Civic and Political Status

CIVIL LIBERTIES

ON THE WHOLE, the climate of public opinion in regard to civil liberties improved during the period under review (July 1, 1953, through November 30, 1954), and particularly in the period after January 1954. There was less irrational and panic fear of the Communist threat, and more realistic appraisal of it. There was less readiness to seek a quick answer to subversion in measures that struck at dissent rather than conspiracy, or restricted the basic civil liberties of all citizens in the effort to find easy ways of trapping the disloyal. Demagogues began to appear in their true light, and were less easily mistaken for saviors. In part, this was doubtless due to the partial relaxation of international tension which followed the end of the Korean war. In part, it may also have meant that Americans were gradually learning to live with the cold war and to react rationally rather than emotionally to the day-to-day problems which it posed, as well as to the long-term Communist danger. One indication of the changing climate was the widespread favorable response to three television programs presented by Edward R. Murrow. One of these (November 24, 1953) related to the difficulties which the American Civil Liberties Union had in securing a meeting hall in Indianapolis in November 1953; a second (October 20, 1953) dealt with the case of Milo Radulovich, who had been branded a security risk in August 1953 by the Air Force on the basis of political opinions imputed to his father and sister; he was subsequently (November 24, 1953) cleared by action of Air Secretary Harold Talbot; the third broadcast (March 9, 1954) recounted the career of Senator Joseph McCarthy.

Yet paradoxically, the period also saw an objective increase in the restrictions imposed on civil liberties, both procedural and substantive, in the name of anti-Communism. Measures ostensibly directed against Communism were still all too apt to be of a nature which interfered with the liberties of all Americans more than it did with the conspiratorial activities of the Communist movement, and which provided the Communists with priceless weapons in their ideological war against American democracy. This was true in terms of legislation, administrative action, and court decisions; and on the state and local level, as well as nationally. In part, this was due to the normal lag of governmental processes behind public opinion; the transference of a public attitude into statutory or administrative form is a time-consuming process, and courts cannot decide on the validity of laws or acts of the executive until these reach them in due course. And in part it was probably due to the fact that the groups favoring the restriction of civil liberties were, if less widely supported, nevertheless better organized than at any other period in recent history, and driven into more intense activity by the very fact that they were losing ground.

Velde and Jenner Committees

In Congress, the House Committee on Un-American Activities, under the chairmanship of Representative Harold Velde (Rep., Ill.), and the Senate Internal Security Subcommittee, under the chairmanship of Senator William Jenner (Rep., Ind.), continued their investigations very much along the same lines as in previous years. The Velde Committee occupied itself largely with turning the spotlight on individuals who were suspected of Communist activity. The Jenner Committee was both more active and more systematic in its investigations into the pattern of Communist infiltration in various fields. The Velde Committee, as an aftermath of its clash with various religious groups (*see* AMERICAN JEWISH YEAR BOOK, 1954 [Vol. 55], p. 14), devoted much of its time to a study of its own procedures, with a view to decreasing the danger of damaging innocent individuals.

McCarthy Committee

Much the most publicized investigations of the year, however, centered around Senator Joseph McCarthy (Rep., Wis.), either as investigator or investigated. McCarthy, as chairman of the Investigations Subcommittee of the Senate Committee on Government Operations, switched from his well publicized investigation of the United States Information Agency (*see* AMERICAN JEWISH YEAR BOOK, 1954 [Vol. 55], p. 16-18), to one of the Army, its Signal Corps, and particularly its Fort Monmouth, N. J., laboratories. At Fort Monmouth, McCarthy announced that he had found evidence of active espionage and of the continued existence of a spy ring set up by the executed atomic secrets spy, Julius Rosenberg, at the time he had worked there. McCarthy's charges were followed by a series of thirty-three suspensions, beginning in August 1953; three additional employees were suspended later. All the suspended employees answered all questions in full both before the McCarthy committee and at their Army hearings—in those cases which reached the stage of hearings—and none of them pleaded the Fifth Amendment at any point. Of the original thirty-three individuals suspended, thirteen were subsequently reinstated in full after hearings on charges, six were reinstated in full and two reinstated without full clearance without ever having charges preferred against them, and two were reinstated without charges and then resigned. Only six were dismissed after hearings, while at this writing (November 1954), one was awaiting a decision after a hearing on charges and three were still waiting for charges. Of the three persons subsequently suspended, two were awaiting the results of hearings and one was reinstated in full without charges. In only one out of twenty-two hearings did a witness appear in person against the individual facing charges; in all other cases, the "derogatory information" came exclusively from anonymous sources, not subject to cross-examination. None of those suspended was charged with espionage, sabotage, or membership in the Communist Party. Rather, the charges related to such activities as having attended one or two Young Communist League meetings fifteen years previously, having vacationed at a Communist-controlled camp

in the 'Thirties, fraternizing with relatives suspected of Communist affiliation, following the line of columnist Max Lerner, or having been a member of the United Public Workers when that union was still in good standing in the Congress of Industrial Organizations (CIO) and was a recognized bargaining agent in government offices. In some instances, individuals were accused of associating with others who themselves denied any Communist sympathies but who, since they were not the ones formally accused, had no opportunity to offer evidence. And General Kirke Lawton, commandant of Fort Monmouth at the time of the suspensions, gave some indication of his security criteria in a speech in which he indicated his belief that graduates of certain New York city colleges were apt to be security risks.

Army-McCarthy Controversy

The Fort Monmouth affair was the beginning of a conflict between the Army and Senator McCarthy, which later extended to other fields. McCarthy was annoyed when Army Secretary Robert Stevens denied that espionage had been shown at Fort Monmouth; he also claimed that the Army had endeavored to stop his investigation there. This charge the Army denied. Meanwhile, another cause of conflict between the Army and McCarthy was brewing in the efforts of the Senator's unpaid assistant, G. David Schine, to secure a commission in the Army, or to get himself assigned after induction to continued work with the Senator, and the pressure exerted on Schine's behalf by McCarthy and more particularly by his committee counsel, Roy M. Cohn. The conflict broke into open warfare when, in an interval of the Fort Monmouth affair, McCarthy discovered that a dentist named Irving Peress had been promoted from captain to major at nearby Fort Dix although he had not filled out a loyalty questionnaire and, when called for questioning on his reputed Communist affiliations, had pleaded the Fifth Amendment. During the investigation Peress received an honorable discharge; and in his investigation into this case, McCarthy violently denounced the commandant of Fort Dix, General Ralph Zwicker, when the latter refused to violate his orders by divulging classified information. Secretary Stevens came to Zwicker's defense, and shortly afterward the Army released a series of charges relating to the Cohn-Schine case.

The eventual result was a series of televised hearings, covering thirty-six days, before the McCarthy subcommittee, with Senator Karl Mundt (Rep., S.D.), substituting for McCarthy as chairman and Senator Everett Dworshak (Rep., Idaho) taking his place as a member of the committee. The hearings were necessarily somewhat inconclusive, since only the major principals were heard, so that there was no opportunity to test their statements by those of other witnesses. From the testimony of McCarthy, Cohn, Secretary Stevens, and Army Counsel John Adams, the committee concluded that Cohn had exerted undue pressure on behalf of Schine, and that the Army had attempted to appease him for fear of what the committee might do to it in the way of investigations.

McCarthy's troubles continued; new charges by Senators Ralph Flanders

(Rep., Vermont) and J. William Fulbright (Dem., Arkansas) resulted in the appointment of a special committee under the chairmanship of Senator Arthur Watkins (Rep., Utah). This committee brought in a report (in November 1954) recommending that McCarthy be censured for his abuse of General Zwicker, as well as for his defiance of the Gillette Committee investigating his financial manipulations and his abusive language in regard to members of that committee. A committee, headed by a number of retired generals and admirals, was formed to secure ten million signatures urging the Senate not to censure McCarthy; it was possible that this committee might form the nucleus of a new political movement under the Senator's leadership. The Senate nevertheless voted, on December 2, to condemn McCarthy for his attitude toward the Gillette Committee, and on an additional count of abusing the Watkins committee by referring to its members as "unwitting handmaidens of the Communist Party." This latter count, however, was substituted for the charge relating to McCarthy's abuse of Zwicker. Thus McCarthy was censured for his contemptuous behavior toward the Senate and its committees, but not for his abuse of witnesses; the censure vote in itself did not place any obstacles in the way of such abuse in the future, whether by McCarthy or any other senator. Critics of McCarthy's methods felt that there was still need for a reform of committee procedure to assure the rights of witnesses and persons accused in testimony before such committees.

Anti-Communist Legislation

Meanwhile, Congress acted on a number of proposals for strengthening the laws against Communists. Some of these proposals had originated with the administration; notable among these were a law[1] permitting a Federal judge to grant a witness immunity from prosecution and direct him to testify at the request of a Congressional committee or the attorney general, and one[2] revoking the citizenship of persons convicted of conspiring to advocate the overthrow of the government. The first measure was signed by the President on August 20, 1954, and the second on September 1, 1954, although some doubt existed as to their constitutionality, and the late Senator Pat McCarran (Dem., Nev.), opposed the citizenship revocation proposal both on constitutional grounds and because it would prevent subsequent prosecution of the individuals involved for treason—a crime of which only a citizen can be guilty. McCarran succeeded in blocking a third administration measure which would have permitted various investigative agencies to engage in wiretapping if they first obtained the authorization of the United States attorney general, and would have made the evidence thus obtained admissible in court. Another measure[3] sponsored by Senator Hubert Humphrey (Dem., Minn.) and Representative Martin Dies (Dem., Tex.) purported to outlaw the Communist Party. In the form in which it was originally introduced by Dies and Humphrey as an amendment to an administration bill providing for the dissolution of Communist-infiltrated labor unions, it would have done just that—at

[1] Pub. Law 600, 83rd Cong., 2nd sess.
[2] Pub. Law 772, 83rd Cong., 2nd sess.
[3] S. 3706.

least if the courts had upheld it. But the administration, with the support of Senator McCarran, succeeded in getting the bill amended in the conference committee of the two houses, which had been appointed to adjust the differences between the versions they had passed, so as to remove the criminal penalties for membership in the Communist Party. The final version [4] merely denied the party all legal rights and privileges—a provision whose meaning and constitutionality both remained in doubt—and reaffirmed that members of "Communist action groups" were subject to the penalties of the McCarran Internal Security Act. In addition, it contained a modified version of the original measure in regard to unions, providing that those which were declared Communist-infiltrated by the Subversive Activities Control Board were to be denied the facilities of the National Labor Relations Board. The practical effect of this part of the measure seemed likely to be slight for some time to come, since the SACB had so far only completed hearings in the cases of the Communist Party and the Labor Youth League (successor to the Young Communist League), which it had designated as Communist-action organizations—a decision which had been appealed to the courts—and held hearings on charges that the now-dissolved International Workers Order and the National Council of Soviet-American Friendship were Communist fronts. It seemed likely that the board would be busy for some years with such hearings, required by the McCarran Act, on charges already brought before it by the government, before it would be able to reach any union cases. In its final form, the law was signed by President Eisenhower on August 24, 1954. At this writing, the only result of the act had been a decision by a New Jersey judge barring a Communist candidate in Trenton from the ballot on the ground that the law barred the Communist Party from running candidates; the higher courts had as yet had no opportunity to decide whether the law did—or constitutionally could—have this effect.

Security Program

While Congress was thus engaged, the administration was active on a number of fronts. Perhaps the most widely publicized was its security program. The effects of this in the Fort Monmouth case have already been described. A case which aroused wide discussion was that of Dr. J. Robert Oppenheimer, the scientist under whose direction the original atomic bomb had been developed. Cleared under the Truman loyalty program, Oppenheimer was suspended and confronted with charges under the Eisenhower security program, in December 1953. The case was heard by a special board under the chairmanship of Gordon Gray, who had been Truman's Secretary of the Army. Numerous witnesses, both for and against Oppenheimer, appeared before the Gray board and submitted to cross-examination; on the basis of their testimony and that of Oppenheimer himself, the board decided on June 1, 1954, by two votes to one that Oppenheimer was loyal but a security risk. The procedure in the Oppenheimer case had been far fairer to the defense than the normal procedure under the Eisenhower security program (since the security pro-

[4] Pub. Law 637, 83rd Cong., 2nd sess.

gram of the Atomic Energy Commission had been established independently by statute). But the decision aroused widespread resentment in the scientific community. Scientists were especially indignant that one of the grounds for the board's decision was Oppenheimer's initial opposition to concentrating on the development of the thermonuclear (hydrogen) bomb. Scientists felt that it was both unjust and dangerous to penalize a man for his advice on a question of judgment; it was noted that Oppenheimer's position on the matter in question had been shared by the great majority of atomic scientists, by the chairman of the Joint Congressional Committee on Atomic Energy, Representative Sterling Cole (Rep., N. Y.), and by David Lilienthal, then chairman of the Atomic Energy Commission (AEC). Oppenheimer appealed the decision to the full membership of the AEC. By a vote of four to one on June 29, 1954, the commission decided against Oppenheimer on the ground of what it considered his questionable associations and lack of candor, but specifically declared that its decision was not based on his attitude on the thermonuclear bomb, and that a man's judgment on a question of policy was not a sound basis for a determination that he was a security risk. The decision was nevertheless still the object of widespread criticism from those who felt that the criteria used were unsound, and that Oppenheimer's record of reliable performance of the most highly confidential tasks should have outweighed the past political and present personal associations which formed the basis of the AEC's decision.

While the AEC rejected the criterion of judgment on controversial issues in the Oppenheimer case, Secretary of State John Foster Dulles applied it in the case of John Paton Davies. Davies, a career diplomat who had run afoul of the Senate Internal Security Subcommittee, had been cleared by eight State Department investigations; in the spring of 1954, Dulles summoned Davies home to face a new hearing board, and dismissed him in November on the recommendation of that board, mainly on the basis of the charge that he had shown bad judgment. Other widely publicized security cases were those of Mrs. Annie Lee Moss, who was suspended from an Army clerical job on February 25, 1954, after being denounced by Senator McCarthy, reinstated without charge on March 26, 1954, and then suspended again on charges on August 4, 1954; of Abraham Chasanow, who was dismissed from a scientific post with the Navy on the basis of anonymous and unsworn accusations on April 7, 1954, and reinstated on September 1, 1954, after his case had received the attention of the press; and of William Carlos Williams, a leading poet, who had been prevented during 1952–53 by lack of security clearance from assuming a lectureship to which he had been appointed at the Library of Congress.

The greatest controversy in respect to the security program, however, revolved about what came to be called "the numbers game." Critics of administration policy in regard to its security program called attention especially to what they regarded as the tendency of certain Republican leaders—notably Attorney General Herbert Brownell, Jr., Vice President Richard Nixon, Postmaster General A. E. Summerfield, and Governor Thomas Dewey of New York—to cite total figures of persons removed under the security program in

such a way that they appeared to be figures of subversives dismissed. An incomplete breakdown of the figures was released by the Civil Service Commission on October 11, 1954, based on the reports submitted to it by the various departments. It indicated that a total of 6,926 Federal employees had been dismissed by the Eisenhower administration as security risks or had resigned while adverse information was in their files. Of these, a total of 1,743 were cases whose files contained "derogatory information relating to subversion." These figures were cited by the Republican leaders as justification for their public statements. However, the nature of this information, the extent to which it was responsible for the separations, and the number of cases in which individuals had resigned for personal reasons without ever knowing of the existence of the "derogatory information" in question, were not revealed. It was therefore impossible to judge accurately the full effect of the Eisenhower security program in its first year of operation; it was however clear, on the basis of the available information, that some serious injustices had been done.

Prosecutions

The Justice Department continued to institute prosecutions of minor Communist leaders under the Smith Act, and a number of them were convicted and sentenced to prison terms in the course of the year. The same act served as the basis in June 1954 for prosecuting a number of leaders of the Puerto Rican Nationalist Party, which had been responsible for a terrorist attack on the House of Representatives, and for the conviction on December 21, 1953, by a military court of a soldier who had deserted to East Germany and then returned to the West. The Justice Department also announced that it was planning to initiate a prosecution based solely on the "membership" section of the Smith Act; all previous prosecutions had been based on the "conspiracy" section, and in the Dennis case,[5] Judge Harold Medina had thrown out a count based on membership.

The Justice Department also prosecuted a number of individuals on charges of perjury or making false statements to government officers. The Owen Lattimore case arose from testimony by Lattimore before the Senate Internal Security Subcommittee; Lattimore was indicted on December 16, 1952, on charges of certain specific misstatements, and was also accused of having falsely denied that he was a Communist sympathizer and promoted the Communist Party line. Certain of the counts were dismissed by Judge Luther Youngdahl of the United States District Court of the District of Columbia on May 2, 1953[6]; in respect to the major counts, dealing with Lattimore's support of the Communist line, his decision was upheld by the Circuit Court of Appeals on July 8, 1954.[7] The Department of Justice then secured a new indictment (October 7, 1954) on what appeared to be essentially the same charges contained in the dismissed counts, and filed on October 13, 1954 an affidavit of prejudice, based on Youngdahl's opinion in dismissing

[5] *Dennis* v. *U.S.*, 341 U.S. 494 (1951).
[6] *U.S.* v. *Lattimore*, July 8, 1954.
[7] *U.S.* v. *Lattimore*, 112 F. Supp. 507 (1953).

the previous counts. Judge Youngdahl rejected the affidavit on October 23, 1954, as insufficient and "scandalous," in view of the fact that the law specifically states that such an affidavit cannot be based on a judge's rulings in a case. The government announced that it would not appeal on November 17, 1954, but it did not reply to a request from Judge Youngdahl that it withdraw the allegation of prejudice. At the time of writing the Senate Judiciary Committee was planning an investigation of the action of the Department of Justice in the matter.

Another case which drew wide notice was that of Val R. Lorwin. After two hearings before a State Department Loyalty Board in 1951, in which ninety-seven witnesses had appeared in his behalf and one against him (and in which that one was discredited), Lorwin had been fully cleared and had then resigned in 1952. In December 1953, Lorwin was suddenly indicted on a charge of having falsely stated, in his loyalty hearing, that he had never been a Communist. Shortly afterward, Attorney General Brownell cited this indictment as an example of the good work his department was doing. Before the case came to trial, however, Lorwin's lawyers obtained a court order permitting them to inspect the testimony given by the single adverse witness before the State Department Loyalty Board, since they had reason to believe that this testimony was the basis of the prosecution. The prosecutor, William Gallagher, refused to obey the court order on the ground that the testimony was confidential. When the judge threatened to cite Attorney General Brownell for contempt, the latter was constrained to examine the facts of the case. The result was that, on May 25, 1954, the Deputy Attorney General came into court and announced that the Department was dropping the case and suspending Gallagher, in view of the fact that the indictment had been obtained by fraudulent representations to the grand jury.

A number of trade union officials, the most important of whom were Ben Gold of the Furriers and Maurice Travis of the International Union of Mine, Mill, and Smelter Workers, were prosecuted on charges of having filed false non-Communist affidavits under the Taft-Hartley Act. (Both of these unions had been expelled from the Congress of Industrial Organizations [CIO] for following the Communist line.) The National Labor Relations Board announced in December 1953 that it would revoke the certification of unions whose officers had been indicted on these grounds; however, the Supreme Court on April 12, 1954, refused to review two District Court decisions holding that such a refusal was beyond the board's powers.[8]

The Supreme Court also refused to review the case of William Remington (*see* AMERICAN JEWISH YEAR BOOK, 1954 [Vol. 55], p. 18), who had been convicted of lying in his own defense in his trial under an improperly obtained indictment.[9] Remington, who had started to serve his sentence while his appeal was still before the courts, became eligible for parole in June 1954, but his application was rejected. He was later (November 1954) murdered by fellow-prisoners in the Lewisburg (Pa.) Federal Penitentiary.

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[8] *Farmer* v. *United Electrical, Radio, and Machine Workers* ,74 S.Ct. 638 (1954); *Farmer* v. *International Fur & Leather Workers*, ibid.

[9] *Remington* v. *U.S.* ,74 S.Ct. 476 (1954).

All the perjury prosecutions were launched against persons who were accused of lying on their own behalf. None was initiated against persons charged with making false accusations, although certain such cases had come to public notice. Thus in June 1953 Senator William E. Jenner (Rep., Ind.), had sent the Department of Justice the testimony of one Thad Mason in regard to a conspiracy which the senator believed to have no basis in fact. A Federal Bureau of Investigation (FBI) informant, Milton J. Santwire, in the Michigan Smith Act Case was denounced from the bench by Judge Frank A. Picard on December 23, 1953, for having perjured himself during the trial. And one of the most active prosecution witnesses, Paul Crouch, was shown by the Alsops in their column in the *New York Herald Tribune* of May 19, 1954, to have sworn to contradictory statements in two trials. In the Crouch case, Attorney General Brownell announced that he was investigating the charges, and on May 28, 1954, suspended Crouch from his position as a consultant to the Immigration and Naturalization Service.

Passport and Visa Cases

A number of passport and visa cases again made news. Several related to persons attending the sessions of the United Nations on behalf of various organizations. Two representatives of the World Federation of Trade Unions, Iraj Eskandary and Jan Dessau on April 9, 1954 were denied visas; one was eventually granted Dessau, but Eskandary remained barred, on the charge that he had participated in a plot to assassinate the Shah of Iran. Mrs. Dora Grace, representing the Communist-controlled International Federation of Democratic Women, received a visa on March 13, 1954, limited to the part of Manhattan between 28th and 96th Streets. A similar visa was granted to the Rev. Michael Scott, who came on behalf of various South African tribes. Rev. Scott, however, was granted a special dispensation permitting him to go up to 110th Street to preach at the Protestant Episcopal Cathedral of St. John the Divine. In spite of protests from the Illinois American Legion, the State Department granted visas to a number of churchmen from behind the Iron Curtain, permitting them to attend the World Council of Churches, meeting in Evanston, Ill., on July 18, 1954. But one of them, Bishop Peter of Hungary, was granted a visa limited to passage to and from the Evanston area, and forbidden on July 20, 1954, to make any speeches while in the United States, except at the sessions of the Council, on the ground that he was an agent of the Hungarian secret police. Non-Communists were among those who had trouble with the immigration authorities; one case which attracted considerable attention was that of the former Colombian Minister of Education, German Arciniegas, now a professor at Columbia University and an officer of the anti-Communist Committee for Cultural Freedom, who in September 1953 was admitted on orders from Washington after the immigration authorities in New York had blocked his admission.

Americans denied passports were at last given the opportunity to appeal from the decisions of the State Department's Passport Division when on May 10, 1954, Secretary Dulles finally appointed the members of the Board of Passport Appeals whose creation Dean Acheson had announced in 1952. An

issue of an unusual type arose when the government refused a number of Chinese students permission to return to China on the ground that their skills would be of use to the Communist government of that country. In the case of one such student, Han-Lee Mao, the United States Court of Appeals for the District of Columbia ruled that he could not be deprived of the right to leave the country without a fair hearing.[10] There had, however, been no final determination by the courts as to the right of the government to prevent a person from leaving the United States in time of peace.

Federal Court Decrees

Two United States Supreme Court decisions narrowed the scope of protections which citizens would appear to have had under previous court decisions. In the so-called *Readers Digest* murder case,[11] the court voted six to three to uphold a conviction, where the police had extorted confessions, on the ground that there had been enough evidence independent of the confessions and that the court had charged the jury to disregard them if it considered them forced. In previous cases, the court had regarded the introduction of an illegally obtained confession as sufficient to taint the whole proceedings and void a conviction, irrespective of what other evidence might have been introduced. And in the *Irvine* case, the court upheld a conviction obtained on the basis of an admittedly illegal search and seizure by California police.[12] The court did, on the other hand, extend a previously enunciated principle in the Pete Hernandez case by voiding a conviction because of the systematic exclusion of citizens of Mexican descent from juries.[13]

There were also certain lower Federal court rulings of interest. The United States Circuit Court of Appeals in San Francisco upheld the Coast Guard screening program for maritime workers, but ruled that the Coast Guard could not refuse a worker clearance without a fair hearing, including a detailed specification of charges. The U.S. Court of Appeals for the Fifth Circuit ruled that abuse of prisoners in a Florida penitentiary was punishable under the Federal Civil Rights Act.[14] The Court of Appeals for the District of Columbia held that the placing of a government agent on the staff of defense counsel constituted an effective denial of the right of counsel.[15] And in another case the same court ruled that the failure of a Congressional committee (in this case the Kefauver Committee) to advise a witness of his right to have the advice of counsel, and to refuse to answer on the ground of possible self-incrimination, constituted an unreasonable search and seizure.

State and Local Security Programs

State and local governments continued to conduct their own version of anti-subversive activity. On February 25, 1953, a Georgia law defined as subversive any organization engaging in or teaching activities designed to over-

[10] *Han-Lee Mao* v. *Brownell*, 207 F. 2d 142 (1953).
[11] *Stein* v. *New York*, 346 U.S. 156 (1953).
[12] *Irvine* v. *California*, 347 U.S. 128 (1954).
[13] *Hernandez* v. *Texas*, 347 U.S. 475 (1954).
[14] *U.S.* v. *Jones*, 207 F. 2d 785 (1953).
[15] *Caldwell* v. *U.S.*, 205 F. 2d 879 (1953).

throw the government of Georgia or of the United States, made knowing membership in such an organization a crime, and empowered the state to dissolve such organizations and seize their files and property by court action. The Ohio legislature passed, over Governor Lausche's veto, an anti-subversive bill more or less modeled on the Smith Act, but providing in addition for a staff to conduct continuous investigations of subversive advocacy. A series of California laws, signed by Governor Earl Warren in October 1953 just before he resigned to become Chief Justice, required loyalty oaths from all persons or groups claiming tax exemption, and provided for the dismissal of all teachers and other public employees who either refused on any grounds to answer the questions of legislative committees or "persist in active participation in public meetings" conducted by groups adjudged subversive under the McCarran Subversive Activities Control Act. The states of Texas and Alabama passed laws requiring that textbooks carry certifications of the non-Communist character of their authors; the Alabama law, which also required such certification as to the authors of all books cited in the textbooks, was voided by the Circuit Court of Montgomery (Ala.) County on May 10, 1954.[16] The state of Massachusetts set up a joint legislative-executive committee to investigate subversion, under various procedural safeguards. In May 1954 Massachusetts also prosecuted the state secretary of the Communist Party, Otis Archer Hood, under the state's anti-subversive act. In Pennsylvania, the state's highest court upheld the validity of the Pechan Act, requiring loyalty oaths from public employees, on February 10, 1954. New York State began enforcement of its loyalty-security program for public employees; in New York City, a sweeping loyalty questionnaire was withdrawn after a group of private agencies had protested the form of the questionnaire and the AFL's Federation of State, County, and Municipal Workers had sought an injunction against it. The city of Louisville, Kentucky, achieved a special eminence with two incidents: In one, two representatives of the Socialist Labor Party were arrested for disorderly conduct; in the other, which followed the bombing of a house purchased by a Negro in a white neighborhood, a group of the victim's friends were indicted in October 1954 on charges of engaging in subversive activities and planning the bombing. In Miami, Fla., an investigation into Communist activity was conducted by a grand jury acting under Florida's so-called Little Smith Act, which went into effect in August 1953. A number of persons questioned by the grand jury refused to answer on the grounds of possible self-incrimination. Fourteen of them were imprisoned for contempt by Judge George E. Holt, who held that they could not claim the privilege against self-incrimination in regard to events prior to the period to which the law applied. (Testimony in regard to such events, however, might conceivably subject them to Federal prosecution under the Smith Act or help the state of Florida to prepare a prosecution for subsequent acts.) Moreover, the judge refused to admit to bail the persons he sentenced while their appeals were pending. When the State Supreme Court overruled him on this, he refused to accept it as a precedent and forced each individual defendant to get a Supreme

[16] *American Book Co.* v. *State Board of Education.*

Court writ before being admitted to bail. On September 3, 1954, another Miami judge, Vincent C. Giblin, disbarred an attorney named Leo Sheiner on the ground that he had claimed the protection of the Fifth Amendment in a hearing before the Senate Internal Security Subcommittee. The disbarment case was on appeal at the end of November 1954. On November 19, 1954, the State Supreme Court upheld the right of the fourteen persons held in contempt of court to refuse to answer grand jury questions on the grounds of self-incrimination.[17]

Censorship

The issue of censorship arose in various forms during the period. The Post Office Department's somewhat erratic enforcement of the ban on the receipt of subversive propaganda from abroad, except for purposes of research, by persons other than registered foreign agents, continued to cause trouble. Thus the department first refused and then consented to deliver some of Ezra Pound's works to a Minneapolis bookstore, and it held up a shipment of books by Lenin to Brown University. The department also applied a policy of refusing all mail service (in the case of the nudist magazine *Sunshine and Health*) to publishers of any matter which it deemed obscene, irrespective of the contents of the particular items of mail. The Supreme Court overruled the ban on the picture *M*, imposed by Ohio.[18] Local and state censors, however, continued either to ignore court limitations on their power, necessitating numerous local suits to apply principles already established by Supreme Court decisions, or tried to amend their laws to avoid the specific language of these decisions while accomplishing the same results as before. Thus, the New York legislature passed a new motion picture censorship law whose language seemed even broader and less precise than that of the statute previously in effect.[19]

Private Action

Despite the increasing activity, both legislative and administrative, of all levels of government against subversion, many individuals and private groups still felt called upon to supplement it. The American Legion at its September 2, 1953, convention demanded an investigation of the American Civil Liberties Union; on August 6, 1954, it renewed this demand and added a denunciation of the Girl Scouts. Considerable excitement was aroused when it was discovered on January 27, 1954, that the Norwalk, Conn., branch of the Veterans of Foreign Wars had set up a committee to screen subversives; after considerable adverse publicity, the project was dropped on February 12, 1954. A boycott by the AFL Motion Picture Operators Union prevented the showing, except in a few small theaters, of the film *Salt of the Earth*, produced under the auspices of the International Union of Mine, Mill, and Smelter Workers, which had been expelled from the CIO on charges of having fol-

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[17] *Feldman* v. *Kelly*,—Fla.—(1954).
[18] *Superior Films* v. *Dept. of Education*, 346 U.S. 588 (1954).
[19] Chap. 620. Laws 1954. effective April 12, 1954.

lowed the Communist line. And numerous private blacklists of persons suspected of subversive connections continued to circulate in various fields.

Elections

Accusations of subversive activity also played a part in the 1953 and 1954 elections. On February 7, 1954, after the Republicans had lost congressional seats in special elections in Wisconsin and New Jersey and just before another special election in California, Attorney General Brownell made a speech in which he charged that Harry Dexter White had been a Communist spy, and that he had been kept in the government service by President Truman with knowledge of this fact. In the ensuing controversy Brownell made public part of a confidential FBI report to support his statement, but somewhat watered down the original charge after President Eisenhower had expressed his confidence in Truman's patriotism. Whether or not the Brownell speech was responsible, the Republican candidate in the California district was victorious.

In 1954, supporters of Senator McCarthy attempted to smear the Republican senatorial candidate in New Jersey, Clifford Case, by charging that his sister had formerly had Communist connections. In New Jersey also, supporters of Republican Representative Kean distributed literature asserting that the Communists wanted his Democratic opponent elected. Both Case and Kean were elected; it is doubtful whether the smears played a major role in either campaign. In Wyoming, Senator Joseph O'Mahoney was victorious in spite of a campaign which coupled accusations of Communist sympathies with exploitation of his status as a registered foreign agent (as a representative of Cuban sugar interests) to give the impression that he was in the service of Moscow. But in Colorado, advertisements asking "How Red is John Carroll?" were generally believed to have played a significant part in enabling Carroll's Republican opponent, Gordon Allott, to win an election that had been generally conceded to Carroll. Similarly, in the Democratic primary campaign in Nevada, Tom Mechling's defeat was generally attributed to a television appearance by a member of the McCarran organization, in which Mechling was charged with having received campaign contributions from "15 Union Square"—the headquarters, though the speaker did not say so, of the CIO Amalgamated Clothing Workers. And Representative Robert Condon of California, who had been denied security clearance by the Atomic Energy Commission, was narrowly defeated in a campaign in which Vice President Nixon was charged with using secret reports from government investigative agencies for political purposes. (Nixon denied the charge; but *The New York Times,* on October 27, 1954, stated that "the text of mimeographed staff notes that the Vice President has been using in his attacks on Representative Condon makes three specific references to FBI reports." *The Times* went on to reprint those notes verbatim.)

In general, the intense fear of subversion which had developed on a wide scale in recent years appeared to be abating. It could still, in some cases, influence elections, but it could no longer be relied on for this purpose. How-

ever, the laws which it had produced, such as the McCarran Internal Security Act and the McCarran-Walter Immigration Act, remained on the statute books, and its momentum was still sufficiently great to produce additional laws and administrative measures of a similar nature. In no case during the year was any such law, either state or national, repealed or made less restrictive by amendment.

MAURICE J. GOLDBLOOM

CIVIL RIGHTS

CIVIL RIGHTS refer to those rights and privileges which are morally the heritage of every human being, regardless of his membership in any ethnic group: the right to work, to education, to housing, to the use of public accommodations, of 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.

EDUCATION

The major civil rights event of the period under review (July 1, 1953, to June 30, 1954), was the decision of the United States Supreme Court on May 17, 1954, that compulsory racial segregation in state-supported elementary and secondary schools violated that clause of the Fourteenth Amendment to the Constitution which required that all persons born or naturalized in the United States should be afforded the "equal protection of the laws." This decision, handed down in five cases (four coming to the Court from the states of Kansas, South Carolina, Virginia and Delaware,[1] and one from the District of Columbia[2]) culminated a two-decade drive by the National Association for the Advancement of Colored People (NAACP) to bring about a reappraisal of the "separate but equal doctrine" enunciated by the United States Supreme Court in 1896.[3]

For over half a century, the Supreme Court had accepted the doctrine that it was not discriminatory to require separation of the races, provided the facilities maintained by the state for the two races were substantially equal. Increasingly during recent years, that doctrine had been attacked by lawyers and social scientists on the ground that it failed to take into account the stigma of inferiority implied by compulsory segregation. Finally, on May 17, 1954, after three days of argument by attorneys for both sides in December 1952 and similar reargument in December 1953, the Supreme Court rendered its unanimous decision.

[1] The opinion of the Supreme Court in these four cases will be cited as *Brown* v. *Board of Education of Topeka*, 347 U.S. 483.
[2] *Bolling* v. *Sharpe*, 347 U.S. 497.
[3] *Plessy* v. *Ferguson*, 163 U.S. 537.

Court Opinion on Segregation in State-Supported Schools

The Negro plaintiffs had contended that racially segregated public schools were not "equal," and could not be made "equal," and that their children were thereby deprived of the equal protection of the laws, required as a standard of state action by the Fourteenth Amendment to the Constitution. They argued that even if the school buildings, curricula, teaching staffs, and other physical facilities were equal at the two sets of schools, the mere fact that the state required the separation of the races was discriminatory and hence violative of the Constitution.

In its opinion, the Supreme Court held that the circumstances surrounding the adoption of the Fourteenth Amendment in 1868 did not provide sufficient information to resolve the problem with which the Court was faced.

> At best, they are inconclusive. The most avid proponents of the postwar Amendments undoubtedly intended them to remove all legal distinctions among "all persons born or naturalized in the United States."
>
> Their opponents, just as certainly, were antagonistic to both the letter and the spirit of the Amendments and wished them to have the most limited effect.

The Court then reviewed all cases decided by it since the adoption of the Fourteenth Amendment and concluded that in the cases before it the question of the discriminatory nature of compulsory segregation in state-supported schools was presented for the first time in such a way as to require a decision on whether or not compulsory racial segregation was, *per se,* discriminatory and violative of the Constitution. The Court decided to look at the effect of racial segregation on public education and consider it in the light of the current importance of education in American life.

> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. . . . It is the very foundation of good citizenship.
>
> Today, it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.
>
> In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.
>
> We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.

The Court then quoted with approval from the findings of the lower courts in two of the pending cases. The lower Federal court, in the Kansas case,[4] after hearing testimony from social scientists, had found that segregation of white and Negro children had "a detrimental effect upon the colored children." Segregation sanctioned by law, the lower court had said, had a tendency "to retard the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racially integrated school system." A similar finding was made in the case arising in Delaware where the state court had said:

> State-imposed segregation in education itself results in the Negro children, as a class, receiving educational opportunities which are substantially inferior to those available to white children otherwise similarly situated.[5]

Chief Justice Earl Warren pointed out that psychological knowledge had progressed since the *Plessy* decision and that any language in the 1896 opinion which negated the findings of the modern social scientists with respect to the effect of compulsory racial segregation in education was being rejected by the present Court. The opinion concluded that:

> in the field of public education, the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

Having decided that compulsory racial segregation in state-supported schools violated the Constitution, the Court asked the parties to present further briefs and arguments in the fall of 1954 with respect to the type of decree that the Court should enter in the various cases. The questions that the Court wanted discussed at such reargument were whether its decrees should order the school boards to admit the Negro children forthwith to the schools closest to their residence and in accordance with normal geographic districting, or whether the Court, in the exercise of its equity powers, could permit a gradual adjustment from the existing segregated systems to an integrated system. The Court also asked that certain procedural questions be discussed at such reargument. These included whether the Court should formulate detailed decrees in all five cases, or whether it should appoint a special master to hear evidence and make recommendations to the Court for each such decree. Another possibility to be discussed was whether the Supreme Court should return the cases to the courts in which they had originally been tried with general or specific instructions to enter final decrees disposing of the cases.

The effect of deferring the entry of final decrees in these cases was to postpone implementation of the decision for at least another year and thus afford the local boards of education an opportunity to plan for the racial integration of the schools in their communities.

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[4] *Brown* v. *Board of Education of Topeka*, 98 F. Supp. 797.
[5] *Gebhart* v. *Belton* (Del.), 87 A. 2d 862, 865.

The District of Columbia Case

The problem presented to the Supreme Court by the District of Columbia case was somewhat different from that presented by the cases arising in the states. The Fifth Amendment, which is applicable to the District of Columbia, does not contain a clause which requires all persons born or naturalized in the United States to be afforded the equal protection of the laws, as does the Fourteenth Amendment, which applies to the states. The Fifth Amendment does, however, contain a "due process" clause.

The Court, in deciding the District of Columbia case, said:

> 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. We hold that racial segregation in the public schools of the District of Columbia is a denial of the Due Process of Law guaranteed by the Fifth Amendment to the Constitution.

Thus, in this series of five cases, the United States Supreme Court held that neither the states, nor the District of Columbia, nor any of their political subdivisions, could use race or color as a criterion for admission to or exclusion from state-supported institutions of learning.

Reaction to the Desegregation Decision

Many law school deans and educators in both the North and South issued public statements following the desegregation decision of the United States Supreme Court. Generally, these statements endorsed the decision and commended the Court for its wisdom in separating the decision on principle from the specific mandate on implementation. Favorable reaction was expressed by the deans of Yale, Pennsylvania, Virginia, and Harvard Law Schools; by professors and college presidents at the University of Chicago, Harvard University, Stamford University, Sarah Lawrence College, New York University, Georgia Peabody College; and by the superintendent of schools of the Southern Regional Education Board. Endorsement of the decision came also from historians at the University of Wisconsin, Harvard University, University of Kentucky, University of Chicago, and Smith College. The National Education Association, at its annual meeting held in July 1954, with only the South Carolina and Missouri delegations voting in the negative, approved the decision and called for a speedy end to racial segregation in the public schools throughout the United States. Newspaper editorial comment everywhere in the United States, including the South, was generally favorable. A majority of the southern papers took the position that the decision would require calm study and the application of sound judgment.

By the end of the reporting period (July 1954), departments of education in Delaware, Kansas, Maryland, Missouri, West Virginia, and the District of Columbia had started to desegregate their public school systems. Attorney

General H. Albert Young of Delaware declared that the Supreme Court's decision "is now the law of the land and our state, of course, will abide by it." Wilmington, Del., which had begun to plan for desegregation of its public school system even before May 17, was prepared for an integrated school system for the opening of school in September 1954.

Governor Theodore R. McKeldin of Maryland declined to attend a meeting of southern governors to consider what steps to take with respect to the desegregation decision, and said: "We obey the law." On June 3, 1954, the Board of School Commissioners of Baltimore voted to end racial segregation in the largest segregated public school system in the country upon the opening of the schools in the fall.

The State Board of Education of Missouri expressed its intention of complying "to the full extent of its authority and jurisdiction" with the decision of the Court. State Attorney General John M. Dalton advised the commissioner of education that the Court's decision had voided the state's constitutional provision requiring separate schools and that local school districts did not have to wait for a specific decree of the Supreme Court in order to desegregate their schools. Plans immediately went forward in St. Louis to desegregate its public school system, which, it was expected, would be completely integrated by September 1955.

Governor William C. Marland of West Virginia pledged that his state would do "whatever is right and proper under the Supreme Court order to end school segregation." He expressed the conviction that the people of his state would accept the decision in good faith. The State Board of Education issued general instructions to local school superintendents for the reorganization and readjustment of school districts to comply with the Supreme Court's decision as quickly as possible.

President Dwight D. Eisenhower requested that the District of Columbia "lead the way" and become "a model" for other sections of the country with respect to desegregating its public school system. The District Board of Education thereupon adopted a plan for gradual integration, which was to be completed by February 1955.

In other southern states, the decision was not accepted with such good grace. The State Board of Education of Alabama voted to continue racially segregated schools until ordered to discontinue segregation by the decree of a competent court. Similar action was recommended by Governor Francis Cherry of Arkansas, who advised the State Board of Education that Arkansas law required segregation and that the state law remained in effect until the Supreme Court should enter a decree declaring such statute null and void. Governor Herman E. Talmadge of Georgia, one of the staunchest advocates of racial segregation, continued to insist that his state's public schools would be abandoned, if necessary, to prevent their being desegrated. Some opposition to this proposal was being expressed, however, by labor, educational, and parent groups within the state. The State Superintendent of Public Instruction in Kentucky told local school boards to plan to continue to operate in 1954–55 in the same way as before. The Louisiana legislature, which was the first in the South to meet following the Supreme Court decision, set up a com-

mittee to study means of "continuing the existing social order," and adopted a resolution calling for the maintenance of racial segregation in the public schools.

A subcommittee of the State Legal Education Advisory Committee of Mississippi commenced drafting a series of amendments to the state constitution to abolish the public school system of that state to avoid compliance with the Court's decision.

While the State Board of Education of North Carolina voted to continue segregation pending the issuance of a decree by the Supreme Court directed to the Board of Education of that state, the Greensboro School Board, by a vote of 6 to 1, directed its superintendent "to work out a system for an orderly changeover" from segregated to desegregated schools, and boasted of being the first school board in the South to seek to comply with the Court's decision.

Governor Johnston Murray of Oklahoma expressed the opinion that "there will be no trouble integrating the races in Oklahoma public schools."

South Carolina, like Georgia, decided not to accept the Supreme Court's invitation to participate in the forthcoming argument on implementation of the Court's decision. Governor Frank Clement of Tennessee said that his state would adopt a wait-and-see attitude since "this is no time for snap judgments, quick decisions or demagogic excitement."

Governor Allan Shivers of Texas stated that "the segregation problem is not insurmountable. . . . The transition to integrated schools will require a long time. Instead of abolishing the public school system, I hope it will continue to progress." The State Education Commissioner expressed the view that Texas would comply with the Court's decision without too much difficulty.

Governor Thomas B. Stanley of Virginia took the position that his state would use "every legal means" to continue segregated schools.

Samuel Miller Brownell, United States Commissioner of Education, offered the aid of his office and staff to help state education authorities work out the various problems they faced in their efforts to comply with the Court's decision.

Southern church leaders generally hailed the decision in public statements. Thus, the Reverend Frank W. Price of Lexington, Va., in his opening address as retiring Moderator of the Presbyterian Church in the United States, declared that racial segregation could not be "justified before God" and predicted that it was "certain to pass away as slavery passed away nearly a century ago." The Executive Council of the Episcopal Diocese of North Carolina adopted a resolution urging members of their church to accept the Court's decision. The Little Rock (Ark.) Methodist Conference lauded the "wise decision of the United States Supreme Court." A directive issued by the Most Reverend William L. Adrian, Bishop of the Roman Catholic Diocese of Nashville, Tenn., ordered an end to all racial segregation in the parochial schools of the City of Nashville and of Davidson County.

European Press Reaction

Virtually the entire press of Western Europe reacted with enthusiastic approval to the decision of the Supreme Court in the school segregation cases. Publications which were usually lukewarm to United States policies, or opposed to them, joined in this approval. These publications included: in England, the Labor Party's *Daily Herald,* and the respected *The Observer;* in France, *Le Monde,* spokesman of "neutralist" elements; in Switzerland, the *Tribune de Génève;* and in Germany, the influential *Stuttgarter Zeitung.* Some idea of the ideological importance of the decision in the struggle between the western world and Communism can be gleaned from the fact that papers like *L'Humanité,* the leading French Communist daily newspaper, did not print a single word about the action of the Supreme Court, though it was front-page news in all but the Communist papers.

Segregation in Public Colleges, Housing, and Accommodations

The legal significance of the Supreme Court's decision in the school segregation cases was emphasized on the following decision day,[6] May 24, 1954, when the Court handed down a series of rulings affecting racial segregation in public colleges, housing, and accommodations. The Court remanded a case involving a refusal to admit a Negro to a state-supported law school to the Supreme Court of Florida "for consideration in the light of the Segregation Cases decided May 17, 1954 . . . and conditions that now prevail."[7] Two other cases, one involving racial segregation in a municipally owned theatre in a public park in Louisville, Ky., and the other involving admission of a Negro to the State University of Louisiana, were similarly treated.[8] On the same day, the Supreme Court refused to review, thus finalizing, the decision of a Federal Court of Appeals which had held unconstitutional an ordinance of the City of Houston setting aside certain parks for the exclusive use of Negroes and providing that all other parks—including those which contained the only public golf courses—were for the exclusive use of whites.[9] It also refused to review a decision of another Federal Court of Appeals that the Wichita Falls Junior College, a Texas school supported by public funds, might not constitutionally refuse to admit otherwise qualified Negro students.[10] The Court accorded similar treatment to the decision of the District Court of Appeal of California that the local housing authority could not constitutionally operate its low-rent public housing projects on a segregated basis in order to maintain the "racial character of the neighborhood."[11]

The effect of this series of rulings was to send back for further consideration by the lower courts those cases in which Negroes had been refused admission to the public facility in question, while putting an end to litigation

[6] The practice of the Supreme Court is to hand down decisions on Mondays.
[7] *Hawkins* v. *Board of Control of Florida,* 74 S. Ct. 783.
[8] *Muir* v. *Louisville Park,* 74 S. Ct. 783; *Tureaud* v. *Board of Supervisors of Louisiana State University,* 74 S. Ct. 784.
[9] *Beal* v. *Holcombe,* 74 S. Ct. 783.
[10] *Wichita Falls Junior College* v. *Battle,* 74 S. Ct. 783.
[11] *Housing Authority o fSan Francisco* v. *Banks,* 74 S. Ct. 784.

in those cases where the lower courts had ordered the admission of the Negro complainants on an equal footing with whites.

HOUSING

The Supreme Court decision in the school segregation cases had an almost immediate impact in the housing field (*see* footnote 11). Obviously, there would be some areas in the South where "black belts" would perpetuate racially segregated public schools. Those who would like to circumvent the Supreme Court's decision were therefore examining anew Northern cities where many public schools were exclusively Negro or exclusively white as a result of residential segregation, notwithstanding state laws and policies which prohibited compulsory racial segregation in the public school system.

Another immediate effect was the unsuccessful attempt of Southern Congressmen on May 26, 1954, to eliminate the public housing provisions from the Housing Act of 1954, in the belief that the decision of the Supreme Court in the school segregation cases presaged an end to racial segregation in public housing.

National Action

In December 1953, the President's Advisory Committee on Government Housing Policies and Programs submitted its report to the President.[12] The Committee recommended action in five areas to meet the needs for a closely integrated comprehensive program to satisfy the demand of the American people for good homes and the maintenance of a sound and growing economy: (1) a vigorous attack on slums and a broad effort to prevent the spread of slums; (2) the effective maintenance and use of existing houses; (3) a steady increase in the volume of building of new houses; (4) special assistance for families of low income; and (5) reorganization of the Housing and Home Finance Agency for greater efficiency and economy.

The Committee stated in its general report section that it was "deeply concerned with the housing problem of minority groups," commenting that its recommendations, "if supplemented by changes in the attitude of private investors and bolstered by vigorous administrative practice, offer a basis for substantial improvements in the housing conditions of minority groups."

In terms of planning, the report moved a large step forward. Federal assistance was recommended for "well-planned neighborhood projects at any stage of the urban renewal process, provided they clear blight and establish sound healthy neighborhoods." Special technical and planning assistance, the report urged, be offered local governments for these purposes. The report, unfortunately, did not recommend tools which would lower the price to the home purchaser, decrease the speculative aspects of home ownership or provide for the thousands of families who would be replaced by the "urban renewal process." Similarly, the report failed to recognize the racial implications of

[12] Superintendent of Documents, U.S. Government Printing Office, Washington 25, D.C.

current population movements in the United States. No proposals were made to check or reverse the developing racial imbalance between the central cities and the outlying suburbs.

The report further recommended a continuation of the low-rent public housing program, although it did not suggest any increase in the number of public housing units to be built. In August 1953 the Congress had placed a limit of 20,000 units a year on the public housing program during 1954, and it was unlikely that this figure would be increased substantially in the absence of a strong recommendation from the Advisory Committee and from the President. This number could not begin to provide for the low-income families displaced by rehabilitation and slum clearance, much less to fill the total need.

The report placed hope for equalizing housing facilities for minority families on "changes in the attitude of private investors" and "vigorous administrative practices." There was no proposal to use Federal funds, credits, or powers to assure the flow of mortgage money to housing for minority group families.

Although the Congress had not passed a National Housing Act by the close of the reporting period, one was enacted before adjournment of the second session of the 83rd Congress and approved by the President on August 2, 1954. The Housing Act of 1954 contained no new safeguards against discrimination or segregation in federally aided housing. The act did limit the extension of the public housing program to one additional year and to 35,000 additional units. Furthermore, it restricted those additional units to communities which had slum clearance, urban redevelopment, or urban renewal programs, and which required housing for the relocation of persons displaced by such programs.

The decisions of the Supreme Court in the school segregation cases and in *Housing Authority of San Francisco* v. *Banks* (*see* footnote 11) caused officials in the Housing and Home Finance Agency, the Public Housing Administration, and in many local housing authorities to re-evaluate their policies with respect to racial segregation in public and publicly assisted housing. Commissioner Norman P. Mason of the Federal Housing Administration (FHA) in May 1954 stated at a meeting of the National Committee Against Discrimination in Housing that "I believe that FHA's first responsibility is to the people of America. I share the fear which has been expressed quite often in recent weeks that FHA has tended to drift too far away from this concept." As part of this new awareness of consumer interest on the part of FHA, Mason pledged to "institute a concrete program of training and orientation of all staff personnel with regard to agency policies and procedures, the potential market, techniques for meeting the market, new concepts in property evaluation, demonstrable experiences and other factors . . ." in connection with open-occupancy housing.

With a softening of the housing market among whites, the interest of private builders and lenders was stimulated in the potentially profitable market for upper- and middle-income housing among minority racial groups. In the spring of 1953 the National Association of Home Builders, with the assistance

of the National Urban League, created a standing Committee on Minority Group Housing under the chairmanship of a Memphis builder. The Mortgage Bankers Association organized a Minority Housing Committee with a leading lender of Baltimore as chairman in November 1953. This increased interest in making housing available to minority racial groups was further evidenced by two provisions of the Housing Act of 1954 which were endorsed by industry spokesmen. One of these authorized the Federal National Mortgage Association to make direct loans for housing available to minorities, the other created a system of voluntary credit committees which would concern themselves with stimulating the flow of credit for such housing.

Local Action

On July 6, 1953, Federal District Judge William E. Steckler handed down his decision in a case in which a group of Negro applicants sought to enjoin the Evansville (Ind.) Housing Authority from continuing its practice of racial segregation in the projects under its jurisdiction.[13] Judge Steckler held that the plaintiffs had been denied consideration for admission to these projects solely because of their race and color, "in violation of rights secured to them by the equal protection and due process clauses of the Fourteenth Amendment to the Constitution of the United States" and in violation of the Federal civil rights statutes.

In overruling the Authority's argument that the two housing projects involved provided "separate but equal" facilities and thus came within the *Plessy* v. *Ferguson* doctrine, the Court stated its conclusion that the *Plessy* holding had "by many decisions of the Supreme Court of the United States in recent years, lost most, if not all, its weight as a guide in cases concerning ownership or occupancy of real property as distinguished from those cases involving public service."

Judge Steckler, therefore, entered judgment in favor of the plaintiffs.

On January 8, 1953, the Toledo Metropolitan Housing Authority had adopted a resolution that vacancies in low-income projects operated by it would thenceforth be available to all eligible applicants, without regard to race or color. On January 23, a second resolution deferred implementation of the nonsegregation policy pending receipt of a report to be made by a special study committee of the Board of Community Relations of Toledo.

On March 17, 1953, before the special committee completed its study and submitted its report, a law suit had been commenced by four Negro applicants, on their own behalf and on behalf of others similarly situated, charging that the Housing Authority had refused to consider their applications for available vacancies in one or more of the three low-rent housing projects occupied exclusively by whites. After this, the special committee of the Board of Community Relations completed its study and submitted its report, endorsing the Housing Authority's nonsegregation policy. The Housing Authority then issued a third resolution which directed the implementa-

[13] *Woodbridge, et al.*, v. *The Housing Authority of the City of Evansville, Ind., et al.*

tion of the nonsegregation policy "as soon after the adoption of this Resolution" as was deemed "proper and advisable to do so in the light of all the events and circumstances."

On June 23, 1953, Judge Frank L. Kloeb, of the United States District Court for the Northern District of Ohio, had granted the Negro plaintiffs' request for a mandatory injunction, thus placing the Toledo Metropolitan Housing Authority under court order to abandon its prior practice of racially segregating its low-rent housing projects.[14] The Court had allowed the Toledo Housing Authority a four-month period within which to put into actual operation its latest resolution abandoning the policy of racial segregation in its projects.

On October 3, 1953, Judge Kloeb, who had rendered the decision in *Vann* v. *Toledo Metropolitan Housing Authority,* convened a special session of his court. Indicating that "incendiary statements" had been made in consequence of this decision, Judge Kloeb asserted his intention "if anything should happen," of using "every facility of this Court, not only to restrain, but to punish."

On October 5, 1953, the first three Negro families moved into public housing projects in Toledo on a nonsegregated basis and on October 13, 1953, a fourth family followed suit, all without incident.

On October 7, 1953, a Denver District Court, consisting of Judges Joseph J. Walsh, Robert W. Steele, Edward C. Day, and Robert H. McWilliams, ruled in favor of the Denver Housing Authority in a suit brought to clear title to a group of lots in Denver.[15] The lots had been subject to restrictive covenants that the property should not be sold to or occupied by persons of African descent. The Denver Housing Authority brought the action because its Westwood Homes project was located on the property and some of the apartments in this project were either occupied or about to be occupied by Negroes. The complaint asked the court to clear the plaintiff's title to the land, claiming that the thirty-year-old racial restrictive covenants were "contrary to the 14th Amendment of the Constitution of the United States of America."

After hearing testimony and argument in the matter, the four-judge court ruled that the Denver Housing Authority was the absolute owner of the property and enjoined all persons from disturbing the Housing Authority, or those claiming under it, in the quiet and peaceful possession and enjoyment of the land. The effect of this ruling was to void all the racial, religious, and ethnological restrictions incorporated in the old deeds to the property in question.

New York City

A basic study of tenant relocation problems was released in January 1954 by the New York City Planning Commission. The report outlined the immensity of the problem for families displaced because of public projects,

[14] *Vann, et al.* v. *Toledo Metropolitan Housing Authority.*
[15] *Housing Authority of Denver* v. *Ford, et al.*

greatly accentuated by the tight housing supply, the immigration of nonwhite and Puerto Rican families into New York, the shortages of vacant land sites, the large number of existing dwellings more than fifty years old, and the size of future relocation needs for various improvements.

Although the report's release was delayed by political controversy, and the Planning Commission's members split 4 to 3 on the recommendations, there was no substantive disagreement on the report's factual analysis and the statistics presented.

These revealed that a total of approximately 170,000 persons had had to leave their dwelling accommodations during the period from January 1, 1946, through March 31, 1953, in order to make way for both public and private residential and nonresidential construction projects in New York City.

Of the total number of tenants displaced, 37 per cent were nonwhite and Puerto Rican (the in-migration of Puerto Ricans to New York City was currently averaging about 45,000 per year). Based on the expected housing and public works programs, a total of approximately 150,000 persons would be displaced in the three-year period from April 1, 1953, to March 31, 1956.

On July 6, 1954, the New York City Council passed and Mayor Robert F. Wagner signed the Sharkey-Brown-Isaacs Law. As of August 1954 laws prohibiting discrimination or segregation in housing were limited to public housing and housing receiving substantial public assistance. Housing which received public aid only in the form of mortgage insurance was not deemed to lose its character as "private" housing. The Sharkey-Brown-Isaacs ordinance, however, prohibited discrimination in housing built or improved after July 1954 with funds protected by Federal mortgage insurance, during the lifetime of the insurance. This was the first attempt to bring FHA and Veterans Administration (VA) housing under anti-discrimination legislation. The ordinance was limited to multiple dwellings—those occupied or to be occupied as the residence or home of three or more families living independently of one another.

New York State

On February 3, 1954, two bills were introduced in the New York State Legislature to create a temporary commission to investigate the nature, causes, and effect of discrimination and segregation in housing, and to give the State Commission Against Discrimination (the FEP Commission) jurisdiction to enforce the state law prohibiting discrimination in publicly assisted housing. These two bills, sponsored by the New York State Committee on Discrimination in Housing and its affiliated organizations, were similar to bills which had been introduced, unsuccessfully, for the past several years. The state legislature once again failed to act on either of these proposals.

New Jersey

On July 28, 1954, Governor Robert Meyner of New Jersey signed a bill which vested jurisdiction in the Division Against Discrimination over the

several statutes which prohibited discrimination in public and quasi-public housing in the State of New Jersey. Upon signature by the governor, New Jersey joined Massachusetts, Connecticut, and Rhode Island in placing jurisdiction for the enforcement of their anti-discrimination laws in housing in the same administrative agency which enforced the laws against discrimination in employment and in places of public accommodation.

Municipal Action

The Wilmington, Del., Housing Authority voted on December 10, 1953, to adopt a policy ending racial discrimination or segregation in the city's low-rent public housing projects.

The San Francisco Housing Authority announced on January 5, 1954, its intention to include an anti-segregation clause in an agreement covering the operation of four temporary war-housing projects.

Violence

On July 30, 1953, the first Negro family moved into the Trumbull Park Homes in Chicago, Ill., a public housing project built with Federal funds and then under the management and control of the Chicago Housing Authority. On August 5, 1953, after this event became public knowledge in the area, the first signs of serious racial tension appeared; by August 10, 1953, there were nightly gatherings of large mobs of restless, threatening people. Fire crackers and stones were thrown at, or into, the apartments thought to be occupied by the Negro families. They were assaulted when entering, or leaving, the project area. Large numbers of police were moved into the neighborhood and a twenty-four-hour patrol system was established. On some occasions, 1,000 or more policemen were assigned to the project. They found it necessary, when tensions mounted, to disperse all gatherings within a half mile, to close bars and taverns, and to erect police lines around the area.

Periodic violence and rioting continued from August 1953 to the end of the reporting period. During this time, over a dozen Negro families moved into Trumbull Park Homes and more than 100 persons were arrested and charged with disorderly conduct, illegal possession of fire arms, assault and battery, incitement to riot, or attempted arson. The courts did not see fit to impose substantial jail sentences on any of those convicted. Instead, many of the more youthful offenders were paroled in the custody of their parents or lawyers while others received small fines. Despite the continued protests and pressure of civic, religious, labor, and nonsectarian organizations directed to Mayor Martin Kennelly, Governor William G. Stratton, and even the Federal housing authorities, it was generally felt that the city government was refusing to use more effective police techniques which could have put a prompt end to the racial disturbances.

Other instances of violence or threats of violence to discourage nonwhites from moving into previously all-white neighborhoods, occurred during the reporting period in Atlanta, Ga. (August and October 1953); Long Island,

N. Y. (November 1953); Indianapolis, Ind. (December 1953); Birmingham, Ala. (May 1954); and Louisville, Ky. (May 1954).

EMPLOYMENT

Federal Activities

In January 1954 public hearings were held by the Civil Rights Subcommittee of the Senate Judiciary Committee on two bills. One (S. 1), introduced by Senator Everett Dirksen (Rep., Ill.), would have created a five-member commission on "civil rights and privileges" to promote respect for such rights and privileges; this bill lacked any provision for enforcement (*see* AMERICAN JEWISH YEAR BOOK, 1954 [Vol. 55], p. 32). The other bill (S. 535), introduced by Senator Hubert H. Humphrey (Dem., Minn.), would have established a permanent Commission on Civil Rights in the executive branch, as recommended by the report of President Truman's Committee on Civil Rights in 1947. The following month, the Civil Rights Subcommittee of the Senate Committee on Labor and Public Welfare invited public testimony on Senator Irving M. Ives' (Rep., N. Y.) Federal Equality of Opportunity in Employment bill (S. 692), which would have established a Federal commission to administer and enforce a policy of nondiscrimination in employment for all employers engaged in interstate commerce and employing fifty or more employees, for all employment agencies dealing with such employers, and for all labor organizations having fifty or more members employed by such employers. No fair employment practices (FEP) bill reached the floor of either branch of the Congress during the reporting period.

President Eisenhower's Committee on Government Contracts (CGC—*see* AMERICAN JEWISH YEAR BOOK, 1954 [Vol. 55], p. 32) implemented several of the recommendations of its predecessor committee. Thus, conferences were held in September 1953 between a subcommittee of the CGC and the Board of Commissioners of the District of Columbia. The CGC induced the local administration of the District to include a clause in all contracts to which it was a party barring discrimination in employment because of race, creed, color, or national origin in the carrying out of the provisions of the contract. On October 26, 1953, the Secretary of Labor and the president of the District Board of Commissioners jointly announced that such a clause would be inserted thereafter in all District of Columbia contracts, as required in government contracts by executive orders.

As a result of the insistence of the CGC, the telephone company serving the District of Columbia, including all the Federal agencies and departments located there, dropped its color bars. As of the close of the reporting period, Negro and white clerks and operators were working side by side in the telephone company, without friction or incident.

In November 1953 a group of representatives of national civic, religious, and labor organizations were invited to meet with the CGC to discuss more effective steps to eliminate discrimination in employment in connection with government contracts. One recommendation was to strengthen the clause

which required government contractors to provide equality of employment opportunity. On April 22, 1954, Deputy Attorney General William P. Rogers announced a revision in the nondiscrimination clause for the purpose of strengthening and clarifying it.

The new clause substituted the word "religion" for "creed" and spelled out a number of the specific areas of employment in which discrimination "because of race, religion, color, or national origin" was prohibited. In addition, the new clause required the conspicuous posting of a notice informing employees and prospective employees that the plant was committed to a policy of nondiscrimination.

In June 1954 the CGC published its first informational pamphlet, "Equal Job Opportunity Is Good Business," to advise employers, Federal agencies and the public at large of the purposes and functions of the CGC.

State Action

No new states were added to those with FEP laws during the reporting period. Since the state legislatures which were in regular session during 1954 were, with one exception, either in FEP states or in the South, this was to be expected.

Michigan

The exception was Michigan, where Governor G. Mennen Williams sent a special message on December 29, 1953, to the legislature reminding the members (predominantly Republican) of President Eisenhower's campaign statements in favor of state action in this area, and urging them to enact a fully enforceable fair employment practice law. Such a bill passed the state senate on March 5, 1954, by 20 to 11, but was killed by the state affairs committee of the state house of representatives, which voted 6 to 3 on March 23, 1954, not to report the bill to the floor. An attempt on March 30 to get the house to discharge the committee from further consideration of the bill failed when the representatives refused by a 53 to 43 vote to force the bill from the committee.

New York

The *Holland* case (*see* American Jewish Year Book, 1954 [Vol. 55], p. 36, 37) reached the New York Court of Appeals where the decision of the Appellate Division was unanimously affirmed on April 23, 1954.[16] Thus, the first instance in which the New York State Commission Against Discrimination (SCAD) found it necessary to seek judicial enforcement of one of its cease and desist orders was carried all the way to the highest court, where SCAD's order was upheld.

In a second litigation, an employment agency challenged the authority of SCAD to issue a regulation that all employers, employment agencies, and labor unions must post a notice in their establishments of the major pro-

[16] *Holland* v. *Edwards*, 307 N. Y. 38 (1954).

visions of the Law Against Discrimination. The only question presented by this case was whether the Commission had the power to adopt such a regulation when the statute establishing the Commission was silent on this point. On June 17, 1954, Mr. Justice Thomas Corcoran of the New York Supreme Court filed his decision, in which he held that SCAD was merely supplying "a detail in the implementation of and consistent with the power given to it" when it required the posting of notices as a means of "publicizing the law so as to accomplish the work which the Legislature set out for the Commission." The Court also rejected the employment agency's argument that the posting requirement was unreasonable and unnecessary since "the public is presumed to know the law." The Court differentiated between the presumption that everyone knows the law and so is not relieved of the legal consequences of his acts, and the need to educate the public as to the provisions of a law enacted for its social and economic well-being.[17]

SCAD announced on October 20, 1953, that it had successfully negotiated a conciliation agreement with the Pennsylvania Railroad under which that railroad, for the first time in its history, employed a Negro as a brakeman.

Commissioner Elmer A. Carter, one of the four commissioners of SCAD, explained that agreements of this type with the railroads had been impossible to obtain previously because of the existence of large numbers of furloughed employees who had a prior right to re-employment. When, however, the Pennsylvania Railroad had rehired all available furloughed employees and began to hire employees on the "open market," three complaints were filed with SCAD charging the railroad with a refusal to hire Negroes as brakemen in violation of the New York Law Against Discrimination in employment. Following the investigation of these complaints, the agreement was negotiated whereby the railroad accepted the only one of the three complainants who had not yet found other gainful employment. In addition, the railroad stipulated that thenceforth it would consider all applicants on the basis of merit and without regard to race, creed, color, or national origin. Furthermore, the railroad agreed to give all its employees, including Negroes, the opportunity to qualify for higher positions (such as conductors) on the basis of seniority and ability and without discrimination. The agreement was considered by SCAD to be "an authentic milestone in the Negro's struggle for equal treatment in employment opportunities" on major railroads in the United States.

Connecticut

After the affirmation by the highest court of the state of the Connecticut Civil Rights Commission's order directing Local 35 of the International Brotherhood of Electrical Workers (IBEW) to cease its discrimination against Negro applicants for admission to the union[18] (*see* American Jewish Year Book, 1954 [Vol. 55], p. 35; 1953 [Vol. 54], p. 61, 62), the two Negro complainants again applied for admission. They were rejected at a mem-

[17] *Ross* v. *Arbury, et al.*, 133 N.Y.S. 2d 62 (1954).
[18] *International Brotherhood of Electrical Workers* v. *State Commission*, Conn. Law Journal, Dec. 29, 1953.

bership meeting on the ground that they failed to meet the requirement of sponsorship and employment by a union contractor for one year. This was the same reason that had been advanced by the union at the original public hearing before the Commission. On March 26, 1954, following this latest rejection of the applicants, an assistant attorney general, acting for the Commission, applied to the Superior Court for a contempt citation of the union for noncompliance with the court's order that it (the IBEW) abandon its policy of racial discrimination in admissions. After a hearing, Superior Court Judge Alcorn found "the union as a body" in contempt of court for noncompliance with the earlier court order, fined the local $2,000, and stated that it would be fined $500 for each additional week, starting April 26, 1954, until it complied with the 1952 Superior Court judgment directing the union to stop practicing racial discrimination.

On April 9 the local voted to admit the two complainants to full membership. One complainant was immediately referred to a job where he was employed as a union electrician and the other was similarly employed a few weeks later. This was the first instance in which a proceeding before a state commission enforcing a fair employment practice law had gone to the point of a citation for contempt of court—the ultimate enforcement sanction available to state commissions.

Oregon

The Urban League of Portland concluded in its annual report released in April 1954 that despite the Oregon FEP law, many employers in the state "still bar their doors against non-white workers." Citing examples, the report said that "none of the large mail order houses or variety stores has yet hired a single Negro clerical worker, only one of the large grocery chains hires non-white clerks, and our largest knitting mill still employs Negroes only as charwomen."

Municipal Action

Four additional municipalities joined the ranks of FEP cities during the period under review.

Clairton, Pa., became the twenty-ninth city in the United States (and the sixth in Pennsylvania) to enact an ordinance against discrimination in employment in April 1953. The Clairton ordinance was similar to the Philadelphia ordinance, generally regarded as one of the best of its kind. It had a very broad coverage, applying to all employers within the municipality, including those with even one employee. A Fair Employment Practices Commission was established with power to investigate, adjust, and determine complaints of discrimination in employment. The ordinance also contained enforcement machinery. Violations or failure to comply with cease and desist orders of the Commission were punishable upon conviction by fines up to $100.

On June 9, 1953, Duluth, Minn., became the thirtieth city in the United States (and the second in Minnesota) to enact a local ordinance prohibiting discrimination in employment. The ordinance applied to the city and its departments, divisions and bureaus; and to local private employers of two or more employees. In addition, the ordinance provided that all contracting agencies and departments of the City of Duluth should cause nondiscriminatory clauses to be included in all contracts and should cause contractors to require the inclusion of such clauses in all subcontracts.

A five-member, non-salaried board was established, to be known as the Commission on Job Discrimination. The ordinance contained no statement of findings or of policy to aid the Commission in carrying out its responsibilities, nor did it provide any enforcement machinery. The Commission, however, was expressly charged with "effecting the purposes and policies of this resolution"; promoting cooperation toward this goal among all groups; receiving and investigating complaints; conducting studies, surveys, and projects; disseminating information regarding job discrimination and related problems; aiding in the enforcement of the resolution; and making annual reports to the City Council.

On January 26, 1954, Erie, Pa., enacted a fully enforceable FEP ordinance prohibiting discrimination in employment by employers, employment agencies, and labor unions, and creating a Community Relations Commission to administer it. Prohibited practices were defined in detail, but the enforceability of the ordinance was deferred until January 1, 1955.

On June 12, 1954, the city of Duquesne, Pa., became the thirty-second city in the United States (and the eighth in Pennsylvania) to enact an ordinance prohibiting discrimination in employment.

The measure, a fully enforceable FEP ordinance, resembled closely the ordinance adopted by the neighboring city of Pittsburgh in 1952. It applied to all public employers within the city and to those private persons employing more than five employees. The ordinance prohibited discrimination by such employers, as well as by labor organizations and employment agencies. The ordinance set up a FEP Commission in the department of public affairs with power to receive, investigate, adjust, and determine complaints of discrimination in employment. The Commission was to consist of five non-salaried members appointed by the mayor. Enforcement was vested in the city solicitor, and violations of the ordinance or failure to comply with cease and desist orders of the commission were punishable upon conviction by fines up to $100.

A serious effort was made during the reporting period to pass a municipal FEP ordinance in Baltimore, Md. The proposed ordinance would have set up a five-member Equal Opportunity Employment Commission with power to enforce restrictions against discrimination in employment on the grounds of race, color, religion, national origin, or ancestry. The Commission would have been vested with power to investigate and correct unfair practices which specifically included refusal to hire, the use of quota systems, making inquiries or using application forms which contained questions on race, religion, color, national origin, or ancestry, publishing notices or advertise-

ments indicating any preference or discrimination based on race. The measure would have been applicable to employers, labor unions, and employment agencies. On June 14, 1954, however, the City Council, by a 12 to 9 vote, defeated this first FEP ordinance to come before a municipal council south of the Mason-Dixon Line.

Public Accommodations

Accelerated progress was made during the reporting period in the campaign in the District of Columbia to eliminate racial discrimination and segregation in places of public accommodation and amusement. Following the decision of the United States Supreme Court [19] that restaurants in the District of Columbia were still governed by an 1873 statute which prohibited them from refusing to serve meals to Negroes because of their color, Washington's eating establishments ended racial discrimination (*see* American Jewish Year Book, 1954 [Vol. 55], p. 47). Officials of the local restaurant association reported not a single case of violence as a result of this new policy. At the urging of the chairman of the District Board of Commissioners, discrimination was also eliminated from the bars and dining rooms in the hotels. This was followed in some cases by a relaxation of the policy of completely excluding Negroes from sleeping accommodations. With the help of the motion picture producers, discrimination was also eliminated from the downtown theatres. Segregation was abolished in the District's recreational areas and facilities—all without a single reported instance of serious tension.

Transportation

Generally, racial segregation continued to be the rule rather than the exception in intra-state transportation in all Southern and most border states. In interstate transportation, however, deep crevices continued to appear in the wall of segregation. Thus, while railroad employees continued to direct Negroes to segregated cars, occasionally Negroes and whites mingled on day coaches travelling through Southern states. Ticket offices, waiting rooms, restaurants, and toilets in railroad stations throughout the South, however, continued to be labeled "white" and "colored."

On November 13, 1953, Attorney General Herbert Brownell publicly announced that the Department of Justice had been notified by the Southern Railway System that it had adopted new rules governing the service of patrons in dining cars operated by the railroad. The new rules directed conductors and dining car stewards to seat passengers seeking dining car service in vacant seats in the order of their entrance into the dining car.

With this new rule, the Southern Railway abandoned its long fight to retain some sort of racial segregation in railway diners.[20]

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[19] *District of Columbia* v. *Thompson*, 346 U.S. 100 (1953).
[20] *Henderson* v. *U.S.*, 339 U.S. 816 (1950).

Court Action

In an interesting case in the United States District Court for the Northern District of Iowa, Judge Henry N. Graven upheld the right of a Negro to bring her action for violation of the Iowa Civil Rights Law in the Federal District Court on the theory that the defendant was a Delaware corporation and that it was possible that a jury would award the plaintiff damages in excess of the jurisdictional minimum of $3,000.[21] Following this decision on the defendant's motion to dismiss the action for lack of jurisdiction, the case was tried before a jury. After the trial, the defendant moved for a directed verdict in its favor on the ground that the Iowa Civil Rights Law did not cover dance halls. Judge Graven denied the defendant's motion, and held that the words "all other places of amusement" in the Iowa Civil Rights Law were intended to include dance halls.[22] He thus gave the statute a broad rather than a narrow construction.

For the second time in the same case, on February 25, 1954, a city court jury in Rochester, N. Y., failed to reach a verdict in a criminal action against the owner of a local bar and grill for violating the New York Civil Rights Law making it a misdemeanor for the owner or operator of a restaurant to deny equal accommodations because of race or color.

On September 3, 1953, President Judge Edwin O. Lewis of the Court of Common Pleas in Philadelphia handed down his decision in a case arising under the Pennsylvania statute against discrimination in places of public accommodation.[23]

The defendant moved to dismiss the complaint on two separate grounds, both of which were rejected by the Court. It was first argued that swimming pools were not covered by the Pennsylvania Civil Rights Statute since they are not specifically listed as "places of public accommodation." The judge rejected this argument on the ground that the listing of places of public accommodation after the words "shall be deemed to include" could not mean that all places not expressly mentioned were outside the provisions of the law. He held the language of the statute declaring the right of all persons "to the full and equal accommodations, advantages, facilities, and privileges of any places of public accommodation, resort, or amusement" sufficiently broad to include swimming pools.

The defendant based his second defense upon the fact that the Pennsylvania Civil Rights Law provided only criminal penalties for its violation. Traditionally, courts of equity had refused to enjoin violations of criminal statutes on the theory that the legislature provided for punishment by fine or imprisonment following conviction for the crime and that such remedy was adequate. In the instant case, however, Judge Lewis chose not to follow the tradition, and issued the injunction requested by plaintiffs.

This decision was important because the case was authority for the propo-

[21] *Amos* v. *Prom, Inc.*, 115 F. Supp. 127.
[22] *Amos* v. *Prom, Inc.*, 117 F. Supp. 615.
[23] *Everett* v. *Harron.*

sition that civil rights statutes, no matter what remedies they provided, were remedial statutes which should be liberally construed to be effective against the evil at which they were aimed.

Following the action of the United States Supreme Court on May 24, 1954, in *Beal* v. *City of Houston* (see page 202, *supra*), the Houston City Council voted unanimously to end segregation on municipally owned and operated golf courses. Negroes thereupon began to use the municipal golf courses on June 2, 1954.

Legislative Action

On March 13, 1954, the General Assembly of Virginia passed a law which prohibited discriminatory advertising by places of public accommodation. The act was limited to publication of advertisements in newspapers or magazines, to posting of signs, and to broadcasting by radio or television. The law prohibited any publication of commercial advertisements to the effect that any person "not otherwise prohibited by law from using an establishment" was not welcome, or was objectionable, or was not acceptable.

The phrase "not otherwise prohibited by law from using an establishment" was intended to exclude racial segregation and discrimination from the coverage of the new statute.

Administrative Agencies

There had been a tendency on the part of vacation resorts and hotels to attempt new devices to evade laws prohibiting discrimination on account of race, religion, or national origin. One such device was that of calling resorts "private clubs" and featuring in their advertising that guests were accepted on a "club" basis, since strictly private clubs were not prohibited from discriminating under traditional civil rights laws.

On June 22, 1953, the American Jewish Committee filed a complaint against The Westkill Tavern Club, a vacation resort in Greene County, before the New York SCAD, charging that the "club" was a place of public accommodation subject to the provisions of the New York Law Against Discrimination. On July 29, 1953, SCAD, after investigating the question, concluded that The Westkill Tavern Club was indeed a place of public accommodation and not a private club. The order issued through a conciliation agreement required the discontinuance of the membership procedures and the elimination of the statement in the brochure referring to selected clientele. The disposition further required that all personnel employed by the resort be informed of the policy requiring "full, equal and unsegregated accommodations . . . to all persons regardless of their race, creed, color or national origin."

On December 11, 1953, SCAD announced that it would hold its first public hearing under the recently enacted public accommodations provisions of the State Law Against Discrimination (*see* AMERICAN JEWISH YEAR BOOK, 1953 [Vol. 54], p. 68). The hearing involved complaints brought by two Bronx

residents, who claimed that the Castle Hill Beach Club, Inc., denied them admission because of their color.

Following the filing of the complaints, SCAD sought to adjust the matter through the process of conference and conciliation. The Beach Club maintained that it was a private organization and not a place of public accommodation subject to the jurisdiction of the Commission.

In New York State, as in New Jersey, the first complaint under the public accommodations statute, which the State Commission was unable to adjust through conciliation and persuasion, involved a swimming pool which claimed to be a "private club," and not a place of public accommodation.

On October 15, 1953, the Massachusetts Commission Against Discrimination reported that it had successfully conciliated a complaint that a cafe in Boston's theatrical district had illegally refused to serve a Negro because of his color. Under the terms of the conciliation agreement, the cafe agreed to pay $50 damages to the Negro complainant and, in addition, pledged that there would be no discrimination in service in the future because of race, color, or religious creed.

On January 19, 1954, Attorney General Robert Y. Thornton of Oregon, in response to a question submitted to him by the Fair Employment Practices Advisory Committee, ruled that it was a violation of the recently enacted Oregon Civil Rights Law (*see* AMERICAN JEWISH YEAR BOOK, 1954 [Vol. 55], p. 47) for a restaurant owner or operator to require Negro patrons to sit on one side of the cafe while reserving the other side for whites.

CHURCH AND STATE

The Congress

In May 1954, the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee held public hearings on a proposed constitutional amendment (Senate Joint Resolution 87) introduced by Senator Ralph Flanders (Rep., Vt.), which declared that: "This Nation devoutly recognizes the authority and law of Jesus Christ, Savior and Ruler of nations." Section 2 provided that the amendment should not be interpreted to "result in the establishment of any particular ecclesiastical organization, or in the abridgement of the rights of religious freedom, or freedom of speech and press, or of peaceful assemblage." Section 3 gave the Congress power "to provide a suitable oath or affirmation for citizens whose religious scruples prevent them from giving unqualified allegiance to the Constitution as herein amended." All of the national Jewish organizations testified or filed statements opposing S.J. Res. 87, and no further action was taken by the Senate.

Toward the end of the Second Session of the 83rd Congress, a bill was passed, and subsequently signed by the President, to amend the Pledge of Allegiance by inserting the words "under God." The pledge would then read:

> I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

State Action

The most significant event in the church-state field during the reporting period was undoubtedly the unanimous decision of the Supreme Court of New Jersey on December 7, 1953, that the Board of Education of Rutherford could not constitutionally allow the Gideons International to distribute their Bible through the facilities of the public schools.[24]

The Court stated that it was in no way modifying or departing from its decision in *Doremus* v. *Board of Education*[25] where it upheld the constitutionality of compulsory daily reading in the public schools of five verses of the Old Testament and permissive recitation of the Lord's Prayer. The Court had held in *Doremus* that such exercises, performed without comment, did not constitute sectarian instruction or sectarian worship. The distinction emphasized by the Court was the sectarianism present in the *Gideons* case and absent in the *Doremus* case.

It is noteworthy that the New Jersey Supreme Court failed to predicate its decision upon the broader theory that the distribution of the Gideons Bible through the machinery of the public school constituted prohibited aid to a religion. Instead, it based its holding upon the narrower ground that the Gideons Bible was sectarian and that allowing its distribution was, therefore, preferential treatment prohibited by the United States Constitution.

Fluoridation

On October 23, 1953, the Court of Common Pleas of Ohio held that a Cleveland City Ordinance which provided for the fluoridation of city water did not breach the constitutional guarantee of religious freedom.[26] The expenditure of city funds under the ordinance was attacked by a taxpayer who claimed that there were many residents in the municipality whose religious convictions prohibited their taking medications, and that by fluoridating the city water supply, an agency of the state was, in fact, compelling such persons to violate their religious beliefs.

The Court enunciated as a legal principle that:

> Freedom to act in the exercise of religion is subject to regulation for the protection of society. When government in the proper and lawful exercise of its police power seeks to attain a permissible end, in this instance a health measure both necessary and desirable, the constitutional guarantee under discussion must yield to the regulation in the interest of the public welfare. The measure being reasonable and in no manner arbitrary or oppressive, we conclude that it does not offend the constitutional guarantee.

Sabbath Observance

In a 4 to 3 decision handed down on March 31, 1954, the Supreme Court of Ohio held that a claimant for unemployment compensation did not sacri-

[24] *Tudor* v. *Board of Education of Rutherford*, 14 N.J. 31 (1953); appeal denied 75 S. Ct. 25 (1954).
[25] 5 N.J. 435 (1950), appeal dismissed 342 U.S. 429 (1952).
[26] *Kraus* v. *City of Cleveland*, 116 N.E. 2d 779 (1953); aff'd 121 N.E. 2d 311.

fice her unemployment insurance benefits when she refused to accept proffered work which would have required her to work on Saturdays—her Sabbath.[27] The Ohio statute provided that in determining whether any proffered work was suitable for a claimant, the administrator should consider "the degree of risk to the claimant's health, safety, and morals." The claimant, a Seventh Day Adventist, contended that it would have been a risk to her "morals" to have accepted the offered work which required her to be gainfully employed on her Sabbath. The Court said:

> What is moral to one person may be immoral to another. Moral standards change. . . . The test in the instant case, however, is not whether the proffered employment presents a risk to the morals of a majority of our citizens, but, as the statute specifies, whether it presents a risk to the "claimant's . . . morals."

The same result was reached by the Supreme Court of Michigan on September 20, 1954, when it affirmed the decision of Circuit Court Judge Blaine W. Hatch that an unemployed worker was not required to choose between compensation benefits during a period of unemployment and his religious beliefs and convictions.[28]

Adoption

Pending in the Supreme Judicial Court of Massachusetts at the close of the reporting period was an appeal from a decision of the Probate Court below, which had refused to allow an adoption of three-year-old twins solely because the mother of the children was Catholic and the adoption "petitioners are of the Jewish faith, and express the intention of bringing the twins up in the Jewish faith."[29] The Probate Court interpreted the statutes of Massachusetts as virtually prohibiting the adoption of a child by persons of a religious faith different from that of his parents, and relegated the question of the welfare of the child and the express wishes of the natural parent to an unimportant place among the considerations to be weighed.

State Aid to Parochial School Children

The Circuit Court of Oregon for the Fourth Judicial District ruled on February 18, 1954, that a local school board could not refuse to admit a hard-of-hearing child to its special lip-reading classes because the child was regularly attending parochial rather than public school.[30] Among other issues, the Court considered whether the separation of church and state and the use of public funds to aid religious institutions were involved in this case. The Court pointed out that "the benefit inuring to the private school in the instant situation is tenuous in the extreme, being measured by the degree to which the private school is relieved of a financial burden which it has had

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[27] *Tary* v. *State Board of Review*, Ohio Sup. Ct., March 31, 1954.
[28] *Swenson* v. *Michigan Employment Security Commission*.
[29] *In re Wanda and Bruce Dome*, unreported, decided October 7, 1953, by the Probate Court of Essex County Mass.
[30] *Elkins* v. *School District No.1*.

a fixed intention to assume in the default of public aid." The Court held that the special instruction involved in the case under consideration was not in any significant sense a supplementation of the private school curriculum, nor in any way analogous to an application by a private school student to divide instruction time between standard courses in a private school and standard courses in a public school.

The defendant school board announced that it would not appeal the adverse decision.

On October 13, 1953, an organization calling itself the Kentucky Friends of the Public Schools announced the initiation of a law suit to prevent the superintendent of public instruction from using state funds to support local public schools in which nuns in clerical garb were employed as teachers, or to help defray the cost of transporting pupils to and from parochial schools.[31] The suit was filed after Attorney General J. D. Buckman refused to bring such an action "to compel compliance with the laws and constitution of Kentucky and the United States."

This law suit was the outcome of a controversy that had been going on in some Kentucky areas during 1953–54. Public complaint was first made by Protestant groups against the use of nuns as teachers in the public schools. Then the official organ of the Archdiocese of Louisville, *The Record,* ran a series of editorials attacking the Protestant group as bigoted and arguing that the traditional American principle of separation of church and state did not mean "completely secularistic totalitarianism." At the same time, these editorials suggested that the Protestant groups seek a court ruling on a series of questions implying that Protestant groups were violating separation of church and state. Among the questions so raised were: the propriety of ministers accepting payment from tax funds to serve as chaplains in state institutions, such as mental hospitals and local jails; the propriety of teachers in public schools wearing pins, rings, or buttons indicating membership in any religious organization; and the propriety of conducting public school baccalaureate ceremonies in Protestant churches.

No decision had been published by the Court as the reporting period came to a close.

Released Time

Attorney General Leo A. Hoegh of Iowa advised the Dubuque School Board on August 18, 1953, that under the decisions of the United States Supreme Court in the *McCollum* and *Zorach* cases,[32] the Board could constitutionally approve a released-time program in which sectarian religious instruction would be given "by non-school personnel at places which are not part of the school premises." The Attorney General took pains to point out to the school board that the *Zorach* case turned on a lack of evidence "that the system involved the use of coercion to get the students into the religious courses."

The Board of Directors of School District 60, having jurisdiction over the

[31] *Rawlings* v. *Butler*, Circuit Court of Franklin County, Ky.
[32] *McCollum* v. *Board of Education*, 333 U.S. 203 (1948); *Zorach* v. *Clauson*, 343 U.S. 306 (1952).

public schools of Pueblo, N. M., received a request from the local leaders of the Catholic Church to institute a released-time program in the public schools of Pueblo. The board held an open hearing in August 1953. The president of the Protestant ministerial association informed the board that his association could take no position on the issue since it had had no opportunity to discuss it. He also advised against the institution of a released-time program "until a cooperative request representing the Protestant, Catholic, and Jewish faiths has been made." Other Protestant ministers warned against compulsion to induce youth toward religious study and against any breaking down of separation of church and state. A Catholic spokesman urged the board to study the decision of the Supreme Court in the *Zorach* case "in which it was made clear and plain that there is no compulsion involved."

The school board voted to defer any action on released time at least until the fall of 1954, but it did approve a plan to leave Wednesday nights as free as possible of school activities to permit those nights to be used for religious education.

Teacher Education and Religion

During the reporting period, the William H. Danforth Foundation set aside $60,000 for a Teacher Education and Religion Project to be conducted by the American Association of Colleges for Teacher Education. This association was formed in 1948 by a merger of the American Association of Teachers Colleges, the National Association of Teacher Education Institutions for Metropolitan Districts, and the National Association of Colleges and Departments of Education. On December 1, 1953, a subcommittee of the project recommended, and the project directors adopted, the following statement of the nature and scope of the intended study:

> The Committee recommends that the chief purpose of this study of Teacher Education and Religion be to discover and develop ways and means to teach the reciprocal relation between religion and other elements in human culture in order that the prospective teacher, whether he teaches literature, history, the arts, science, or other subjects, be prepared to understand, to appreciate, and to convey to his students the significance of religion in human affairs.

It was expected that during the first two years of the study, emphasis would be upon an intensive analysis by the participating institutions of curriculum materials, available and to be developed, with respect to the relationship between religion and other elements in the culture. The second stage of the study, to extend over a three-year period following the preliminary stage, would concentrate upon publishing and distributing the results of the earlier studies and experimentation.

The colleges and universities that had been invited to participate in this project were: Alabama State Teachers College at Troy; Arizona State Teachers College at Tempe; Iowa State Teachers College at Cedar Falls; Kansas State Teachers College at Pittsburg; the University of Kentucky;

Maryland State Teachers College at Towson; Western Michigan College of Education; Macalester College at St. Paul, Minnesota; New York University; New York State University Teachers College at Oswego; East Carolina College at Greenville, N.C.; Ohio State University; Oregon College of Education at Monmouth; Georgia Peabody College at Nashville; and North Texas State College at Denton.

THEODORE LESKES

ANTI-JEWISH AGITATION

ORGANIZED ANTI-SEMITIC ACTIVITY increased perceptibly (though not considerably) during the period under review (July 1, 1953, through June 30, 1954) over the level of the preceding year.

Bigots continued to try to identify Jews as Communists, or as conspiratorial agents for the Soviet Union; a frequent variant of this canard was that the Soviet Union was merely the instrumentality of a "Zionist" clique. Agitators appealed to xenophobic, isolationist, and anti-United Nations (UN) sentiment by asserting their "partisanship" of the McCarran-Walter Immigration Act of 1952 (*see* AMERICAN JEWISH YEAR BOOK, 1953 [Vol. 54], p. 77-85), and of the proposed Bricker amendment limiting Federal treaty-making powers. They continued to attack the UN and the UN Educational, Scientific, and Cultural Organization (UNESCO) as being plots for "world sovereignty" and "atheistic brainwashing." Agitators wooed other ultra-conservative elements by combining their racist doctrines with advocacy of reactionary socio-economic measures, and by furthering movements seeking to abolish governmental controls. In addition, the anti-Semites exploited two areas with particular vigor: they made incursions into politics, and attempted to divert the tensions associated with public school desegregation into channels of organized anti-Negro, anti-Semitic sentiment.

Politics

In a manner reminiscent of their political activities during the 1952 Presidential campaign (*see* AMERICAN JEWISH YEAR BOOK, 1954 [Vol. 55], p. 72-73), during the period under review anti-Semites intensively manipulated political issues and personalities for their own ends. This they did both in anticipation of the 1954 elections, and to provide a continuity between the 1952 and 1956 Presidential years. They continued to charge and "suggest" that President Dwight D. Eisenhower had "betrayed" the Republican Party and the ultra-conservative elements who (the anti-Semites claimed) had elected him. With varying degrees of viciousness, the President and his staff were portrayed as puppets of Communists and Jews. Bigots seized upon such incidents as the Army-McCarthy investigations (*see* p. 184) as a springboard for vituperation of the President and his administration. These tactics appeared to have made many bigots acceptable to certain discontented political elements.

Toward the close of the period (July 1954), anti-Semites had apparently abandoned "third party" possibilities, giving preference to the hope that ultra-conservatives might be able to win control of the major parties.

Instances of Anti-Semitism in Politics

California State Senator Jack B. Tenney ran for renomination in the California primaries after having been refused endorsement by the Republican organization. In 1952, Tenney (who had once headed the California Legislative Committee on Un-American Activities) had accepted the vice presidential nomination of Gerald L. K. Smith's Christian Nationalist Party. From this point on, Tenney collaborated closely with Smith and his organization. During 1952 and 1953, Tenney had written and published a trilogy of anti-Semitic pamphlets, entitled *Zion's Fifth Column, Zionist Network,* and *Zion's Trojan Horse.* The last of these included an introduction by Professor John O. Beaty (*see below*), and stressed invidious interpretations of Talmudic passages.

Tenney campaigned in the Los Angeles, Cal., area on the issue of "The Jews in Politics," charging in *The Tenney Record* that:

> Jews are highly organized in this country. They are organized . . . also for political reasons. . . . You can see evidence of this on every hand: in the daily press (which they strongly influence); in the radio and TV industry (which they control outright); in the motion picture industry (which they monopolize); in politics (where they exert a fearful force).

Tenney's venom received nation-wide publicity when a major network, for well-intended purposes, telecast one of his speaking appearances via kinescope recording. Though Tenney lost the nomination, he received almost 200,000 votes in both party primaries.

During the week preceding the Maine primaries of June 21, 1954, Conde McGinley, publisher at Union, N. J., of the anti-Semitic *Common Sense,* caused approximately 50,000 copies of the May 15, 1954, issue to be distributed on the streets of Bangor, Augusta, Portland, and Lewiston, Me. The issue, headed *McCarthy and His Enemies,* purported to show that Senator McCarthy was under attack by Jews, Communists, and "American newspapers" which were either "Marxist-owned or Marxist-controlled." The distribution of this issue was obviously intended in support of Edward L. Jones, who had been opposing Senator Margaret Chase Smith on a pro-McCarthy platform. There was no evidence that Jones knew or approved of this action, which resulted in a wave of protest and condemnation by religious and civic leaders throughout the state. Senator Smith won renomination.

In New Jersey, McGinley was reported by the *New York World-Telegram & Sun* of September 28, 1954, to have distributed "vituperative 'flyers'" attacking Republican Senatorial candidate Clifford Case as one who "would be Stalin's choice for Senator."

Georgia's long-time Commissioner of Agriculture, Tom Linder, ran in the Democratic primaries of that state (where nomination was equivalent to election) for the governorship. Years before Linder had converted an official state

publication, *The Georgia Farmers' Market Bulletin* (circulation 250,000), into an organ of bigotry and racism, which attacked, among other things, Negroes, Jews, the UN, and Federal aid to education. Linder ran a poor fourth in the primary to Lt. Gov. Marvin Griffin.

On March 19, 1954, in Oregon, Richard L. Neuberger, Democratic candidate for Senator, was slurred by a Sherman County journal, which observed that: "The well-known wisdom of his [Jewish] race in financial matters has been uppermost in his policy." A disclaimer of any bias or approval of the paper's statement was issued on June 3 by Senator Guy Cordon, Neuberger's opponent.

Six delegates of Atlanta's Christian Anti-Jewish Party (CAJP) picketed the White House on August 16 and 17, 1954, bearing racist placards. The CAJP was virtually an operational "front" for J. B. Stoner.

Desegregation of Education

The United States Supreme Court's historic decision of May 17, 1954, striking down segregation in United States public schools (*see* p. 195), was the occasion for an immediate rise in anti-Semitic and anti-Negro agitation. Representative of the appeal (chiefly aimed at "border" areas) were the following:

Frank L. Britton's fortnightly publication, *The American Nationalist* (Inglewood, Cal.) in its June 10 issue carried the headline: "South Indignant as Jew-Led NAACP Wins School Segregation Case." The accompanying article referred to an alleged awareness of Negro editors that "Zionists or Jewish nationalists are at the bottom of all the friction and intrusion and threats of intrusion among the races."

Large quantities of the July 1, 1954 issue of McGinley's *Common Sense* turned up in Southern localities and other potential trouble-spots, its heavy-typed headings proclaiming that "Communism Hits South With Non-Segregation. Jewish Marxists Threaten Negro Revolt in America! Communists Plan Black Republic In South!" The June 1954 issue of *The White Sentinel,* organ of the National Citizens Protective Association (NCPA), was converted into a racist symposium. There, Marilyn Allen, a pamphleteer who supported the Ku Klux Klan, characterized the President as a "pseudo-Republican race-mixer," while other contributors attacked the Supreme Court desegregation decision as being Communistic and Jewish-influenced. NCPA, formed in 1951 by John W. Hamilton, a former Gerald Smith staff-member, as an offshoot of Smith's organization, stepped up its membership drive at its St. Louis, Mo., headquarters, as well as in other trouble spots throughout the United States through the efforts of men like Bill Hendrix, former Grand Dragon of Florida's Klan.

National Association for the Advancement of White People

The most dynamic of the opponents of desegregation was the previously dormant National Association for the Advancement of White People, Inc. (NAAWP), a Delaware corporation organized December 1953 by Bryant W. Bowles of Arlington, Va. Bowles established offices in Washington, D.C., and

began publishing a bi-weekly, *The National Forum,* which borrowed heavily from Frank L. Britton's *American Nationalist. National Forum's* September 1954 issue recommended the works of such bigots as Lyrl Van Hyning, Eustace Mullins, Gerald Winrod, and Professor John O. Beaty.

In September 1954 Bowles and several collaborators moved in on tense situations in the Washington, D.C., Baltimore, Md., and Milford, Del., areas, as schools opened under newly formulated policies of racial integration. NAAWP membership drives were initiated as important features of boycott and protest meetings. One such meeting at Milford was attended by 5,000 opponents of school integration. In the face of school-picketing and other forms of demonstration, segregation was reinstated in Milford on September 30, Bowles taking credit for this "victory." School-strikes and picketing in Baltimore and Washington, however, were vigorously combatted by local authorities. During October 1954 Delaware's Attorney General H. Albert Young moved to revoke NAAWP's corporate charter. Following this, Bowles was arrested (October 10) on charges of conspiracy to violate the state education law. At approximately the same time, Federal Internal Revenue authorities began an inquiry into Bowles's alleged failure to turn over withholding taxes while engaged in his previous occupation as a roofing contractor. Bailed out on the conspiracy charge, Bowles was hailed at a meeting in Milford at which anti-Semitic and other racist slurs were rife.

Use of the Conspiratorial Theme

The charge that Jews, individually and collectively, were Communist and Zionist agents, spies, operatives, and master-minds continued unabated during the period reviewed. A notorious (and composite) example of this type of propaganda was a newspaper-size sheet, published under the imprint of McGinley's *Common Sense.* Embellished with Communist symbols, the item was headed *The Coming Red Dictatorship,* contained photographs of thirty-six Americans of Jewish faith (e.g., Bernard Baruch, David Dubinsky, and Albert Einstein), and warned the reader that "Asiatic Marxist Jews control entire world as last world war commences—thousands of plotters placed in key positions."

This inflammatory sheet was mailed to specialized lists of the type obtainable from commercial mailing houses. The estimated volume of the mailing and other distribution (more than 1,000,000) and the expense entailed led to the assumption that it had been financed by one or several wealthy individuals.

Distribution of this item began in December 1953, and continued through June 1954. It was denounced by the New York State American Legion officials (January 24, 1954), while its appearance precipitated condemnation from legislators and officials of Rhode Island, Maine, and Massachusetts. The New Jersey State Assembly on February 1, 1954, went so far as to pass a resolution that:

> The General Assembly of New Jersey make known its abhorrence of the organized campaign of prejudice and bigotry and of the author of that scurrilous literature, Conde McGinley.

Bearing even more sensational headlines (in red) was a four-page, newspaper format production largely distributed in the Northwest. Headed *The Secret Plot to Communize America,* this item was published by Samuel Evans Hayes, a wealthy man, who used the imprint of Learn & Live Publishers, Seattle. This lengthy "treatise" expounded at length on the theory and practice of banking and credit control, relying heavily on the "international banker" theme. It included revelations of "Zionist plots," and concluded with a plea for martial law "to remove the tremendous dangers that now threaten all Gentiles in our nation." Recommended reading included the works of Gerald L. K. Smith, John O. Beaty, and Ron Gostick, Canadian agitator.

Attacks on Kosher Products

Mrs. Marion Strack, New Jersey anti-UN leader, in her speech at a meeting of the New Jersey Daughters of the American Revolution (DAR), disclosing that the symbols (U) and (K) were "clandestine" markings denoting kosher products, took this to be evidence of "how a bold minority can impose its will and even its religious observance upon an apathetic majority." The speech was promptly repudiated by DAR officials. However, the anti-Semitic press (e.g., *Women's Voice, Common Sense, American Nationalist,* and *Cross and the Flag*) immediately stepped up its exploitation of this theme. McGinley's *Common Sense* published facsimiles of food advertisements carrying kosher symbols (July 15), while Gerald L. K. Smith carried the attack on "Jewish dominance" to a ludicrous conclusion in the July 1954 issue of *Cross and the Flag,* revealing: "U in a small circle is the symbol of the Union of Orthodox Jews. C in a small circle is the Conservative Synagogue. R in a small circle is the Reformed Rabbis."

(C) and (R) are the official symbols for, respectively, "copyright" (pictures, music, etc., Library of Congress) and "registered" (trade-marks, trade-names, United States Patent Office).

Attacks on Brotherhood Movement

Anti-Semites continued to depict the brotherhood movement as part of an over-all conspiracy to render Gentiles submissive and tractable to the "Communist-Jewish plot." The severest attacks upon the movement were generally timed to anticipate or coincide with Brotherhood Week (February 21-28). Leslie Fry (Paquita de Shishmarova), West Coast agitator who had been comparatively silent since the United States's entry into World War II, issued a pamphlet, *Interfaith,* which berated Seton Hall University (Catholic) for its interfaith institute, warning that "the only obstacle remaining in the path of Zionist complete success for its infernal scheme is the purity of the Christian faith," and that "tolerance" was an "equivocal misnomer which covers a multitude of cowardly deeds and weakens the spirit of defense."

Frederick C. F. Weiss, patron of the neo-Nazi National Renaissance Party (New York) wrote a leaflet issued in that group's name, bearing the heading *Brotherhood,* with the subheading: "In Russia They Execute Them The

Prague and Beria Way. . . . In U. S. A. They Promote Them the Dexter White Way!"

The Christian Nationalist Protective Association (CNPA) issued a pamphlet urging that February be made a "Racial Integrity Month as an answer to Brotherhood Week." Robert A. Milner and Edward R. Fields, CNPA members, on February 21, 1954, allegedly plastered some fifty establishments in Davenport, Ia., and Rock Island and Moline, Ill., with large bold-typed stickers advising that *This Place Is Owned By Jews;* superimposed on the stickers was the rubber-stamped message, ANTI-JEWISH WEEK, FEBRUARY 21-28. Apprehended in Davenport, Milner and Fields confessed. Milner was ordered by Police Magistrate Edmund Carroll to apologize to the merchants and was placed on probation. No charges could be preferred against Fields in Iowa, since he admitted having pasted up the stickers only in Rock Island, Ill.

A booklet, *The Brotherhood Religion—Is It Anti-Christianism?* appeared in January 1954. Written by a former Christian Front mentor, Rev. Edward F. Brophy of New York, the booklet was published in Reseda, Cal., by C. J. Schreiber, a bigot-pamphleteer. Brophy attacked prominent persons, both Jewish and Christian, for their participation in the movement, whose purpose, he charged, was "to de-Christianize America."

Leonard E. Feeney continued to foment intergroup discord in the Boston, Mass., area as he and his small but fanatical following attacked Jews, Protestants, and the Catholic hierarchy at open-air meetings and by distribution of his publication, *The Point.* The Catholic Church in 1949 had suspended Feeney's priestly functions because of his insistence upon a literal interpretation of the doctrine that no one is saved outside the Church. During the period under review, Feeney appeared to have concentrated more of his attacks upon the Jews than on other groups or institutions.

Other Themes

Other themes in evidence during the period under review, and typical expressions of them, were:

Cancer It is easy to start cancer by over-exposing the body to radium or radio-active dust from the atomic energy plants (which are almost completely in the hands of Jews, many of them with long records of Zionist aiding and Communist-front activities).

(*Robert H. Williams*)

Oil This struggle for the off-shore oil-lands . . . is actually one step in the long-range campaign of Zionist leaders to wrest control of American oil from patriotic American businessmen.

(*Eustace Mullins*)

Coffee Jewish speculators have raised the price again, reaping more fantastic profits than ever before.

(*Eustace Mullins*)

Fluoridation *Red Plan of Poison Water Revealed.*

(*Conde McGinley*)

Attacks on UN and UNESCO

A typical expression of the agitators' antagonism to the UN was the two-day San Francisco Conference to Abolish the United Nations, held February 13-14, 1954, under the direction of Gerald L. K. Smith. Attendance at the several sessions ranged from 100 to 400. Interspersed with attacks upon the UN were many tangential references to virtually all of the other themes discussed in this article.

In the late summer of 1954 ultra-conservatives and bigots began promotion of a United States Day in opposition to United Nations Day (October 24).

The Neo-Nazis

The National Renaissance Party (NRP), centering its activities in New York City's Yorkville section, showed signs of confusion and deterioration during the period reviewed. The leadership of James A. Madole was all but superseded by Mana Truhill (also known as Manuel Trujillo), a former student at a Communist-front educational institution, who claimed to have been converted to the cause of Nazism. Under Truhill's regime, NRP's literature became more violently Hitlerite. Thus, the National Renaissance Bulletin for February 1954 contained a large portrait of Hitler, while other issues contained revolting caricatures of Jews which out-rivaled those of the Nazi propagandist Julius Streicher. Occasionally, however, Frederick C. F. Weiss (using the trade-name of LeBlanc Publishers) contributed pedantic, pseudo-intellectual leaflets, bearing NRP's imprint. One such was entitled, *Should the Nazi Spirit Die?* Toward the close of the period, NRP, its followers and associates, began meeting under the guise of a factional political group, devoted to the support of right-wing legislators.

Beaty Affair

Professor John O. Beaty's anti-Semitic book, *Iron Curtain Over America,* which had first appeared in December 1951 (*see* AMERICAN JEWISH YEAR BOOK, 1953 [Vol. 54], p. 95), received considerably less distribution during 1953–54 than it had during the preceding period. Instead, however, it was more widely quoted and hailed in the anti-Semitic press. On January 20, 1954, Beaty, a faculty member of Southern Methodist University (SMU) at Dallas, Tex., published a pamphlet, *How to Capture a University,* in which he charged that SMU was under Communist and Jewish influence. These charges were denounced by Umphrey Lee, then SMU's president, the faculty almost unanimously concurring. Civic leaders and others of standing likewise deplored Beaty's attack. Subsequently, the charges were wholly rejected by SMU's governing board. In another Beaty pamphlet, *The Cry of "Anti-Semitic,"* which appeared on March 1, 1954, Beaty defended his book and attacked the Amer-

ican Jewish Committee. Beaty's many denials of anti-Semitism appeared fully controverted when Jack Tenney's openly anti-Semitic pamphlet, *Zion's Trojan Horse,* which appeared during April 1954, contained a laudatory introduction by Beaty (dated December 1953).

Pro-Arab Propaganda

Pro-Arab propaganda by agitators was sustained during the period reviewed; its most frequent manifestation was the substitution of the word "Zionist" for "Jew." Anti-Jewish output in the United States frequently contained direct exploitation of Arab-Israel tensions. The November 23, 1953, issue of Frank L. Britton's *American Nationalist* contained an inflammatory treatment of the Kibya incident (*see* p. 277), and appeared to have received considerable Arab support and distribution. *Common Sense* of August 15, 1954, appeared with a lengthy diatribe headed, *Arabs Victims of Zionism. World Jewry Destroys Nations With American Finance and Power.* This issue was widely distributed at the UN when the Assembly met in September 1954.

The Anti-Semitic Press

The following were the high lights of activity in the anti-Semitic publishing field not previously mentioned in this article.

A marked increase in the circulation of old pamphlets, leaflets, and similar items was noticeable during the period. New pamphlets included: *UN—World Dictatorship,* by Stephen Nenoff (Denton, Tex.), who had formerly published *Nenoff's American Commentator; Is There Still Time?;* Robert H. Williams's alarm that the Jews were about to seize the United States; *The Federal Reserve Conspiracy,* by Eustace Mullins, a 144-page modernization of the charge of the existence of international Jewish bankers' plots.

New periodicals were: *Grass Roots,* published by John Henry Monk (Portsmouth, Va.), whose occasional issues averaged twenty mimeographed pages. *Grass Roots* appeared to offer a literary platform to agitators like F. C. Sammons of the West Virginia Anti-Communist Education League. In makeup and venom, *Grass Roots* closely resembled another recent arrival, Harry William Pyle's *Political Reporter* (Memphis, Tenn.), whose August 1954 issue had an editorial staff which included Monk, F. C. Sammons, Marilyn R. Allen (Salt Lake City pamphleteer and Klan eulogist), and Lucille Miller, who put out the *Green Mountain Rifleman* at Bethel, Vt. Stephen Nenoff attempted a monthly, *Southern Patriotic Breeze,* which expired with the issue of December 1953.

Exports of hate-literature to the United States from abroad appeared to have increased, largely as the result of the efforts of Einar Aberg, who, from Norrviken, Sweden, utilized the international mails to disseminate his Nazi-like leaflets to mailing lists in the United States furnished by his friends and collaborators. Aberg's leaflets appeared, also, to have been shipped in bulk to such groups as the National Renaissance Party, which distributed them at the

UN. Other exports frequently circulated included Ron Gostick's *Canadian Intelligence Service* (Flesherton, Ont.); various publications from England, particularly Arnold Leese's *Gothic Ripples* and the Britons' Publishing Society's products; and the writings of Ray K. Rudman, leader of the Boernasie group in the Union of South Africa.

Examples of the informal international "syndication" among anti-Semites were an Aberg leaflet which reprinted excerpts from *The Cross and the Flag,* and Leon DeAryan's, *The Broom* (San Diego, Cal.). Early in 1954, the German-language Nazi magazine, *Der Weg* (Buenos Aires) printed a translation of McGinley's *Coming Red Dictatorship,* together with photographs from the original.

Investigations

Anti-Semitic activities were closely followed and investigated by government authorities. The House Committee on Un-American Activities, in its Annual Report, February 6, 1954, p. 5, stated:

> There are presently at work within the United States various and sundry "hate" groups, the leaders of which, while masking their activities under the guise of patriotism and devotion to the republican form of government, are in fact spreading dissension, discord, bigotry, and intolerance. In many instances, these organizations select ultra-patriotic names and devices to conceal their true and dangerous purposes. The subjects of the "hate" attacks are individuals or groups of religious and racial minorities among American citizens. The Committee is by no means unaware of these activities, and investigation and documentation will proceed to the end that the individuals concerned may be disclosed for what they are. In the opinion of the Committee, there are no degrees to subversion. It is not sufficient to be simply anti-Communist if one is anti-American at the same time.

GEORGE KELLMAN