusively white membership, filed a complaint with the Cleveland Community Relations Board. After a hearing and a finding of discrimination, the board demanded that the union give fair consideration to the complainant's application. When it refused, the board decided to take the matter up with the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) before resorting to court enforcement. The international president of the IBEW ordered Local 38 to end its discriminatory policy, or the international "would take appropriate action." The local union then yielded, and admitted several Negro electricians to membership.

Pennsylvania

Within a month of the outbreak of violence in Levittown, Pa., over the entry of a Negro family into a formerly all-white residential neighborhood (see above), it was reported that the James Buchanan elementary school, also located in the Levittown development, had hired its first Negro teacher. According to The New York Times of September 17, 1957, "the opening school day passed without incident," as did the remaining school days.

Opinions of Attorneys General

California

In response to an inquiry from the board of supervisors of San Francisco, Calif., which had a city FEP ordinance under consideration, Dion R. Holm, city attorney, ruled on April 23, 1957, that the proposed ordinance "in its present form" would conflict with similar legislation then being considered by the state legislature. Since the state failed to enact any FEP legislation, the opinion was academic.

Kansas

The executive secretary of the Kansas Anti-discrimination Commission asked the attorney general whether a charitable hospital, operated by a non-sectarian organization, would be an "employer" under the terms of the Kansas act against discrimination. On March 20, 1957, Attorney General John Anderson, Jr., ruled that a bona fide charitable hospital was excluded from the terms of the anti-discrimination act.

Wisconsin

In May 1957, while the bill to add enforcement machinery to the Wisconsin FEP act was pending in the state legislature, the attorney general was
asked for an opinion as to the constitutionality of the bill, if passed. Attorney General Stewart G. Honeck ruled the proposed grant of enforcement powers to be consistent with the constitution. The bill, he said, if enacted, would reverse the principle enunciated by the Wisconsin Supreme Court in Ross v. Ebert (see above).

Voluntary Action

On July 10, 1957, the National Urban League and the United Automobile Workers, AFL-CIO, announced the culmination of an agreement on procedures for dealing with racial discrimination cases in all plants where the UAW had collective bargaining contracts. It was estimated that some 200,000 Negro workers would be affected by the agreement under which machinery was to be created to handle the grievances of these workers. Walter P. Reuther, UAW president, and Theodore W. Kheel, Urban League president, said that the grievances would be handled cooperatively by league representatives and the union's fair practices department. The agreement was hailed as a "voluntary" FEPC.

PUBLIC ACCOMMODATIONS

Transportation

A number of very important developments occurred during the reporting period (October 1, 1956, to September 30, 1957) in the field of public transportation. The courts continued to nullify state and local laws requiring racial segregation in intrastate transportation, and there were a number of instances of violence resulting from attempts by Negroes to assert their rights to equality of treatment on buses in the Deep South.

Alabama

When the United States Supreme Court, on November 13, 1956, interpreted the equal protection and due process clauses of the Fourteenth Amendment as proscribing enforced segregation on city bus lines in Montgomery, Ala., it destroyed the last vestige of legal justification for the "separate but equal" doctrine. The brief opinion of the highest court affirmed a Federal district court decision which enjoined the state and city officials, the company operating the local bus lines, and certain drivers, from enforcing state laws and city ordinances which required segregation on the municipal bus lines.81

The Supreme Court ruling brought statements of defiance from the Montgomery City Commission, the Alabama State Public Service Commission, and the White Citizens Councils. There followed sporadic Ku Klux Klan marches and meetings and then outbreaks of dynamiting and violence.

Montgomery buses were fired upon on a number of occasions late in

December 1956, resulting in serious personal injuries to passengers in at least one instance. As a result, the city Board of Commissioners suspended the operations of the buses from December 29, 1956, to January 15, 1957. On January 16, 1957, daytime operations were resumed.

On January 10, 1957, four Negro churches in Montgomery and the homes of two ministers associated with the bus boycott (see AMERICAN JEWISH YEAR BOOK, 1957 [Vol. 58], p. 130), were seriously damaged by bombs. A second series of dynamittings occurred on January 27, when a Negro cab stand was blasted and a bomb, which failed to explode, was hurled at the home of the Reverend Martin Luther King, Jr., the bus boycott leader.

There was also a series of legal moves designed to counteract the very effective bus boycott being employed by the Negroes. On October 30, 1956, the Montgomery Board of Commissioners adopted a resolution prohibiting the use of "car pools." A law suit was then instituted in the state courts to enjoin the operation of car pools unless they were licensed as common carriers. A number of Negro leaders of the boycott applied to the Federal district court for a restraining order to prevent the state court action. Federal district court Judge Seybourn H. Lynne refused to issue such a restraining order, and the Montgomery county circuit court on November 14, 1956, enjoined the Montgomery Improvement Association, the various Baptist churches, and the individual Negroes from continuing their car pool operations.

Following the decision of the United States Supreme Court that the state laws and city ordinances requiring segregation on public buses were unconstitutional, the Board of Commissioners of Montgomery sought an opinion from the Federal district court to determine whether the city could grant a franchise to a group of citizens to permit them to operate a nonprofit "private club" bus service within the city restricted to the "members" of the so-called club. On February 27, 1957, the three-judge Federal court refused to render any "advisory opinion," since no "case of controversy" was involved.

In Birmingham and Mobile, as in Montgomery, Negroes began to disregard the requirement that they occupy the rear seats of local buses. There were a few arrests in Birmingham and several attempted bombings in Mobile, but things had quieted down by October 1957.

**FLORIDA**

After the Supreme Court held the Alabama laws unconstitutional, Cities Transit, Inc., the operator of the buses in Tallahassee, directed its employees to disregard the Florida statutes requiring racial segregation. On December 26, 1956, the city officials advised the bus company that continued noncompliance with the segregation statutes would result in revocation of the bus franchise. When an action was brought in the state courts to cancel the company's license, the transit company commenced an action in the Federal district court to enjoin further proceedings by the city to revoke its franchise...

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or otherwise interfere with the company's operation of the buses. Federal
district court Judge Dozier A. DeVane granted the restraining order on
December 27, 1956.86

As in Montgomery, the Negroes of Tallahassee operated a car sharing plan
to provide a means of transportation while they boycotted the public buses. Also, as in Montgomery, the city authorities tried to prevent the car pools from operating. In Tallahassee, however, criminal actions were brought against the sponsors of the car sharing arrangement. The Inter-civic Council tried to enjoin the criminal prosecutions through an appeal to the Federal district court. On October 15, 1956, the Federal court declined to interfere with the state criminal proceedings.87

Also, as in Montgomery, the operation of the buses in Tallahassee was suspended from January 1 to January 11, 1957, because of outbreaks and threatened outbreaks of violence which followed the attempts of Negroes to assert their legal right to ride the buses on a nonsegregated basis.

A group of Negroes in Miami sued the operator of the bus lines, the city commissioners, and the city of Miami in the Federal district court, to have the city ordinances and state laws requiring racial segregation in transportation facilities declared null and void. On August 6, 1957, Federal district court Judge Emmett C. Choate held the statutes unconstitutional and issued a permanent injunction against the city to prevent it from attempting to enforce the segregation ordinances or statutes.88

GEORGIA

The Supreme Court decision nullifying state statutes requiring segregation on intrastate buses led Governor Marvin Griffin to declare that there "would be no breach in the pattern of segregation in Georgia as long as I am Governor." However, a group of six Negro ministers began an organized attack on segregated seating on the Atlanta city buses on January 9, 1957. The Governor placed the state militia on the alert, because "peace in the Atlanta area had been threatened by utterances and incitements of out-of-state agitators." The Negro ministers boarded the buses, sat in the front section, formerly reserved for whites, and sang, prayed, and read the Bible. The bus driver pulled over to the curb and reported "out of service." After a while, the ministers got off the bus. The Fulton County grand jury subsequently indicted the six Negroes on charges of violating the state segregation law by refusing to occupy the seats assigned to them by the bus driver.

LOUISIANA

Federal district court Judge J. Skelly Wright held on May 15, 1957, that the enforced segregation of Negroes on buses, street cars, or trolley buses operating within the city of New Orleans violated the United States Constitution. A permanent injunction to prevent enforcement of the state segregation laws or the local ordinances was issued by Judge Wright on May 24, 1957.89

86 Cities Transit, Inc. v. City of Tallahassee, 2 Race Rel. Law Rep. 137.
87 Inter-civic Council of Tallahassee v. City of Tallahassee, 2 Race Rel. Law Rep. 143.
Places of Public Resort, Amusement or Service

Legislative Action

Bills to strengthen old laws or enact new statutes concerning discrimination in places of public accommodation were introduced in 1957 in Arizona, Colorado, Connecticut, Delaware, Kansas, Maryland, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, Oregon, Utah, Vermont, Washington, and Wyoming. Colorado, Oregon, and Washington strengthened their statutes prohibiting discrimination in places of public accommodation by vesting enforcement jurisdiction over these laws in their existing administrative commissions against discrimination. This action followed the trend established in Connecticut, Massachusetts, New Jersey, New York, and Rhode Island to broaden the authority of existing state commissions against discrimination so that eventually each such administrative body would have jurisdiction over the state's principal anti-discrimination laws. Vermont passed a law, signed on April 23, 1957, by Governor Joseph Johnson, prohibiting places of public accommodation from refusing service to any person on the grounds of race, color, creed, or national origin. Violations were punishable, upon conviction, by fine or imprisonment. In February 1957, Governor Milward L. Simpson of Wyoming signed a law providing that "no person of good deportment shall be denied the right of life, liberty, pursuit of happiness, or the necessities of life because of race, color, creed, or national origin." Although violations were made a misdemeanor punishable by fine or imprisonment, the meaning of "pursuit of happiness" and "necessities of life" was probably too vague to sustain a criminal conviction. The proposals to enact new or strengthen old public accommodations laws were not acted upon favorably in the remaining state legislatures where bills had been introduced.

Court Action

The repercussions of the Supreme Court decision holding compulsory segregation in public schools violative of the Fourteenth Amendment continued to be felt in public parks, golf courses and swimming pools of the Southern and border states.

In Florida, the city of St. Petersburg was enjoined by the Federal district court on March 22, 1956, from refusing to allow Negroes to use the municipal pool and beach. When the injunction was appealed, the United States Court of Appeals affirmed it on December 19, 1956, stating that all activities of a municipality were within the reach of the Fourteenth Amendment. Injunctions were also granted against the cities of Ft. Lauderdale and Miami to restrain them from refusing to permit Negroes to use their public golf courses on the same basis as whites.

On May 27, 1957, the Federal district court in Louisiana declared the state laws and municipal ordinances denying Negroes admission to certain

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90 City of St. Petersburg v. Alsup, 238 F. 2d 830, cert. denied 77 S. Ct. 680.
public parks and recreational facilities of New Orleans violative of the Fourteenth Amendment and hence void. An injunction was issued to restrain the enforcement of those statutes.93

On February 4, 1957, superior court Judge Susie Sharp issued a permanent injunction against the Charlotte Park and Recreation Commission of Charlotte, N. C., restraining the commission from depriving Negroes of the right to use the city's park and golf course.94 The golf course was then opened to Negroes. Also in North Carolina, the Federal district court on March 18, 1957, enjoined the city of Greensboro from depriving the Negroes of that city of the right to use the municipally owned golf course, which had been leased to a corporation to operate on a segregated basis. The court held that the right to use the golf course "cannot be abridged by the lessee; so long as the course is available to some of the citizens as a public park, it cannot be lawfully denied to others solely on account of race."95 The court's decree also restrained the city from disposing of the park except by "a bona fide sale." On appeal, the decision and decree were affirmed by the United States Court of Appeals on June 28, 1957.96 The plaintiffs in the case were arrested for trespass when they attempted to play on the "private" golf course. They were convicted in the municipal court, and appealed to the North Carolina Supreme Court which, on June 11, 1957, vacated the conviction because of a technical defect in the original warrants under which the crime was charged.97

On December 19, 1956, the United States Court of Appeals affirmed a decision of the Federal district court that a restaurant in the Harris County court house in Houston, Tex., could not under the Fourteenth Amendment deny service to Negroes. The county officials argued that the Federal Constitution did not affect the conduct of the restaurant, because it was operated by a private individual as a lessee of the county. The court held that the private lessee had the same duty not to exclude Negroes as the county would have if it were operating the facility.98 Also in Texas, however, Federal district court Judge Lamar Cecil refused on July 31, 1957, to grant an injunction to force the city of Marshall to open its municipal swimming pool to Negroes. While the court acknowledged the clear right of the petitioners to use the pool, Judge Cecil said:

I believe there is a severe threat of violence if the swimming pool is opened to Negroes at this time. I do not feel that the danger can be outweighed by the need for this plaintiff and others of his race to swim for the few remaining days of this season.99

STATE COURTS

There were also a number of state court cases in which proprietors of places of public accommodation were fined for violations of state civil rights laws.

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96 City of Greensboro v. Simkins, 246 F. 2d 425.
The appellate department of the Superior Court of Los Angeles, Calif., on January 8, 1957, affirmed the dismissal of a suit brought by a Negro against a dentist who was charged with refusing to treat the plaintiff because of his color. The appellate court ruled that a dentist's office was not "a place of public accommodation" within the meaning of the California civil rights act. On January 29, 1957, the municipal court in Stockton, Calif., awarded $200 damages to a Negro who proved that the owner of a barber shop refused to give him a haircut and thus violated the civil rights law.

In February 1957 a municipal court jury in New York awarded two Negro dining car waiters $200 damages each against the Union News Company, the operator of a railroad terminal restaurant in Syracuse, N. Y., which had refused them service in violation of the state's civil rights law. The New York Court of Appeals, the state's highest court, unanimously affirmed on April 11, 1957, the rulings of SCAD and two lower courts that the swimming pool operated by the Castle Hill Beach Club, Inc., was a place of public accommodation under New York law and not a "private club," as its owners attempted to establish. (See American Jewish Year Book, 1956 [Vol. 57], p. 170.)

Because it was unable to discover a United States Supreme Court decision expressly overruling the "separate but equal" doctrine with respect to public meetings, the circuit court of Arlington county, Va., on January 15, 1957, sustained Virginia's statute requiring racial segregation at public meetings.

Damages in the amount of $750 were awarded a Negro plaintiff on April 5, 1957, in the superior court of King County, Wash., because the operator of a reducing salon refused, solely on the grounds of race, to provide service to the plaintiff, although the state's public accommodations law prohibited such discrimination.

RULINGS BY STATE ATTORNEYS GENERAL

In response to a request from Malcolm B. Higgins, the executive secretary of the Kansas Anti-discrimination Commission, John Anderson, Jr., the attorney general of Kansas, ruled on February 19, 1957, that municipalities lacked the authority, in the absence of specific state legislation conferring such power, to enact local ordinances prohibiting discrimination because of race, color, religion, or national origin in places of public accommodation.

On August 7, 1957, Attorney General Thomas M. Kavanagh of Michigan ruled constitutional the 1956 enactment which permitted courts to revoke or suspend the licenses of tavern keepers and hotel and motel operators who practiced discrimination on racial or religious grounds. In July 1957, Kavanagh had ruled that Michigan's civil rights law did not compel a privately operated nursing home to admit Negro patients. The question was submitted as a result of an unsuccessful attempt by the Benzie County Department of Welfare to place a Negro in a nursing home near Beulah, Mich.

100 Coleman v. Middlestaff, 305 P. 2d 1020.
102 Frinkle v. Union News Company.
103 Castle Hill Beach Club, Inc. v. Arbury, 142 N.E. 2d 186.
104 Commonwealth v. Bissell.
On March 1, 1957, Attorney General J. Lindsay Almond, Jr., of Virginia, ruled that a meeting of a county council of a parent teachers association was not a "public assemblage" within the meaning of the state criminal statute requiring racial segregation at all public meetings.

**Community Action**

**FLORIDA**

In Pensacola, the public golf course was being used on a nonsegregated basis as a result of the decision of the Federal district court in *Augustus v. City of Pensacola*. On the other hand, the citizens of West Palm Beach voted in a referendum to sell or lease their public golf course and swimming pool, if necessary, to evade desegregation. Sale of the public facilities was approved by a margin of 259 votes out of a total of almost 5,000 ballots cast.

**KENTUCKY**

Mayor Andrew Broadus of Louisville revealed in November 1956 that 30 per cent fewer people had used the city's five swimming pools during the summer of 1956 when they were available on a nonsegregated basis than had used them during 1955, when they were operated on a segregated basis. The mayor, however, attributed the loss of patronage to the "unusually cool summer," and not to the nondiscriminatory policy.

**NEW YORK**

Welfare Commissioner Henry L. McCarthy, and Dr. Alfred J. Morrow, chairman of the Commission on Intergroup Relations of the City of New York, announced on August 22, 1957, the successful establishment of "a policy of nondiscrimination among the private nursing homes treating recipients of public assistance." The report cited 681 cases referred for nursing home care during April, May, and June 1957. The 108 Negroes among these cases were accepted without objection by the cooperating private institutions.

**THEODORE LESKES**

**CHURCH AND STATE**

During 1956–57, as in the past few years, problems involving the relationship between church and state arose most frequently in the area of public education. This was probably associated with the revival of emphasis on religion, and disagreements among the major religious groups concerning the role, if any, that the public schools should play in "preconditioning" the child to a belief in God.

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Rulings of State Attorneys General and School Counsel

CALIFORNIA

On September 20, 1956, Attorney General Edmund G. Brown of California ruled in response to a question put to him by State Assemblyman Carley V. Porter as to whether a local school district could grant leaves of absence with pay to employees absent from their duties in order to observe a religious holiday of their faith. The attorney general, after reviewing the relevant sections of the state education law and constitution, concluded that none of these prohibited leave to teachers to absent themselves with pay upon religious holidays, where attendance at the school made it impossible for them to observe the holidays by the religious worship required by their faith. He added, "The fact that Jewish teachers would be the primary beneficiaries, because of the fact that school vacations are arranged so as to include the major, though not all, non-Jewish religious holidays, does not, we believe, change the principle involved."

On December 18, 1956, the county counsel of Los Angeles, faced with the same question from a public school district superintendent, ruled that the education law of the state of California did not authorize the board of trustees of a public school district to grant leave with pay to employees absent from their school duties for the purpose of attending religious services or other forms of religious observance. The county counsel acknowledged that his opinion was in conflict with the earlier opinion of the attorney general. The county counsel concluded, however, that payment of the salary of a public employee primarily for the purpose of aiding that person to practice his religious faith, while that person was performing none of the services for which he was employed, would be using tax money primarily for the promotion of religion. This could not be done constitutionally.

On January 11, 1957, Frederick W. Reyland, Jr., counsel of Stanislaus County, Calif., advised the superintendent of public schools in Turlock that it was not legal under the state constitution for a school board to lease a classroom to Youth for Christ during the noon hour on a school day so that organization could hold a religious meeting including worship, prayer, and the singing of hymns.

On April 4, 1957, Robert M. Wash, county counsel of Fresno, Calif., in response to a series of questions from public school district superintendent Paul B. Reall, ruled that: the study in the public schools of the Twenty-third Psalm and other Bible passages would not violate constitutional prohibitions, if studied as literature or poetry; invocations, benedictions, and grace before meals, used by school personnel in connection with any school activity including meals in the school cafeteria, did violate constitutional prohibitions; and such invocations, benedictions, and grace at meetings of Parent-Teachers Association (PTA) members or other organizations affiliated with the public school did not violate constitutional restrictions.

ILLINOIS

On September 28, 1956, Robert W. Deffenbaugh, the assistant legal adviser to the superintendent of public instruction of the State of Illinois, ruled in
response to a query, that it was improper for any public school to circulate a questionnaire for the purpose of inquiring into the church affiliation of the parents or guardians of the children.

New Jersey

Attorney General Grover C. Richman, Jr., of New Jersey ruled in June 1957 that it was illegal under the State Education Law for the school authorities of the Edgewater Park Public Schools to participate in a program to have the children “say grace” or hold “an interval of silence” for the same purpose, before eating their meals in the school lunch room. Following the ruling there was some public demand for a change in the statute upon which the attorney general’s opinion was predicated. Subsequently, Assemblyman William B. Musto (Dem., Hudson County) announced that he would sponsor a bill which would amend the education law to leave this question to the discretion of local boards of education. No action was taken, however, by the time the legislature adjourned its first part of the 1957 session in August.

Pennsylvania

On September 12, 1957, Thomas D. McBride, attorney general of Pennsylvania, rendered an opinion to Charles H. Boehm, state superintendent of public instruction, in response to an inquiry as to the legality of leasing an abandoned public school building to a Roman Catholic Church for use as a parochial school. The attorney general found that there was no question as to the reasonableness of the term of the lease or the fairness of the rental to be paid. He then ruled that the Pennsylvania constitution, which provided that no money raised for the support of the public schools should be used for the support of any sectarian school, was inapplicable. He added that the provisions of the Federal and state constitutions which barred the establishment or preference of religion were equally inapplicable.

Washington

On June 13, 1957, John J. O'Connell, attorney general of Washington, ruled in response to a query from State Senator Wilbur G. Hallauer, that the University of Washington, a state university, could not engage in certain activities as part of the observance of Religious Emphasis Week.

Religious Emphasis Week was sponsored by the religious directors' association of the University of Washington. It involved the presentation of a program on the campus in which representatives of the various religious groups, members of the faculty, and other university personnel participated in meetings in the classrooms for the purpose of promoting religious observance by students attending the university. Actual classroom time was used for the program.

The attorney general based his ruling on two provisions of the state constitution, that provided that all schools maintained or supported wholly or in part by public funds should be forever free from sectarian control or influence, and that no public money or property should be appropriated for or applied to any religious worship, exercise, or instruction.
Court Rulings

CALIFORNIA

The United States Supreme Court on December 3, 1956, refused to review a decision by the Supreme Court of California that tax exemption for private religious schools did not violate the constitutional guarantee of separation of church and state. The United States Supreme Court did, however, agree to review a series of cases from California questioning the constitutionality of a 1952 statutory requirement that tax-exempt institutions, including churches, must subscribe to a "loyalty oath" as a condition precedent to continued enjoyment of the tax-exempt status.

A third case in California involved the Fellowship of Humanity. The fellowship was denied tax exemption on its real property located in Oakland, on the theory that it was not a religious organization, because its doctrines did not require belief in the existence of a Supreme Being. When the tax assessors denied the fellowship tax exemption, the organization paid the tax under protest and sued to recover the amount so paid.

The superior court of Alameda County determined that the fellowship used its property "solely and exclusively for religious worship," and ruled in favor of tax exemption for the property of the fellowship. The county of Alameda appealed.

On September 11, 1957, the California district court of appeal, in a two to one opinion, affirmed the superior court's holding that the real property of the fellowship was entitled to tax exemption. The basic question, as the court reasoned, was whether the term "religious worship," as used in the exempting clause of the state constitution, necessarily required reverence to and adoration of a Supreme Being.

"In a country where religious tolerance is accepted," the court said, "it would not seem that the limited definition is in accord with our traditions."

It is perfectly obvious that any type of statutory exemption that discriminates between types of religious belief—that discriminates on the basis of the content of such belief—would offend both the federal and state constitutional provisions.

The opinion then turned to a discussion of what tests could be applied by a civil court in seeking to determine the tax status of an organization that claimed exemption as a religious society, where such claim was contested by the administrative agency charged with enforcing the revenue statutes. The court held that only an objective test—one that did not examine the validity or the content of the beliefs of the organization—could be used. The content of the belief "is not a matter of governmental concern." Under this view of the case, belief or nonbelief in a Supreme Being "is a false factor."

The district court of appeal listed four objective criteria to be used to

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1 Heisey v. County of Alameda, 77 S. Ct. 224.
2 First Unitarian Church of Los Angeles v. County of Los Angeles, 1957-58 Term, Docket No. 382.
determine whether a claimant for tax exemption on religious grounds was entitled to it.

Religion simply includes: (1) a belief, not necessarily referring to supernatural powers; (2) a cult, involving a gregarious association openly expressing the belief; (3) a system of moral practice directly resulting from an adherence to the belief; and (4) an organization within the cult designed to observe the tenets of belief.

Under this test, it was obviously immaterial whether the beliefs of the society were theistic or nontheistic. Admittedly, the Fellowship of Humanity met the tests thus established, and was therefore entitled to the claimed exemption.

A case presenting the identical legal issue was pending in the United States courts of appeals for the District of Columbia in October 1957.4

MAINE

The city of Augusta appropriated $100 to initiate school bus service for children attending parochial schools in the city. The action was taken to lay the necessary ground for a lawsuit to settle a controversy which had developed between parents of children attending religious schools and other citizens over the propriety of using public funds for the transportation of children to and from parochial schools. On May 3, 1957, superior court Justice Harold C. Marden of Augusta enjoined the city from appropriating public funds for that purpose.

The court reviewed a series of state cases and the language in the constitution and statutes of Maine which dealt with bus transportation of children attending the public schools. These cases made it clear that appropriations were made solely for the use of the public schools, and that the parochial school system was not a part of the public school system. The court concluded, therefore, that the expenditure of public funds, as proposed in the city order, was "not authorized by the laws of the state." 5

MISSOURI

On August 5, 1957, circuit Judge Raymond E. LaDriere of St. Louis County, ruled unconstitutional two zoning ordinances which operated to deny Temple Israel the right to erect a chapel and Sunday school on its property in Creve Coeur, Mo. The court held that the ordinances violated the right of the "free exercise" of religion guaranteed by the First and Fourteenth Amendments to the Federal Constitution and by the state constitution. The court also invoked the due process clause. In his opinion, Judge LaDriere praised the Metropolitan Church Federation of Greater St. Louis and Archbishop Joseph E. Ritter for filing amici briefs in support of Temple Israel.

Legislative Action

A church-state issue was before the legislature of one state during 1956–57, and there were definite signs that another would be raised in the general election in a second state in November 1958.

4 Washington Ethical Society v. District of Columbia, F. 2d—.
The Connecticut legislature debated a bill to authorize the use of public funds for the payment of bus transportation of children attending private schools. On May 29, 1957, the speaker of the Connecticut House of Representatives cast the deciding ballot to break a 133 to 133 tie vote and thus approve a bill to vest authority in the local towns and cities to provide or refuse to provide bus transportation for children attending nonprofit private schools. Governor Abraham A. Ribicoff, without comment, signed the bill into law the same evening.

Moves were under way in California to submit a referendum to the people at the November 1958 general election to reverse a decision made in 1952 to amend the state constitution to provide tax exemption for nonprofit private schools.

**Ruling by New York State Commissioner of Education**

A local board of education on Long Island, N. Y. (Union Free School District No. 5), granted permission for a group of schools under its jurisdiction to display the Ten Commandments on the walls of all classrooms. The text would be a result of recasting the Jewish, the Catholic and all the Protestant versions of the Ten Commandments, so as to cause the commandments to conform, so far as practicable, to all versions. Actually, the version proposed for posting differed from that accepted by any one of the three principal faiths.

The proposed display was objected to on the ground that it would be religious instruction, that the board's version of the Commandments was an abuse of the sanctity of the Ten Commandments, that a "new religion" was being established by the board, and that it would violate the separation of church and state required by both the Federal and state constitutions. Several objecting parents appealed to the state commissioner of education from the action of the local school board.

On June 10, 1957, Commissioner James E. Allen, Jr., handed down his ruling. He pointed out that the classrooms of the public schools were used by Jews, Catholics, Protestants, and adherents of other religions, and that his office had consistently taken the position that local boards of education should "not permit school facilities to be used where the use stirs up dissension detrimental to the well-being of the school." The ruling went on to say that "the education of children is not served by acts which create divisiveness, ill feeling, and unwholesome controversy."

A second ground for the ruling was that both state and Federal constitutions provided "that religion shall not be taught in the public schools." Religious instruction being "proscribed," the commissioner refused to accept the board's claim that the form of the Ten Commandments rendered them "nonsectarian." The fact that free and full discussion of the contents of the posters would be prohibited was considered by the commissioner as conclusive evidence that "religious instruction" was actually involved. An additional reason given by the commissioner for his ruling was the fact that the prohibition on free and full discussion was an "unsound educational practice."
Statement of the Presbyterian Church

In June 1957 the Presbyterian Church in the United States of America published an official statement entitled The Church and the Public Schools. This document was developed after long research and study in which both educators and clergymen participated, and was approved by the 169th General Assembly of the Presbyterian Church. It was the most comprehensive and definitive statement by an important Protestant denomination on the problem of religion and public education.

The document dealt with such matters as the alleged "godlessness" of the public schools; instruction in moral and spiritual values; the suggestion that the schools teach a "common core" of religious belief; religious references in the presentation of traditional subject matter—science, history, literature; religious implications of the guidance functions of the school; released time; and the application of tax funds to the support of parochial schools.

The statement took the position that: it was the "obligation" of the church to teach its children that "all values stem from God"; due to their secular nature, the public schools could not be expected to supply this instruction and the church could not assign to any institution its own responsibility "to make up for the prevalence of religious illiteracy"; a "common core" or "residuum of religious belief agreeable to all faiths" could not form the basis of public school instruction, because it would be "insufficient and misleading." While this statement approved released time "as worthy of further experimentation," it did so with reservations.

Theodore Leskes

IMMIGRATION

The Hungarian Revolution, which erupted in Budapest on October 25, 1956, (see p. 338), provoked a mass flight from Hungary into neighboring Austria. There was widespread sentiment in the United States and other countries of the free world in favor of relaxing immigration restrictions to relieve the heavy burden on Austria and to manifest sympathy for the heroism of the Hungarian people. With the enthusiastic support of virtually all segments of the American people, the United States government took administrative steps to facilitate the speedy admission of Hungarian refugees.

On November 8, 1956, the United States offered to make available 5,000 unused visas under the soon-to-expire Refugee Relief Act of 1953 (RRA). On December 1, it made a further offer of refuge to 21,500 Hungarians, including the original 5,000. Of the 21,500, 6,500 were to be admitted under the RRA and the remainder under the parole provision (Section 212 [d] [5]) of the Immigration and Nationality Act. This provision granted the attorney general discretion to parole into the United States temporarily "for emergent reasons or for reasons deemed strictly in the public interest" any alien applying for admission. On January 1, 1957, in implementation of the
recommendation made by Vice President Richard M. Nixon following his December 19-22, 1956, mission to Austria, President Dwight D. Eisenhower instructed the immigration authorities to continue emergency admission of Hungarians under the parole provision of the immigration law, with no specified limit, pending Congressional action.

As of June 27, 1957, of the 174,277 Hungarian refugees who had arrived in Austria, about half had been resettled in seventeen European countries of asylum and the other half in nineteen countries of overseas resettlement. Of the latter, the largest number, 33,542 (as of June 30, 1957) were resettled in the United States: 6,130 as immigrants on the basis of nonquota visas available to escapes from Communist areas of Europe under the RRA, and 27,412 as parolees under 212 (d) (5) of the Immigration and Nationality Act. As of the time of writing (September 1957), parolee admissions were still continuing, though on a small scale, and with priorities intended to reunite families separated by the revolution and to bring to the United States escapees who possessed unusual skills or were needed in the national interest.

As of June 27, 1957, some 28,318 Hungarian refugees still remained in Austria. In addition, as of June 18, 1957, some 9,949 were in Yugoslavia, having fled there as filtration across the border to Austria became more difficult. Of these, the United States had admitted an insignificant number.

During the eight-month period from November 1956 through June 1957, when most of the Hungarian refugees arrived in the United States, the United HIAS Service (UHS) assisted 3,926 Hungarian Jewish escapees to come to this country. (As of September 5, 1957, the number of UHS-assisted Hungarian Jewish refugee entrants was 4,825.1)
Latin America, particularly Brazil, was the only other overseas resettlement area which accepted Egyptian Jewish refugees in any significant numbers. The UHS reported that in the six-month period from January through the end of June 1957, it had assisted in the resettlement of 1,446 Egyptian Jews: 1,265 in Latin America, 48 in Canada, 65 in Australia, and 69 in various other countries. It was able to assist only 24 to obtain admission to the United States.²

The failure of the United States to contribute in any significant degree to the resettlement of the Egyptian refugees was due to the minimal immigration quota for Egypt and to the inflexible character of the basic immigration law. Many Egyptian Jews who would have preferred to immigrate to the United States resigned themselves to the unlikelihood of obtaining admission to this country and accepted opportunities available to them to settle in Israel and elsewhere. Others, however, remained in countries of first asylum in the hope of the eventual liberalization of United States immigration policy.

Repeated pleas by Jewish and other civic and religious organizations for admission of a fair share of the Egyptian refugees under the parole provision of the immigration law, on the same basis as the Hungarian refugees, went unheeded. Such pleas were directed on a number of occasions during the early months of 1957 to the President, and to the State and Justice Departments.

On February 26, 1957, a delegation representing the major Jewish national organizations met with Deputy Assistant Secretary of State Lampton Berry, and urged action along these lines. Such action was again urged by a Jewish delegation at a meeting on May 29 with other officials of the State Department. On March 22, in a public letter addressed to the attorney general, three members of the United States Senate—Clifford P. Case of New Jersey and Irving M. Ives and Jacob K. Javits of New York—urged extension of the parole procedure to Egyptian refugees.

All of these pleas were rejected, with the explanation that extension of the parole provision to groups other than Hungarians had to await Congressional action on the general question of immigration and refugee legislation, and that the administration would not act without such guidance from Congress. This was the tenor of State Department and Justice Department responses to the intervention of the Jewish organizations on February 26, 1957,³ and to the March 22 letter from the three Senators.⁴

During the period July 1, 1956 to June 30, 1957, apart from the several thousand Hungarian Jewish refugees and the tiny number of Egyptian Jewish refugees who came to the United States, the UHS assisted 1,973 other Jewish migrants from various lands to immigrate to this country. The total number of UHS-assisted Jewish immigrants was 5,923 for this period. However, this figure does not represent the total Jewish immigration to this coun-

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² Again, this figure represents approximately the total number of Egyptian Jewish refugees who were able to immigrate to the United States, although a tiny number of wealthier refugees may have immigrated without agency assistance and thus are not reflected in UHS statistics.
³ Letter from Assistant Secretary of State Rountree to James Marshall, American Jewish Committee representative, dated March 12, 1957.
⁴ Letter from Deputy Attorney General William P. Rogers to Senators Case, Ives, and Javits.
try, in that it does not include an undetermined number of Jews who immi-
grated from various countries without agency assistance.

Legislation

During the year under review (July 1, 1956, through June 30, 1957),
reiterated pleas were directed to Congress to relax immigration restrictions.
The termination in December 1956 of the Refugee Relief Act of 1953 (RRA)
and the cutting off of the normally small quotas of many countries resulting
from the mortgaging of the Displaced Persons Acts of previous years, lent
special urgency to these pleas.

Dozens of bills sponsored by members of both parties were introduced,
calling for various forms of liberalization of the law. Some proposed basic
modifications of the Immigration and Nationality Act, including either elimi-
nation or revision of the national origin system; others proposed only
limited technical amendments and/or measures to assist in the solution of
emergency refugee situations.

The outcome of these pleas was enactment of a limited purpose bill, S. 2792, sponsored by Senators John F. Kennedy (Dem., Mass.), Arthur V. Wat-
kins (Rep., Utah), Hubert H. Humphrey (Dem., Minn.), Everett M. Dirksen
(Rep., Ill.), John O. Pastore (Dem., R. I.), Frank J. Lausche (Dem., Ohio),
Joseph F. Clark (Dem., Pa.), Richard Neuberger (Dem., Ore.), and Henry
M. Jackson (Dem., Wash.). This bill, with one significant improvement, was
limited to the provisions of a parallel bill supported in the House by Repre-
sentative Francis E. Walter (Dem., Pa.), who continued to play a key role
in the immigration issue in Congress.

S. 2792

S. 2792 passed the Senate on August 21, 1957 by a vote of 65 to 4, and the
House on August 28 by a vote of 293 to 58. Despite its limitations it was
supported by advocates of immigration reform, both in and out of Congress,
on the ground that it would help in the reuniting of families, would aid in
solving some of the existing refugee situations, and would in other respects
mitigate some of the harsh and inflexible features of the basic immigra-
tion law.

Several of the senators who supported its adoption did so with the expla-
nation that they had hoped Congress would adopt more far-reaching re-
form, and that they proposed to press efforts to this end in the second
session of the Eighty-Fifth Congress.

In the House of Representatives, too, several supporters of S. 2792 stated
that they were voting for it despite its important omissions, and hoped these
would be remedied at the next session of Congress.

When the President signed the bill on September 11, 1957, he expressed
disappointment over the Congressional failure to remedy “many of the seri-
ous inequities inherent” in the immigration law. Though he acknowledged
that S. 2792 did carry out some of the reforms he had recommended, he was
particularly critical of its failure to regularize the status of Hungarian refu-
gees, to provide a method of future admittance of refugees from persecution, and to provide for the use of unused quotas.

On the day the President signed the bill, Representative Walter issued a statement in which he praised the action of Congress and at the same time disputed the criticisms voiced by the President. He stated that the signing of the bill "removes any legislative basis for complaints against our present immigration procedures." He expressed the view that Congress had "reasserted its complete confidence in the immigration system established by the Walter-McCarran Act." Walter specifically disputed the criticisms of the failure to regularize the status of Hungarian refugees on the following ground:

Proof of the inadvisability of any such step emerges clearly from the fact that we have already sent back more than 100 Hungarian refugees who have been found to be threats to the security of this country, among them known Soviet agents.

Walter also argued, on economic grounds, against further increases in immigration to this country.

Provisions

As finally adopted, S. 2792 contained sixteen sections. Among the most important were the following:

Section 4 provided for the admission of an unlimited number of orphans, adopted or to be adopted by United States citizens, quota free for the next two years.

Section 7 permitted the suspension of deportation for certain classes of aliens in the United States who, in order to obtain entry, had misrepresented their nationality, place of birth, or identity—out of fear of being subjected to persecution because of their race, religion, or political opinion, if they had returned to their former residences.

Section 8 permitted the secretary of state and the attorney general to waive finger-printing requirements for alien visitors.

Section 10 removed the existing mortgages on quotas imposed under the Displaced Persons Act and certain other acts. Under this provision, it was estimated some thousands of additional aliens would be able to immigrate for several years to come.

Section 15 provided for the use of the 18,656 unused nonquota immigrant visas remaining from the RRA of 1953. (As of December 31, 1957, the expiration date of this act, 189,967 out of the 209,000 visas authorized by it had been issued. The unused visas were in the three categories of German ethnic expellees residing in Germany and Austria, Dutch refugees, and European refugees in the Far East.) Of the 18,656 unused visas, Section 15 allotted 2,500 to German expellees and 1,600 to former Dutch residents of Indonesia. The remainder were to be issued to refugee-escapees forced to flee from Communist or Communist-dominated areas, or from any country in the Middle East, who were unable to return to the place from which they had fled or would flee because of persecution or fear of persecution on account of race, religion, or political opinion. These visas were to be available also to accompanying spouses and unmarried sons and daughters under twenty-one.
In the Senate discussion of Section 15 special stress, aimed at making clear the legislative intent, was laid on the following language in the committee report on S. 2792:

It is the intention of the committee that the distribution of this remainder will be made in a fair and equitable manner, without any prescribed numerical limitations for any particular group, according to the showing of hardship, persecution, and the welfare of the United States.

The same language was included in a prepared statement placed in the record by Senator James O. Eastland (Dem., Miss.) in the course of debate on the bill.

As noted, S. 2792 failed to provide for adjustment of the status of the Hungarian parolees. A section to this effect had been included in an earlier version (S. 2410) of the bill, introduced by Senator Kennedy on June 27, 1957, but had been deleted on the indication by Representative Walter that it would not receive approval of the House Immigration Subcommittee, of which he was chairman.

Nor did S. 2792 include other major proposals contained in President Eisenhower's January 31, 1957, message on immigration. In this message the President had proposed an increase of about 65,000 in the over-all quota, to be accomplished by basing the quotas on the 1950 rather than the 1920 census. He had proposed that the additional 65,000 visas be distributed among the various countries in proportion to the actual immigration to the United States during the period 1924–55, rather than in proportion to the existing quota distribution.

The President had also proposed that the unused quotas of each year be distributed the following year, on a regional basis and on the principle of first come, first served, to aliens with preference status. He had recommended that he be authorized to admit on parole each year some 67,000 escapees from Communist countries, and that he be given discretion to regularize their status to that of permanent immigrants. The President's proposals were simultaneously (January 31, and February 1, 1957) introduced in Congress by Representative Fred Keating and Senator Watkins (H.R. 4205-S. 1006).

Proposals for even more far-reaching reform than that contained in the Watkins-Keating bills were made during 1956–57. One of these was H.R. 3364, introduced on January 22, 1957, by Representative Emanuel Celler (Dem., N. Y.) and twenty-seven other representatives. This bill, which proposed a total annual quota of 250,000 to be distributed without regard to national origin, resembled in most respects the omnibus bill introduced by former Senator Herbert H. Lehman in the Eighty-Fourth Congress. However, unlike the Watkins-Keating bills, the Celler bill and other far-reaching reform proposals received little serious attention in Congress.

**Public Reaction**

During 1956–57 the principles of liberal immigration were given support on many occasions by Jewish and other civic and religious organizations. The President's proposals in his message of January 31, 1957 won widespread
commendation from civic and religious groups throughout the country. On February 1, 1957, five national Jewish organizations issued a joint statement commending the President’s proposals, but at the same time asking for action to relieve the plight of the Egyptian refugees. On April 3, 1957, the American Immigration Conference made public a statement issued by thirty-nine of its member organizations, including the Synagogue Council of America and the United HIAS Service, urging Congress to act promptly on the President’s proposals. In this statement, the organizations commended specifically the plan for admitting escapees from Communism, but recommended that the plan be broadened to provide for victims of religious or political persecution in non-Communist countries as well.

On August 9, 1957, at hearings conducted by the Senate Immigration Subcommittee, testimony in favor of immigration was presented jointly in behalf of the American Jewish Committee, the American Jewish Congress, the Anti-Defamation League of B’nai B’rith, the Central Conference of American Rabbis, the Jewish Labor Committee, the Jewish War Veterans of the United States of America, the Rabbinical Council of America, the Synagogue Council of America, the Union of American Hebrew Congregations, the United HIAS Service, the Union of Orthodox Jewish Congregations, and the United Synagogue of America. Pro-immigration testimony was also delivered at this hearing by representatives of the Standing Conference of Voluntary Agencies Working for Refugees, the Church World Service, the National Council of the Churches of Christ in the U.S.A., the National Lutheran Council, and the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO).

The testimony of these organizations sought to rebut the anti-immigration arguments of the witnesses for several organizations, such as the Junior United Order of American Mechanics and the Patriotic Order of the Sons of America, who testified on August 7.

On April 14, the American Jewish Committee called upon the attorney general to admit a fair share of the Egyptian refugees as parolees on the same basis as the Hungarian refugees. On July 1, the United HIAS Service issued a statement commending S. 2410, an earlier and more far-reaching version of the Kennedy bill which was finally enacted as S. 2792. On August 28, 1957, the American Jewish Congress publicly expressed disappointment over the failure of Congress to adopt more significant immigration law changes than those contained in S. 2792. In addition, as noted, the Jewish organizations made representations to official agencies and sought to illuminate public opinion on behalf of the Egyptian and the Hungarian refugees.

SIDNEY LISKOFSKY
Exploiting a variety of domestic and world tensions and issues, during the period of this review (December 1, 1956, to November 30, 1957) anti-Jewish agitators maintained a volume and degree of anti-Semitic activity equal to that of preceding years. As in previous years, the anti-Semites continued to attack such targets as the United Nations, the President and his administration, the Status of Forces Treaty of the North Atlantic Treaty Organization (NATO) which ceded jurisdiction over American armed forces to the countries where they were stationed, the income tax, "socialist" laws regulating labor relations, fluoridation of drinking water, and mental health projects. These targets were invariably described as "Jewish conspiracies to rule the world." The agitators assailed Jews and Jewish communities as being Communist-dominated and serving Soviet aims. Simultaneously, Jews were charged with dominating Communism and the Soviet government in order to "enslave the world."

There were three chief situations that the organized anti-Semitic movement exploited during 1956-57: the desegregation tensions of the South; the economic antipathies of ultra-conservatives for both major political parties; and the efforts of Arab and pro-Arab propagandists to denigrate the American Jewish community.

Southern Tensions

Hatemongers' activities kept pace with the mounting troubles of the South over the desegregation of its public schools, ordered by the Supreme Court's decisions of 1954 and 1955 (see p. 40). Anti-Semitic literature gravitated to certain areas of the South, especially those where the resentment of whitesupremacists was likely to erupt into violence. The agitators' pamphlets, leaflets, and fliers charged that Jews were responsible for a "conspiracy to mongrelize the nation" in pursuance of Communist aims. The National Association for the Advancement of Colored People was described as the creation and tool of "the Jews"; the Jews were also depicted as having "ordered" the Supreme Court to decree desegregation. Such racist writings were most in evidence in Alabama, Mississippi, Florida, Georgia, the Carolinas, and Texas. In the fall of 1957 the propaganda was also prevalent in Arkansas and Tennessee.

The vast bulk of the anti-Semitic and anti-Negro literature in evidence in the South during 1956-57 was published by agitators from non-Southern regions: e.g., Frank L. Britton (Inglewood, Calif.), Conde McGinley (Union, N.J.), John W. Hamilton (St. Louis, Mo.), and Gerald L. K. Smith (Glen- dale, Calif.). The products of Britton, McGinley, and Smith attained the largest circulation.

Extensive dissemination of such literature was mainly due to the efforts of elements within the White Citizens Council movement and the Ku Klux
Klan and their sympathizers, who had purchased the propaganda in bulk. The literature was sometimes obtained from a local or itinerant "wholesaler." Large quantities invariably accompanied the visits of such racist rabble rousers as Frederick John Kasper to tension spots. In one instance, while Kasper was being arraigned in a Federal court in Knoxville, Tenn. (December 6, 1956), Joe Diehl, an over-enthusiastic supporter, was arrested for distributing Conde McGinley's *Coming Red Dictatorship* in the courtroom.

**White Citizens Councils**

The White Citizens Council movement continued to be a congeries of local units, including the extreme activist type. Estimates of WCC membership ranged from 300,000 to 500,000; the largest groups were in Mississippi, Alabama, Louisiana, the Carolinas, and Arkansas, in that order. Dedicated to the preservation of "white supremacy," some councils denounced violence, reiterating their objective of preserving segregation "by all legal means." Other councils, however, appeared to be merely disguised Klans.

WCC units (most designated themselves as "Citizens' Councils") were especially active in such areas of tension as Clinton, Tenn., where disturbances over the integration of the high school reached a climax on December 4, 1956, when a minister was assaulted; Nashville, Tenn., where public school integration plans proceeded (September 1957) only after the law enforcement authorities had quelled demonstrations and disorders that included the dynamiting of a school building; Greensboro, N. C. (September 1957), where the executive secretary of the local WCC incited high school students to demonstrate against the admission of a single Negro student; and Little Rock, Ark., where WCC members of that city and surrounding localities distributed large quantities of hate-literature during the disturbances attendant upon high school integration there.

Several WCC's issued their own publications. These included the Tennessee and Knoxville White Citizens Councils' *Knoxville On Guard* (November 1956), which advertised the anti-Jewish forgery, *The Protocols of the Elders of Zion*, for sale.

Some WCC units appeared to be largely tolerated, if not accepted, as part of the local scene in many cities and towns of the South, increasing in numbers and public notice during periods of tension, declining during periods of quiet.

**The Ku Klux Klan**

Klan growth and activity rose sharply during 1956-57, estimates of over-all membership running as high as 100,000. Not as well organized as the Klan movements of the '20s or the '40s, regional or state Klans tended to fragmentize into loose federations, despite the claims of Imperial Wizard Eldon L. Edwards of Atlanta, Ga., and various Grand Dragons elsewhere, that they headed the entire movement.

Klan activities mainly consisted of nocturnal cross-burnings aimed at whites as well as Negroes; motorcades, followed by informal visits to towns in full regalia; demonstrations ("Klonvocations") attended by audiences of from several hundred to several thousand, at which visiting dignitaries de-
nounced Negroes, Jews, and sometimes Catholics (at these demonstrations the hate-literature of non-Southern agitators such as Conde McGinley and Frank L. Britton was invariably distributed); dynamiting, flogging, and other acts of extreme terror and violence.

Among the Klan groups in operation were Edwards' U. S. Klans, Knights of the Ku Klux Klan; the Association of South Carolina Klans, headed by Grand Dragon Robert E. Hodges of Columbia, S. C.; the Association of Florida Klans, led by Grand Dragon Bill Hendrix; the Gulf Klans Association, presided over by Elmo C. Barnard of Mobile, Ala.; and Asa ("Ace") Carter's Original Klans of the Confederacy in Birmingham. Edwards' U. S. Klans suffered a schism in Alabama in June 1957 over the marriage of Grand Dragon Alvin Horn to a fifteen-year-old girl; the dissident members formed the Alabama Ku Klux Klan, Inc.

The instances of Klan activity during 1956–57 are too numerous to detail here, but the following are illustrative: Florida was subjected to many Klan meetings, especially during February and March 1957; the demonstrations were designed not only to attract a following, but also to "answer" the inaugural address of Governor LeRoy Collins (January 8, 1957). In this address Governor Collins asserted that school integration was inevitable, though not in the near future. Several of these demonstrations were addressed by Frederick John Kasper, who was generally assisted by Fred B. Hockett, at that time Kasper's White Citizen Council organizer for Florida. In advance of an impending visit of Kasper to Miami, Klan leader Hendrix publicly announced (March 4, 1957) that he would send "thirty riflemen to protect him." On February 25, 1957, police prevented attempts to burn a cross in front of the home of a Negro in Miami because it was located in a formerly white section. Hockett was among those arrested for this act. On bail, he organized picketing of the home.

In Americus, Ga., an interracial farm colony, Koinonia, was subjected to Klan bombings, shootings, and cross-burnings through most of 1956–57. In Birmingham, Ala., the mutilation of a Negro (September 2, 1957), selected at random to prove a Klansman eligible for promotion in the order, resulted in the conviction of two Klansmen (October-November 1957); they were sentenced to twenty years' imprisonment.

In Camden, S. C. (December 1956), a high school teacher was seized by five hooded Klansmen, tied to a tree, and severely flogged "for teaching integration." Crosses were burnt in front of a Baptist church in Tallahassee, Fla. (January 1957); a Methodist Church at Sylacauga, Ala. (June 1957); three Negro homes at Nashville, Tenn. (October 1957); and five Negro homes in Prattville, Ala., the same month. In Monroe, N. C. (October 5, 1957), a Klan motorcade invaded the Negro section, an exchange of shots ensuing.

The Aryan Knights of the Ku Klux Klan, a lone operation of agitator Horace Sherman Miller of Waco, Tex., was evidence of the impact of Klan leaflets in highly varied localities. Miller compiled mailing lists and sent out vituperative anti-Semitic literature throughout the United States and to different parts of the world. In May 1957, pranksters distributed Miller's leaflets in England, in areas where there had been a large influx of West Indian Negroes. The British government and its consul general in New
York deemed it necessary to deny the existence of the Klan in Great Britain. Again, in October 1957, Miller sent letters in Spanish to Argentina, advising that the "Grand Dragon of Argentina" had declared "war" on the Jews. Klan elements of Birmingham, Ala., adopted Miller's anti-Semitic, anti-Catholic literature for their own use, though virtually all other Klans relied on the propaganda of non-Southern anti-Semitic publicists.

Klan-like activities were not confined to the deep South. A fiery cross was burned before the executive mansion of Governor Theodore R. McKeldin of Maryland (October 6, 1957), while a cross was ignited at the residence of an official of the National Association for the Advancement of Colored People in Washington, D. C., on September 26, 1957. The home of a Negro couple in Trenton, N. J., received similar treatment on November 8, 1957. In Levittown, Pa., during September and October 1957, when a Negro couple, Mr. and Mrs. William R. Myers, acquired a home in that all-white community, large "KKK" letters were painted on the side of the home of a friendly next-door neighbor, Lewis Wechsler; several crosses were burned on the lawns of other neighbors. During this period, when partisans of both sides were holding meetings and there were demonstrations and other harassments of the Negro couple, agitators shipped large quantities of their literature into the area for distribution.

Despite the Klan's notoriety, and despite the fact that in April 1949 the United States attorney general had listed two predecessor Klans as having "adopted a policy of advocating or approving the commission of acts of force or violence," the Klan appeared to be accepted in one area. The Ku Klux Klan's softball team of Chattanooga achieved semi-final standing in the Softball League, according to reports dated August 14, 1957. Earlier in the season, however, several commercial firms withdrew from the league because of the Klan's participation.

**John Frederick Kasper**

Kasper was the most peripatetic and inflammatory anti-Semitic rabble-rouser in the South during 1956-57, appearing throughout the region, especially in states and cities undergoing integration tensions. Kasper attained his first nation-wide notoriety in Clinton, Tenn., in August, 1956, by leading segregationists in their opposition to the integration of the high school there. He subsequently became involved in a similar incident in that city during December 1956. Convicted of two offenses of contempt of court for violation of a Federal injunction against interference with school integration at Clinton, Kasper, at large on bonds pending appeals, visited other areas, especially Florida, Alabama, and Tennessee. At Nashville (September 1957) he was arrested and charged with inciting to riot in the course of violence attendant upon public school integration there. On October 18, 1957, Kasper was taken into custody by Federal authorities in Washington, D. C., and on November 21, 1957, he was sent to the Federal Correctional Institution at Tallahassee, Fla., to serve an eighteen-month term in connection with his violations of the injunction against interference with integration at Clinton, Tenn. Kasper, as head of the Seaboard White Citizens Councils, was forced to admit
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in an inquiry conducted by a Florida Legislative Investigating Committee (March, 1957), that during the time he operated a bookshop in the Greenwich Village section of New York, Negroes had been among his closest friends, and that he had attended parties and other social affairs with Negroes. This official revelation caused some defection in Kasper's following in the WCC movement and among Klans, though not sufficient to impede his subsequent activities in such places as Nashville.

Politics

Anti-Semites continued their endeavors during 1956-57 to influence extreme right-wing political movements, exploiting the drive of economic ultra-conservatives and pro-segregationists to fuse into a political bloc under the slogan of states' rights.

The Congress of Freedom, an amalgam of such groups, held its annual convention at Biloxi, Miss., on April 18, 1957. There it was announced that the Constitution Party was being reorganized, with New York industrialist Russell Maguire as its national chairman. Maguire's magazine, American Mercury, frequently contained matter such as this quotation from its July 1957 issue:

Privately, the international Zionists claim they have the power and the concentrated wealth to do as they please throughout the world. Then why haven't they destroyed international communism instead of financing it?

Reporting his dissatisfaction over the Congress of Freedom convention, however, anti-Semitic newsletter publisher Don Bell (Palm Beach, Fla.) complained (Don Bell Reports, April 26, 1957) that the "three-letter-word" [Jew] was not used by the speakers.

The Constitution Party's convention, held at San Francisco on May 31 and June 1, 1957, featured as its principal speakers Russell Maguire and Lt. Gen. Pedro A. del Valle (USMC, ret.). Maguire denounced "internationalist bankers," whom he charged with having planned both World Wars and with plotting "to destroy the United States and Christianity." Del Valle also attacked "private international bankers" and "internationalism," warning of future violence in the streets unless the present political situation was changed. Later, del Valle, according to a report in The San Francisco News (June 2, 1957) explained, "It won't be us who start it. But we're going to fight back." A high light of the convention was the extensive distribution of inflammatory literature by Conde McGinley, a nondelegate.

The difficulty ultra-conservative groups encountered in dissociating themselves from anti-Semites was suggested by Elizabeth Dilling in her newsletter for September 1957. Writing of the convention the right-wing group We, The People had held earlier that month in Chicago, Mrs. Dilling explained that she and Lyrl Van Hyning, leader of a vitriolic "mothers' group," had rented accommodations in the same hotel as the convention where "literature" was available.

Admiral John G. Crommelin, Jr. (ret.), who unsuccessfully ran in the 1956 Alabama primaries for Senator Lister Hill's seat, announced his intention
of running for the Governorship of that state, according to a letter from General George Van Horn Moseley (ret.) that appeared in the September 1957 issue of Women's Voice (Chicago). Crommelin, a character witness at the Knoxville trial of Kasper for sedition in November 1956, sat on the platform at two Gerald L. K. Smith meetings during 1957—at Los Angeles on April 11, 1957, and at Dallas on June 14, 1957. Moseley, in an interview in the racist monthly The Virginian (July 1957), called for the creation of a new party:

I recommend strongly that all those good loyal Americans be gathered into a Revolutionary Party. It could sweep the nation. Under such a party, suffrage could be withdrawn from certain classes. The unfit could be sterilized and not permitted to breed. Our frontiers could be closed definitely except for certain selected Nordics.

Asa (“Ace”) Carter, Klan and White Citizens' Council leader of Birmingham, Ala., was overwhelmingly defeated when he ran in the elections for police commissioner of that city (May 1957).

Pro-Arab Propaganda

Anti-Semites stepped up their exploitation of Near East tensions during 1956-57; they continued to allege a “Jewish-Zionist-Communist conspiracy” to embroil the major powers in the Middle East and start a “third World War.” Paralleling the official Arab line, such propaganda ignored the involvement of Arab countries with the Soviet Union and its satellites. Representative of this approach was the March 1, 1957, issue of Common Sense.

That official Arab sources welcomed such efforts was evidenced by a number of incidents. The following were typical: James Madole’s openly Nazi National Renaissance Party in New York City sold and distributed official Arab propaganda in bulk. The material included the writings of Nasser and Zionist Espionage in Egypt, an anti-Jewish pamphlet originating in Egypt which had originally appeared in 1955. Madole’s National Renaissance Bulletin for March-April 1957 viciously attacked Israel as “the vampire state” which drained other countries of its resources.

Gerald L. K. Smith, in the July 1957 issue of his The Cross and the Flag (Glendale, Calif.), prefaced an autobiographical article by Sami Hadawi, an official of the Arab Palestine Refugee Office (APRO), with the comment:

It was the pleasure of the editors of The Cross and the Flag to visit personally with Mr. Hadawi, whose story we reproduce herewith.

The writings of Izzat Tannous, another official of the APRO, appeared in the May and June 1957 issues of The Defender (Wichita, Kans.), publication of Gerald Winrod, once known as “the Jayhawk Nazi.”

APRO’s monthly Newsletter, bearing Foreign Agent Registration No. 897, in its issue of January 1957 charged that “Party politics in the United States made the Democratic President [Harry S. Truman] succumb to Zionist pres-

1 Kasper was acquitted.
* Died November 11, 1957.
sure.” The September 1957 issue of the APRO Newsletter prominently displayed a commendatory letter from H. Keith Thompson, one-time registered agent in the United States for the Socialist Reich Party, dissolved in October 1952 by the Bonn government because of its Nazi complexion.

**Specific Agitators**

Imperial Wizard Eldon L. Edwards of the U. S. Klans appeared on an interview program over a nationwide television network, expounding his views while garbed in Klan regalia (May 5, 1957). James A. Madole, ardent pro-Nazi leader of the National Renaissance Party, appeared on two similar programs in the New York City area, one on radio (July 29, 1957), the other on television (July 30, 1957). In the June-July 1957 issue of his National Renaissance Bulletin, Madole boasted that he “got across a tremendous amount of information on racial questions,” and that the television station had admitted that “the listener response was exceptionally heavy and spontaneous.”

John W. Hamilton, St. Louis publisher of racist material for Southern distribution, was convicted of a morals offense in that city (February 20, 1957) and given a two-year sentence. At the time of writing (November 1957), he was still out on bail pending appeals.

David T. Wang, a young actor of Chinese descent, and Robert L’Hommedieu, both of the New York City area, attempted to found an “Ivy League” branch of Kasper’s White Citizens’ Council in New York (July 1957). There was no evidence that they had succeeded by November 1957. Wang addressed a forum at Columbia University (October 29, 1957) on the import of Kasper’s theories.

**Anti-Semitic Press**

The anti-Semitic press achieved a somewhat higher level of circulation during 1956-57 than during 1955-56, largely because of the intensified distribution of literature exploiting desegregation tensions in the South. Among the products most widely distributed were the one-sheet photo-offset leaflets of Frank L. Britton, and a large broadside, The Coming Red Dictatorship, put out by Conde McGinley. These were accompanied by still another McGinley product, a leaflet titled Jew Religion Exposed. Gerald L. K. Smith continued his publishing enterprise with unabated vigor, his Christian Nationalist Crusade reporting a gross of almost $174,000 for 1956; Smith’s fundraising letters, widely mailed throughout the United States, supplemented his The Cross and The Flag as vehicles for “revelations” of “Jewish plots.” One of Smith’s leaflets was entitled A Petition to Impeach Chief Justice Warren, Justice Felix Frankfurter and Others, and contained lines for signatures. The Keep America Committee of Los Angeles made a specialty of reproducing selected items of various agitators and giving them additional distribution. Leonard E. Feeney, excommunicated priest from Boston, continued his monthly The Point, containing anti-Semitic matter as venomous as it was well-written. Destiny, the organ of the mystic Anglo-Saxon Federation
(Haverhill, Mass.), frequently contained anti-Semitic references along with its interpretations of the Bible. The same was true of J. A. Lovell's *Kingdom Digest* (Dallas, Tex.); both of these periodicals were unusually well-printed. Another bigoted periodical worthy of mention was William L. Blessing's *Showers of Blessing* (Denver, Col.), which was skillfully designed. Regularly issued during 1956-57 were Frank L. Britton's *American Nationalist* (Inglewood, Calif.), Robert H. Williams' monthly newsletter *Williams Intelligence Summary* (Santa Ana, Calif.) and Elizabeth Dilling's mimeographed *Newsletter*.

Generally, there was a greater tendency toward the use of the photo-offset process and the reproduction of old pictures and cartoons. Agitators resorted more to the leaflet as a quicker, more pungent manner of delivering "the message." There also appeared to be a greater tendency toward reviving and circulating old pamphlets, including those of the late George W. Armstrong of Dallas, Tex. Such staples of bigotry as the Benjamin Franklin forgery, the speech attributed to a fictitious "Rabbi Rabinovich," and the infamous *Protocols* were widely circulated.

Joseph P. Kamp continued the extensive circulation of his 1955 pamphlet, *Behind the Plot to Sovietize the South*. He followed it up with two new pamphlets of equal size and format: *Trickery, Treachery, Tyranny, and Treason in Washington*, published during the spring of 1957, and *The Lowdown on Little Rock and the Plot to Sovietize the South*, published during the fall of 1957. The latter pamphlet was distinguished for its references to the memory of Adolf Hitler:

Some intemperate Southern leaders have compared Dwight Eisenhower to Adolf Hitler. . . . They are wrong. . . . Hitler had the constitutional right to use Nazi storm troopers in any way he pleased. Eisenhower has no such right to use Federal troops in Arkansas.

Also published during the fall of 1957 was a luxurious seventy-two page pamphlet, *The Ultimate World Order*, by Robert H. Williams.

During 1956-57, *The Virginian* (Newport News, Va.) changed from newspaper to magazine format with its September 1957 issue. Other publications of recent origin included: *The Southerner*, published by Asa ("Ace") Carter at Birmingham, Ala.; *The Revere*, published from Hinsdale, Ill., by Guy Allen Mann; *The News Behind the News*, anti-Masonic as well as anti-Semitic, published at Willowdale, Ont., by William Guy Carr; and *Banner of Truth*, bi-monthly publication of the Dallas Klan. *The Banner of Truth* described the advantages of Klan membership in the following terms:

If you are a Klansman, and you feel you want to enlighten other Klansmen on the Jewish menace, you may do so with the full assurance that there will not be a single Jew in the Klavern to impose upon you.

*George Kellman*