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CIVIL LIBERTIES QUARTERLY

News of Issues Calling for Attention and Action by Members and Friends of the American Civil Liberties Union

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ETERNAL VIGILANCE IS THE PRICE OF LIBERTY

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11 El Sueno
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McNutt Assures Freedom for F.E.P.C.

Fears that the notable work of the President's Committee on Fair Employment Practice would be crippled by its transfer to the War Manpower Commission have been allayed by assurances both by the President and Paul V. McNutt, chairman of the Commission, that the intent of the transfer is to strengthen its operations. The Committee has aroused the hostility, particularly of Southern employers and politicians, by its exposure of race discrimination in war industries, contrary to contractural obligations. Both Negro and white agencies vigorously protested the transfer.

The Civil Liberties Union urged that the independence of the Committee's investigations, hearings and reports be assured and that additional moneys should be made available. In a reply to Prof. E. A. Ross, chairman of the Union's National Committee, Paul V. McNutt said: "Although the details of the organization have not as yet been worked out, the supervisory control exercised by my office will naturally be limited to the major questions of organization and procedure which have to do with the coordination of the work of the Committee with other units of the War Manpower Commission. There is no intention to exercise a detailed supervision or control over any particular investigations which the Committee may make into complaints submitted to it.

"The question of whether the funds necessary to carry on the work of the Committee will be secured from the President's Emergency Fund or by appropriation from Congress is a matter to be determined by the Bureau of the Budget and the President. . . . It will be my recommendation that an allotment be made from the President's Fund for the remainder of this fiscal year.

"With a more adequate staff and with the close cooperation of the War Manpower Commission it is believed that the Committee's highly important work can rapidly be made more effective than it has been during the first year of its activity."

Sharecropper Extradition Fought

Joining with other interested organizations, the A.C.L.U. has urged Governor Charles Edison of New Jerse to refuse extradition to South Carolina of David Williams, a Negro sharecropper charged with violating an "employment contract."

Condemning such agreements between plantation-owners and sharecroppers as "virtual slavery," the Union cited a recent Supreme Court decision which denounced as "peonage" a Georgia law making it a misdemeanor to violate a similar contract.

The New Jersey Governor has revoked one warrant for Williams and will hold a hearing to determine whether or not another should be issued. Williams is in the custody of his attorneys.

(Continued in next column)

What You Can Do

Members and friends of the Union who wish to assist by writing to officials in support of the Union's policies can do so as follows:

1. In relation to the evacuation of American citizens of Japanese descent

(1) Write to the President urging that the government's long-range policy toward these citizens should be declared, reassuring all those whose loyalty is unquestioned that they will be released to take part in American life as rapidly as possible outside of military zones.

(2) Write to the Secretary of War urging that discriminations in military service be not made against citizens of Japanese descent, recently excluded from the armed forces.

(3) Write to your Senator urging defeat of a bill (S.2293) which provides for the internment for the duration of all persons of Japanese blood wherever located.

(4) Write to the War Relocation Authority, Dillon S. Myer, chairman, at 910 17th St. N.W., Washington, D.C., expressing approval of the plans to release from detention camps large numbers of persons of Japanese blood to relocate elsewhere outside the West Coast Military Area.

2. Friendly enemy aliens

Write to Attorney General Francis Biddle urging that anti-Fascist aliens, many of them refugees from Fascism, be exempted from the restrictions on enemy aliens.

3. Post Office Censorship

Write to Postmaster General Frank C. Walker urging that no publication whatever be banned from the mails without charges, specifications and the opportunity for a hearing.

4. Poll Tax

Urge your own Senators and Representatives to vote for the Pepper-Geyer bill.

Long Range Policy for Japanese Americans Urged

Five Court Cases Contest Detention

Urging the President to declare the administration's long range policy to American citizens of Japanese descent, the American Civil Liberties Union through its officers has addressed to him a letter setting forth the apprehension felt by the Japanese-Americans and the many agencies, chiefly religious, which have intervened in their behalf. The entire population of Japanese blood, aliens and citizens alike, has been evacuated from the entire Pacific Coast military area and are in the process of removal from assembly centers conducted by the Army to relocation centers under the special War Relocation Authority created by the President. It is expected that all the evacuees will be in the relocation centers by the late fall. Four of them are located within the Pacific Coast military area and three outside of it.

In the letter to the President, the Union urges:

1. That the government recognizes that the vast majority of Americans of Japanese descent are loyal citizens of the United States and favorable to the democratic cause;

2. That the government acknowledges with gratitude the enormous sacrifices made by those Americans of Japanese descent who were evacuated from the West Coast zones, and their willing submission in the spirit of their contribution to the war effort;

3. That the present indiscriminate segregation of these American citizens will be terminated as soon as possible by permitting them to take up such opportunities of work and residence as are offered them outside military zones;

4. That the administration will discourage any attempts to restrict the liberties of these American citizens outside military zones, and particularly any effort to deprive them of their citizenship;

5. That as soon as the war is over all discriminations and restrictions imposed by the government will be lifted so that these people may take their rightful part in American democratic life.

The letter also called attention to the fact that thousands of Japanese aliens serving as soldiers in World War I were rewarded by citizenship and that thousands of American citizens of Japanese descent are now so serving. The point was also made that no charges of sabotage or espionage have been brought against any persons of Japanese blood.

Meanwhile the Civil Liberties Union is conducting in the courts on the Pacific Coast a number of test cases challenging one aspect or another of the evacuation program. Decisions have been rendered in two of the five cases brought in Seattle, Portland, San Francisco and Los Angeles. In both the federal judges have upheld the Presidential proclamation and the military orders under it. The cases involve Fred G. Korematsu of Oakland, California and Gorden Hirabayashi of Seattle. An appeal is being taken in the Korematsu case. The Union will associate itself with all points except a challenge of the Presidential proclamation of February 19, empowering the military authorities to effect removals from military zones.

The other cases involve similar points. Three of them are defenses against prosecution for refusal to obey a military order; one is a suit for writ

(Continued on page four)

Fight vs. Poll Tax Nears Head

Passage by Congress of the Soldiers' Vote Bill with amendments suspending the poll tax for soldiers in eight Southern states greatly increases the prospects for favorable legislation wiping out the poll tax in federal elections, according to the National Committee to Abolish the Poll Tax, the Civil Liberties Union, and other interested agencies.

The chief objections raised in Congress to the Geyer and Pepper bills, now in committee, have rested on constitutional grounds. It is argued that if it is constitutional to suspend the poll tax for soldiers in wartime it is equally constitutional to abolish it altogether in elections for federal officers. The Geyer bill in the House, held in committee, has been forced out for vote by petition.

In the Senate, the similar Pepper bill has been adversely reported by a judiciary sub-committee, which held it unconstitutional. Action by the full committee will be taken Oct. 19. The Civil Liberties Union has filed a brief with the committee in support of the bill's constitutionality. Strong political opposition is voiced by Congressmen from the poll tax states, who threaten to filibuster if the bill comes up for vote.

Passage would not legally affect the payment of poll taxes in elections for state officials, but would make the system difficult of enforcement. Plans are also being made by several agencies to bring a federal court case on grounds different from those previously urged, with a view to an appeal to the U.S. Supreme Court, where a favorable decision would abolish poll taxes altogether.

Civil Liberties Quarterly

A review of current news involving civil liberties in the United States.

Published every March, June, September and December by the AMERICAN CIVIL LIBERTIES UNION, 170 Fifth Avenue, New York. Telephone, GRamercy 7-4330. Subscription: $.25 a year.

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REVIEW OF THE QUARTER

The general tendency, as the war goes on, is to stiffen the controls on utterances and publications regarded as opposed to the war. The tendency is growing among officials to enlarge the concept of opposition. Public opinion shows no signs of hysteria. Witch hunting is almost wholly absent; but sharp pressures occasionally arise for action to which government departments tend to respond. No new phases of civil liberties have appeared, but established powers have been more frequently used. Liberal criticism of repressive measures is almost wholly lacking.

Most serious of the measures, because most far-reaching in possible consequences, are the new orders by the military commanders on the Atlantic and Pacific Coasts for removal of "dangerous" individuals. The Union has of course offered to contest any unreasonable application of that power, holding that it is difficult to conceive of a reasonable case where a person regarded as "dangerous" is not chargeable with an offense.

Government policy in the relocation of the Japanese population, aliens and citizens, has been developing on the whole favorably to their release from virtual concentration camps to individual resettlement outside the zones. Prejudice against their relocation in other parts of the country is evidently diminishing.

Prosecutions for utterances and publications, and revocation of second-class mailing privileges by the Post Office Department have both increased. Some fifty persons have been indicted or convicted; and a score of publications banned under the Espionage Act. Apparently the pressure for action has been considerably eased by the indictments and revocations. No improvement has been made in the arbitrary Post Office censorship, despite efforts. No move has yet been made to free from the restrictions on enemy aliens the anti-Fascists among the refugees from Europe nor the thousands of other "enemy aliens" friendly to the democratic cause.

A considerable check on the Dies Committee attacks on federal employees alleged to be "Communists" was accomplished by the Attorney General's report to Congress, scoring the Committee's charges.

Biddle Rebukes Dies Committee

Sharp rebuke to the Dies Committee was voiced in the report of Attorney General Francis Biddle to Congress September 1, responding to a Congressional resolution appropriating $100,000 in June, 1941, for investigation of the subversive connections of federal employees. The Dies Committee had furnished a list of over 1100 employees allegedly subversive. Of these only two were found to merit that characterization, and were dismissed. The charges were found to be without merit in the overwhelming number of cases.

The report was submitted to Congress following a year of investigation by the FBI and a review by the Interdepartmental Committee created by the Attorney General. The report deplored the whole investigation, stating that it was wholly disproportionate to the evils charged. It recommended the continuance of the interdepartmental committee for review on request of all discharges, except from the Army and Navy civilian service, on the grounds of subversive connections.

The Civil Liberties Union has long urged a review system and uniformity in the now varied practices of the departments. Commendation of the report was expressed by the Union to the Attorney General and his associates.

Union's Policy on Military Evacuations

After considerable debate and a referendum vote by the National Committee and the Board of Directors of the Union, numbering 96 persons, a policy was adopted on June 22 concerning the legal issues to be raised in contesting evacuations from military areas. The vote showed a two to one majority for the following resolution, adopted as the Union's policy:

"The government in our judgment has the constitutional right in the present war to establish military zones and to remove persons, either citizens or aliens, from such zones when their presence may endanger national security, even in the absence of a declaration of martial law. Such removals, however, are justified only if directly necessary to the prosecution of the war or the defense of national security.

"Except in cases of immediate emergency, the necessity for such removals should be determined by civilian authorities and such removals should be carried out by civilian authorities. Such removals should be carried out in a manner, and based upon a classification, having a reasonable relationship to the danger intended to be met.

"Each person affected should have an opportunity of showing that he does not come within the necessities of the situation; and hearing boards should be established to pass upon all such claims.

(*Continued on page three*)

Removals from Military Areas Ordered

New military orders by the commanding generals of the Eastern and Western Military Areas, comprising altogether 24 states, issued in August and early September, provide for the evacuation of any individuals, either aliens or citizens, considered by the authorities to be dangerous to military security. The orders are based upon the President's proclamation of February 19 last authorizing the creation of military zones and the evacuation from them of any persons whose presence the military authorities find undesirable. Under the order the entire population of Japanese blood has been evacuated from the Pacific Coast states.

While the army officials have repeatedly stated that they do not contemplate further mass evacuations, the new orders specify that objectionable individuals will be removed and required to live outside the zones. Hearings before army boards, with the right to call witnesses, will be provided, and the findings of the boards reviewed before exclusion orders take effect. It is understood, but not officially announced, that each order will be reviewed and approved by the Department of Justice before being effective.

While the A.C.L.U. has agreed not to challenge in the courts the constitutional power of removal, it has instructed its local representatives and committees throughout the military zones to resist any "unreasonable application" of the orders, and to offer their services to any persons so contesting them in the courts. The Union opposes removals by military authorities, holding it to be a civil function.

The Union in a statement on the issue said that "while we have not the slightest desire to interfere with military security, the procedure is so unprecedented that it is obviously open to abuse unless carefully guarded."

Reports from the Northern California branch show two cases in which citizens have already been ordered removed by the military authorities, apparently without contest.

Kansas Supreme Court Voids Forced Flag Salute

An unusual decision on compulsory flag saluting by school children was rendered by the Kansas Supreme Court in July to the effect that freedom of religion forbids expulsion from public schools of children who refuse to salute on religious grounds.

The court said: "The general theory of our educational system is that every child in the state, without regard to race, creed or wealth, shall have the facilities for a free education. In the 34 years since the (school) statute was enacted, no school board, county or state superintendent of public instruction ever acted upon the theory that failure of the child to salute the flag, where such failure was based on sincere religious beliefs of the child or his parents, would require or justify the expelling of the child from school. We think the statute never was designed to be so construed, and if so, to that extent would be void as being in violation of Section 7 of our (State) Bill of Rights."

No other state Supreme Court has yet upheld the right of children of Jehovah's Witnesses to remain in school and not participate in the flag salute.

Attempts to penalize the parents of children who refuse to salute the flag continue to fail in the courts. The Supreme Court in New Jersey recently set aside the fines of two Jehovah's Witnesses prosecuted at Paterson for influencing their children not to salute the flag.

By far the most important legal attack on the rights of Jehovah's Witnesses is embodied in bills recently passed by the Mississippi and Louisiana legislatures making it a crime "to encourage by speech or in print disloyalty to the government or to incite to racial distrust, disorder, prejudices, or hatreds, or to create an attitude of refusal to salute the flag."

The Louisiana law is too recent to have been tested, but in Mississippi some fifty Witnesses have been arrested under it. Two of the cases are before the State Supreme Court on appeal from a conviction carrying a unique sentence in prison "for the duration of the war but for not more than ten years." The Union has filed a brief in the court signed by two Mississippi lawyers, Charles E. Evans and Quitman Ross of Laurel, and three New York lawyers, A. S. Cutler, Arthur Garfield Hays, and Whitney North Seymour. Efforts by the Union to defeat the laws in the legislatures were unavailing.

Communist Court Cases

Only three cases involving charges of membership in the Communist Party are pending in the courts. In October the U.S. Supreme Court will hear the appeal of William Schneiderman, secretary of the Communist Party in California, whose citizenship was acquired in 1931 and which the government seeks to revoke on the ground of fraud. The case will involve chiefly the point that Schneiderman did not reveal his membership in the Workers Party at the time of naturalization. He contends that no such question was asked and that membership in the party did not then disqualify aliens. He will be represented by Wendel Willkie.

Of the many attempts to exclude the Communist Party from the ballot in the states, two failed conspicuously, in New York and California. In New York the courts threw out on technical grounds the American Legion complaint against nominating petitions, while in California the Supreme Court voided a statute barring the Communist Party by name. The issue is pending in the Illinois and Pennsylvania courts.

The case of Harry Bridges, West Coast labor leader, is pending in the District Court at San Francisco to contest the deportation order of Attorney General Francis Biddle. Bridges contends that the evidence did not show that he was a member of any organization advocating the overthrow of the government.

In the Oklahoma Criminal Court of Appeals, the last of four cases under the criminal syndicalism law, brought in 1940, was argued in September involving Allen Shaw, sentenced, like the others, to ten years in prison for the mere possession of Communist literature. The attorneys for the International Labor Defense, which is handling the case, were assisted by briefs in all cases filed by Arthur Garfield Hays for the A.C.L.U.

CONSCIENTIOUS OBJECTORS IN PRISON INCREASE

Court Cases Pending

The conflict between conscription and conscience has resulted in the imprisonment of some hundreds of conscientious objectors, with the number constantly increasing. The precise number of objectors among the 1500 men serving sentences for violations of the Selective Service Act is not definitely known. Recruits come chiefly from the group of men not recognized as objectors who thereupon refused induction into the Army, and from the many members of Jehovah's Witnesses who claim a status as ministers and who refuse to go to a conscientious objector camp even when so assigned. A smaller number comes from men refusing registration.

In the case of men convicted for refusing induction, the government examines each of the cases with a view to parole to conscientious objector camps when satisfied of their sincerity. Thus men who are not recognized by the Selective Service machinery, largely because of narrow interpretations of "religious training and belief," are later recognized by the Department of Justice. Many of them are objectors on political grounds.

The most numerous group in prison, Jehovah's Witnesses, consists of men whose claim as ministers of the Gospel is not recognized because they are not on the list of full-time representatives furnished the government by Jehovah's Witnesses. Most of them are part-time workers. Since they refuse any conscripted service whatever, efforts are being made to create special camps in the prison system where they may do work similar to that in the Civilian Public Service Camps. The same provision is being urged for other men who refuse parole from prison to the camps on the ground that they will render no voluntary service under conscription.

Refusals to register by men in the older draft group, 45-64 years of age, have been met by the government by registering anyhow all men whose identities are ascertained. The distinction between these and younger men who were prosecuted is due to the fact that the older men are not being called upon for military service. In one case, however, that of Julius Eichel of Brooklyn, N. Y., a World War conscientious objector who again refused to register, the government is proceeding with the prosecution apparently because of the insistence of the local District Attorney. A few other men are still being held for grand juries, but it is indicated by the Department of Justice that the complaints will be dismissed without trial.

An increasing number of men are rendering service in public health and agriculture on furlough from the conscientious objector camps, but the number is yet only a few hundred and therefore not comparable with the 4,000 objectors who were furloughed to agricultural work during the first World War. On account of the more useful character of these so-called detached services every effort is being made to increase them.

In the courts only a comparatively few contests have arisen challenging local boards. In New Jersey, Whitney Bowles, who refused induction after failing to be classified as a conscientious objector, has taken an appeal on the ground that his local and appeals boards clearly did not follow the law in denying him that classification. The case will be heard before the Circuit Court of Appeals in Philadelphia in October. In California, Federal Judge Leon R. Yankwich at Los Angeles has granted a writ of habeas corpus to a Jehovah's Witness, Kenneth Stewart, whose local board refused him classification as a minister of the Gospel. The judge, in an unprecedented ruling, held that a draftee "who claims to be unfairly classified need not risk the danger inherent in surrender to the military forces." Stewart sought the writ while in custody of the United States marshal, held for prosecution. He is defended by A. L. Wirin, counsel for the Southern California branch.

Legal aid in adjusting the many problems which arise in the departments at Washington is being rendered by R. Boland Brooks, New York attorney, who on September 1 began full-time service with the National Service Board for Religious Objectors. The Civil Liberties Union, through its National Committee on Conscientious Objectors, is rendering legal and other aid wherever requested. The place of its counsel, Kenneth Walser, recently deceased, has been taken by Julien D. Cornell of New York.

Who are Foreign Agents?

Responding to inquiries from American organizations with international connections concerning their liability to register under the new Foreign Agents Registration Act effective June 28, the A.C.L.U., in a letter to L.M.C. Smith, head of the Special Defense Unit of the Department of Justice, urged that the Act be interpreted to exempt such organizations. The Union urged the adoption of a formula to exclude those organizations "whose policies in the United States are determined solely by its United States members or officers, and whose international connections are only those of cooperation with like organizations of similar purposes in other countries."

Signed by Arthur Garfield Hays, general counsel, and Roger N. Baldwin, director of the Union, the letter asks specific exemptions for (1) trade unions with international affiliations, since practically all of the larger American unions have Canadian contacts; (2) religious organizations with international affiliations; and (3) non-religious peace organizations, such as the League of Nations Association and the Carnegie Endowment for International Peace.

Military Evacuations

(*Continued from page two*)

"Persons so removed, unless held for other reasons, should be allowed full liberty in the United States outside of such military zones. Their property rights should be fully protected and reasonable arrangements should be made for their resettlement in places of their own choosing outside of such zones."

In accordance with this policy the Union is not raising in any case affecting the evacuation of persons of Japanese descent on the Pacific Coast nor in individual evacuation cases, the question as to the underlying constitutional power of removal. It is contesting unreasonable applications of that power, both as to wholesale discrimination against persons of Japanese ancestry and as to removals by the military authorities.

A contrary proposal, defeated in the referendum vote, provided that the Union should oppose all removals from areas not under martial law and for trial by jury on specific charges of persons engaged in unlawful conduct in military zones. Where the issue of the underlying constitutional power of removal is raised it is being done under auspices other than those of the Union.

Academic Freedom Cases Down

Dismissals at U. of Texas Outstanding in Recent Months

Few issues of academic freedom have arisen in the past few months. The most conspicuous occurred at the University of Texas where three instructors in the Department of Economics were denied contract renewals for "misconduct" growing out of an anti-labor mass-meeting.

According to Union correspondents, the three men were dropped from the faculty by the Board of Regents because they attacked the legitimacy of a rally protesting against the 40-hour week. The Regents complained that the instructors were guilty of misconduct in publicly criticizing the character of the propaganda that the war effort was being imperiled by the 40-hour week.

A letter to the Board of Regents from the Union's Committee on Academic Freedom signed by Prof. Karl N. Llewellyn, Prof. Eduard C. Lindeman, and Prof. Alonzo Myers, said: "What happened to these men from the point of view of the effects on them personally is not important. What is important is the effect of these dismissals on academic freedom at the University. For no man on the faculty can now, without fear of dismissal, engage in any public controversy nor discharge the obligations of men in academic positions to contribute to public debate. Your action will tend to impose conformity to whatever at the moment appears to be popular prejudice or the interests of an influential minority."

In a case arising out of the Rapp-Coudert investigations into the New York City Schools, the State Supreme Court recently upheld the City Board of Higher Education in the dismissal of David Goldway, who had refused to sign a waiver of immunity for the Coudert Committee. A brief filed by Osmond K. Fraenkel on behalf of the A.C.L.U. defended Goldway on the ground that the waiver of immunity asked by the Committee went beyond the requirements of the city charter.

Political freedom for Puerto Rico teachers received a setback in June when Governor Rexford Guy Tugwell declined to sign a bill backed by the Puerto Rico Teachers Association and supported by the A.C.L.U. to remove prohibitions on political activity. An island act of 1925 requires the resignation of any teacher who takes part in politics or who becomes a candidate for office.

In Kenosha, Wisconsin a unique issue has arisen with the removal of two members of the local school board by court order because as trade unionists they had pledged their allegiance "to the American and local labor movements." The court held that such an allegiance is inconsistent with their public duties. The A.C.L.U. has asked permission to file a brief in the appeal to the State Supreme Court. The Union contends that school board members can be ousted under Wisconsin law only through recall by the citizens or by the City Council.

Supreme Court Asked To Reopen Free Press Case

Application to the Supreme Court to reopen the case decided last June by a 5-4 majority, upholding the right of cities to license the sale of literature in public places, has been filed with the Supreme Court by counsel for Jehovah's Witnesses, with supporting briefs by the American Newspaper Publishers Association, the A.C.L.U. and the Seventh Day Adventists. The brief for the Union was filed by Osmond K. Fraenkel of New York, who argued the original case in the Supreme Court, for the Seventh Day Adventists by former Attorney General Homer S. Cummings of Washington, and for the American Newspaper Publishers Association by Elisha Hanson of Washington.

All of the briefs contend that the Supreme Court decided an issue of far-reaching importance by a single vote, and urged the Court to reconsider. The contention is made that not only is religious liberty to distribute material impaired, but that any tax on the circulation of printed matter is an unconstitutional restraint on freedom of the press.

The brief for Jehovah's Witnesses contained a unique supplement quoting critical editorials from several score of newspapers throughout the country.

The Union's brief contends that by the decision "freedom of speech, of the press and of religion are given less protection from state interference than transactions in commerce have been given." Mr. Fraenkel goes on to say that the "minority views expressed by the Chief Justice and Mr. Justice Murphy are more consonant with the high standard which this Court has in recent years reached in the field of civil liberties," urging that if the decision is not reconsidered "it will some day be recognized as the most unfortunate recently rendered by the Court." A decision by the Court on the application for rehearing is expected in October.

Post Office Crusade Against "Obscenity"

A crusade by the Post Office Department against allegedly obscene magazines, evidently undertaken through outside pressure, has already resulted in revoking the second-class mailing privileges of an unprecedented number of detective thrillers and magazines specializing in sex appeal. According to the records, 39 publications were banned in the four months ending September 1, with other cases pending.

Although hearings have been granted in all cases, the magazines appear to have been pre-judged, according to the attorneys who have appeared. Some of the magazines have given up without even appearing, on the ground that contest was hopeless.

The Civil Liberties Union has offered its help in court contests to any of the magazines whose character the Union is satisfied is not obscene by any reasonable standard. Only two magazines have indicated an intent to appeal to the courts. The Civil Liberties Union has also called the crusade to the attention of the Post Office Committees in House and Senate urging an investigation with a view to changing the bureaucratic system.

The Post Office Department is also continuing to proceed against a number of publications under the Espionage Act in cooperation with the Department of Justice, either revoking second-class mailing privileges or banning single issues. The latest proceeding brought by the Post Office Department which has enlisted the Union's support is against the Boise Valley Herald, a weekly paper published since 1908, isolationist before the war and critical of the war effort since. Examination of the paper shows no attempt at incitement to disobey the law.

On the Civil Liberties Front

Negro Residence — The Southern California branch of the Union is backing a test case to determine the constitutionality of residential property restrictions against Negroes on the ground that race discrimination is "a luxury jeopardizing the war effort." The case concerns restrictive covenants in deeds, and challenges both California and United States Supreme Court decisions. The trial judge upheld the restrictions on the basis of previous decisions. An appeal is being taken and will be carried, if necessary, according to A.C.L.U. counsel, to the U.S. Supreme Court.

Union Expulsion—An attempt in the courts to reinstate an A.F. of L. member expelled for privately criticizing his union failed in the New Jersey courts when Vice Chancellor Wilfred Jayne held that the court had no jurisdiction and that the proper remedies were through the National Labor Board. The case was backed by the Union through Arthur T. Vanderbilt of Newark, counsel, former president of the American Bar Association.

Minneapolis Appeal—The appeal from the conviction last fall of 18 members of the Socialist Workers Party at Minneapolis under the peacetime sedition act for propaganda alleged to encourage disaffection in the armed forces will be heard in October in the U.S. Court of Appeals in St. Louis. Argument for the defense will be presented by Albert Goldman, one of those convicted, on the facts, with Osmond K. Fraenkel appearing for the A.C.L.U. on the constitutional issues.

The case is the first test in the courts of the constitutionality of the peacetime sedition act passed in 1940,—the first such federal statute since 1798. It is expected that the case will go to the U.S. Supreme Court. The defendants are free on bail.

Full-time Counsel—A. L. Wirin, prominent Los Angeles attorney, is now serving as full-time counsel to the Southern California Branch of the American Civil Liberties Union. Securing the full-time services of Mr. Wirin was announced by the Union as part of an expansion program of the Southern California Branch. Mr. Wirin severed his connections with the law firm of Gallagher and Wirin. He has been part-time staff counsel of the Southern California Branch for several years.

Mr. Wirin has long been associated with the protection of civil liberties both in Southern California and at the national office of the Union, where he served as staff counsel some years ago. He was also on the legal staff of the National Labor Relations Board in Washington, D. C. in its early years.

Chinese Sailors—By joint action between the War Shipping Administration, the Department of Justice and the Chinese Embassy, Chinese sailors have been granted shore leave in U.S. ports on the same basis as seamen of other nationalities. For many years Chinese seamen have been held on their ships in port, the government maintaining that the high rate of desertions prohibited shore leave. Increased pay and better working conditions have reduced the reasons for desertions.

Chinese officials are co-operating by boarding all ships with Chinese sailors and explaining the responsibility of every man for returning. The new measure was adopted in part under pressure of war conditions as a gesture to an ally. Numerous organizations, among them the American Civil Liberties Union, had urged the government to grant these shore leaves.

NEW BOOKS

City Lawyer, by Arthur Garfield Hays. A racy and dramatic account of the law practice of one of the foremost champions of civil liberties, general counsel for the Civil Liberties Union, with many stories of cases in which Mr. Hays has participated.

The Academic Man.—A study in the Sociology of a Profession, by Logan Wilson, professor of sociology at Tulane University.

The conventional limits of academic freedom are vastly extended by Prof. Wilson's examination of the structure and practices of our leading universities.

Liberty and Learning, by David Edison Bunting. Mr. Bunting, as a graduate student at Teachers College, Columbia University, prepared his doctor's thesis on the work of the Academic Freedom Committee of the A.C.L.U. since its inception in 1924.

NEW PAMPHLETS

Civil Liberties in a Period of Transition, by David Riesman, a pamphlet of 40 pages, first of a series of studies by a fellow in Columbia University Law School, analyzing the political philosophy underlying the protection of civil liberties and attempting to establish a new orientation for the exercise of political liberties on behalf of progressive social forces—with some sharp criticism for positions taken by the A.C.L.U.

Civil Liberties Decisions of the Supreme Court, 1941 Term, by Osmond K. Fraenkel; an analysis of some twenty decisions of the Supreme Court, 1941-42, the longest record of civil liberties cases in any single year; with Mr. Fraenkel's usual discerning appraisal.

Why Civil Liberties Now? by William Henry Chamberlin, in Harpers Magazine for October. An argument in favor of the greatest possible wartime exercise of civil liberties based on long-range practical considerations.

New Federal Sedition Cases

In accordance with the change in the government's policy toward "seditious utterances" announced in the spring by Attorney General Biddle, indictments have been returned for utterances and publications held to violate either the espionage act or the military disaffection act of 1940 in Washington, D. C., New York and Chicago. These indictments follow those in similar cases early in the spring against George W. Christians, leader of the Crusader White Shirts, of Chattanooga, Tenn.; Robert Noble and Ellis O. Jones, leaders of the Friends of Progress, Los Angeles, Calif., William Dudley Pelley, head of the Silver Shirts, Indianapolis, Ind.; Elmer and James Garner, publishers of "Publicity," Kansas City; and Rudolph

(*Continued in next column*)

Fahl of Denver. Christians, Noble, Jones and Pelley have been convicted. Pelley has taken an appeal. Fahl was acquitted. The Garners have not yet been tried.

Most conspicuous of the recent cases is a seditious conspiracy indictment returned by the D.C. grand jury involving twenty-eight persons scattered from the Atlantic to the Pacific Coasts, based largely upon publications before the entry of the U.S. into the war. A number of the defendants are resisting removal to Washington on the ground they had no connection with the alleged conspiracy. The Southern California branch of the Union aided one of the defendants, David Baxter, in so doing. When his case was lost in the lower court, he decided to go to Washington rather than appeal.

The indictments in New York and Chicago involve leaders of Negro organizations alleged to be agencies of the Japanese. The indictments, however, rest solely upon reported utterances.

Counsel for the Union are examining the indictments and records in all the cases to determine what action, if any, will be taken under the test of "clear and present danger" of illegal acts.

Martial Law Eased in Hawaii

The declaration of martial law in Hawaii immediately following the attack upon Pearl Harbor has raised a number of issues which have given rise to court actions. Most conspicuous among them is the case of Hans Zimmerman of Honolulu, a naturalized American citizen who attempted to secure release from internment by writ of habeas corpus. United States District Court Judge Metzger at Honolulu denied it on the ground that he was under duress by the military authorities. Appeal has been taken to the U.S. Circuit Court of Appeals at San Francisco, with the participation of counsel by the Union. Zimmerman, like many others, was held by the military authorities without charges or hearing.

Dissatisfaction with the administration of martial law in Hawaii, has resulted in its modification. On August 31 the military governor lifted the restrictions on both civil and criminal courts in the Territory so that they are now empowered to try all ordinary cases. The writ of habeas corpus, however, is suspended. The military authorities will handle all cases, civil or criminal affecting the conduct of the military and of the war, including sabotage and espionage. The military also retain jurisdiction over all offenses committed by members of the armed forces or persons engaged in any occupation under direction of the armed forces. The military governor reserves the right to take jurisdiction over any offense at any time, notwithstanding the order.

The attempts of the Union to intervene in the case of naturalized citizens deported from Hawaii and held at Camp McCoy, Wisconsin produced the information, when habeas corpus proceedings were started in the Wisconsin courts, that they had all been returned to Hawaii following the threat of court action. Every effort to elicit information from the War Department had been unavailing until court proceedings were brought.

Japanese-Americans

(*Continued from page one*)

of habeas corpus challenging "imprisonment without hearing or trial"; and another is a test of curfew regulations applied to American citizens.

Prosecutions against evacuees held in the Santa Anita Assembly Center near Los Angeles charged with holding an unauthorized meeting were contested by the Southern California branch through A. L. Wirin, counsel. The Department of Justice dismissed the case when it was evident that the order affecting meetings was issued a week after the alleged unauthorized meeting.

The Union, in a statement on the court cases, said that as a practical matter it does not expect "any decision to undo what has been done. The most that may be expected is that the government may be required to discriminate between American citizens of Japanese blood and to determine who should be released and who should not."

The widespread hostility to all persons of Japanese blood has resulted in moves to disfranchise American citizens and to intern for the duration all such persons wherever located. A bill to intern is before the Senate on a favorable report. It is understood that it is opposed by the State and Justice Departments, and is therefore unlikely to be passed. A suit brought in San Francisco by the Native Sons of the Golden West supported by the American Legion and others, attempted to lay the basis for reversing a Supreme Court decision holding that all persons born on United States soil are United States citizens. Attorneys for the organizations charged that American-born persons of Japanese ancestry owe a dual allegiance and should be disfranchised on that ground. The court threw out the petition. It is understood an appeal will be taken.

Plans of the War Relocation Authority contemplate gradual release from the relocation centers of as many of the evacuees as can find homes and employment outside the military areas, provided their loyalty is first determined by F.B.I. investigation and that communities are found willing to receive them. Already scores of college students have been permitted to leave for institutions in the East and Middle West approved by the W.R.A. and the Army and Navy. Efforts are being made by special committees of religious organizations to place families in suitable jobs and homes. It is expected that a considerable portion of the 110,000 evacuated will eventually be so provided for.

American citizens of Japanese descent of military age have recently been discriminated against by the Army, which requested the Selective Service Administration to classify them as ineligible for military service. Thousands of such citizens are already serving in the armed forces but the military authorities came to the conclusion that they are undesirable. It is understood that the policy is not finally fixed and that high War Department officials are seeking to revise it. The Union protested the discrimination to the Secretary of War. In all the issues of discrimination against American citizens of Japanese descent the Union has intervened, both through the national office and the Pacific Coast branches.

Flag-Salute Issue In Supreme Court Again

West Va. To Appeal Decision Voiding Local School Law

The flag-saluting issue involving children of Jehovah's Witnesses, seemingly settled against the Witnesses by the decision of the U. S. Supreme Court in 1940 in the Gobitis case, is scheduled to come before the highest tribunal for reconsideration. The State of West Virginia has announced its intention to appeal the decision in October of a three-judge federal court voiding the state flag-salute law as applied to children with religious scruples.

In voiding the West Va. statute, the court explained its refusal to follow the Gobitis decision, stating that "ordinarily we would feel constrained to follow an unreversed decision of the U. S. Supreme Court whether we agreed with it or not. However—of the seven judges now members of the Supreme Court who participated in that decision, four have given public expression to the view that it is unsound. (Chief Justice Stone who dissented in the original 8 to 1 decision, and three others who took occasion to confess their error while writing a dissent in the Opelika literature sales case last June).

"Under such circumstances and believing as we do that the flag salute here required is violative of religious liberty when required of persons holding the religious views of the plaintiffs, we feel that we would be recreant to our duty as judges if through a blind following of a decision which the Supreme Court itself has thus voided as an authority, we should deny protection to rights which we regard as among the most sacred of those protected by constitutional guaranties."

The American Civil Liberties Union will file a brief as friend of the court when the case comes up on appeal.

Regardless of the decision which the Supreme Court may reach in the West Virginia appeal, it is believed likely that the implications may be academic in light of a recent statement of policy by the Department of Justice which called attention to a national flag-salute law passed by Congress last June. The Department holds that the law nullifies local ordinances which conflict with its provision that "civilians will always show respect for the flag when the pledge is given by merely standing at attention." U. S. Attorneys were directed to bring the law to the attention of local law enforcement authorities, requesting that they comply with it.

The salutary effects of the Justice Dept's. action are already evident. In the Court of Quarter Sessions, Luzerne County, Pa., Judge J. Flannery in November reversed the conviction in a lower court of Mrs. Mary Nemchick who was charged with violation of the state school code because her five children did not attend school after they were expelled for refusal to salute the flag.

The judge's opinion referred to the Congressional Act and said that "the Department of Justice through its Civil Rights Section calls attention to this provision in questions such as the one before us, and indeed there is doubt whether any local regulation ordinance or statute prescribing a different salute as a measure of respect for the flag can be enforced."

At Avondale, Arizona, the school board voted in November to reinstate several children expelled earlier for non-compliance with the local flag-salute regulation, on condition that they stand at attention when the pledge is given. This action took place only a week after U. S. Attorney F. E. Flynn brought the matter to the attention of the county attorney.

Petty Tyranny

"The salute of the flag is an expression of the homage of the soul. To force it upon one who has conscientious scruples against giving it, is petty tyranny unworthy of the spirit of the Republic and forbidden, we think, by the fundamental law. This court will not countenance such tyranny but will use its power to see that rights guaranteed by the fundamental law are respected." (*Circuit Judge John F. Parker, West Virginia, Oct.* 1942)

Ousted Children Are Reinstated As Justice Dept. Acts

Literature Sales

No action has yet been taken by the Supreme Court on a petition for rehearing in the literature street sales case in which the court last June by a vote of 5 to 4 upheld local ordinances aimed at Jehovah's Witnesses taxing and licensing the sale of religious literature. The petition is supported by briefs filed by Elisha Hanson for the American Newspaper Publishers Association, Homer Cummings, former U. S. Attorney General, for the Seventh Day Adventists, and Osmond K. Fraenkel for the A.C.L.U.

On the other hand, the court in October went even further, by implication at least, than it did in the original case in refusing to review the convictions of Jehovah's Witnesses for violation of local licensing ordinances, in one city prohibiting altogether the sale of literature on the streets. Hayden Covington, counsel for the sect will bring this case again to the Supreme Court on appeal.

Issues of 'Militant' Barred By P.O.; Hearing Is Sought

The latest publication to come under Post Office censorship for alleged violation of the Espionage Act is a New York weekly, the Militant, organ of the Socialist Workers Party, followers of Leon Trotsky. Six issues of the Militant published during September, October, and November were declared unmailable, one of them being destroyed by the postal authorities and two others barred from the mails.

The action of the P. O. Department was protested by the A.C.L.U. on the ground that no specific charges had been made nor any hearing granted. Post office rules require hearings only in case of revocation of second class mailing privileges. Individual issues of a publication, books, or pamphlets may be excluded from the mails without specifications or hearings.

Specifications Asked

The Union urged that in the absence of any rules that specifications be given and a hearing granted, since the publishers had expressed their willingness "to conform to any reasonable interpretations." The request is under consideration.

The issues barred contain material criticizing the alleged imperialist phases of the war, the government's labor policy, and Negro discrimination. The mailing list of the paper totals 1,500, with the rest of its circulation otherwise distributed.

A prosecution of the leaders of the Socialist Workers Party was undertaken by the Department of Justice in Minneapolis a year ago under the federal sedition act of 1940, making it a crime to advocate overthrow of the government by force and violence, or disaffection in the armed forces. Argument on appeal was recently heard in the Circuit Court of Appeals at St. Louis, in which the American Civil Liberties Union participated through Osmond K. Fraenkel, counsel.

Resettlement Of Japanese Is Under Way

Following the evacuation of 115,000 Japanese Americans from the western military area to seven huge relocation centers, plans for release of thousands of the internees under regulations adopted this fall by the War Relocation Authority are well under way. The regulations provide indefinite leaves for citizens and aliens alike for work and residence elsewhere after the FBI has investigated their loyalty. Short term work-leaves are also permitted.

Representatives of the Japanese American Citizens' League recently completed a series of conferences with government officials, religious, civic, and educational organizations throughout the country to expedite the process and to assist those obtaining leaves to find homes and employment.

WRA Scores Bias

Dillon S. Meyer, director of the WRA, in a statement recently issued to the field service, scored discrimination against the Japanese Americans as inconsistent with the country's democratic principles. The statement said that "the evacuation of people from the Western Defense Command and the placing of these people in restricted centers on a racial basis has given a good deal of justification to Japan's recent charges that we preach human democracy but practise racial discrimination.

"If the new leave regulations are carried out sincerely, and on a scale large enough to substantially reduce the population of the present centers, than we can effectively refute the charges that we are operating concentration camps for people whose only crime was to have Japanese parents."

Reports from the West show that the Japanese evacuees have been instrumental in saving the valuable beet-sugar and long staple cotton crops of Idaho, Oregon, Arizona, and Nebraska by volunteering their labor. Over 17,000 were released for this purpose to work at prevailing wages. The manpower shortage is speeding the process of release. Communities formerly hostile, are reported eager to secure the labor of the evacuees.

Boise Valley Herald Loses Privileges

The Boise-Valley Herald, a weekly of about 500 circulation established in 1908 had its second-class mailing privileges revoked last October on charges of violating the Espionage Act by anti-war articles.

According to the Postmaster General, it was found that utterances violating the act were a consistent feature of many issues "intended to embarrass and defeat the government in its efforts to prosecute the war." The Herald was represented by the A.C.L.U. which pointed out that a paper of such insignificant circulation could not obstruct the conduct of the war nor present a "clear and present danger." The paper is still being published, and distributed by first-class mail. The Post Office Dept. has recently instructed the local postmaster to accept it at third-class rates, apparently because of alleged changes in its policy.

Urge Ban on Refugees Lifted

(*Continued from page* 1)

Francis J. McConnell, of New York; Felix M. Morley, president of Haverford College; Oswald Garrison Villard, editor and journalist; L. Hollingsworth Wood, chairman of the National Urban League; William Lindsay Young, president of Park College, Mo.; Rev. John Haynes Holmes, board chairman of the Union; Arthur Garfield Hays, general counsel, and Roger N. Baldwin, director.

Enemy Alien Stigma Removed

In deciding that Kumezo Kawato, a Japanese "alien enemy," had full access to the courts for a civil suit against his employer, the U. S. Supreme Court in an opinion written in November by Justice Hugo Black, challenged the use of the term "alien enemy" as an epithet.

The opinion said that "'alien enemy' as applied to the petitioner is at present but a legal definition of his status because he was born in Japan with which we are at war. Nothing in his record indicates and we cannot assume, that he came to America for any purpose different from that which prompted millions of others to seek our shores—a chance to make his home and work in a free country, governed by just laws which promise equal protection to all who abide by them."

Jan Valtin Is Held For Deportation

Jan Valtin, author of "Out of the Night," was confined in November to Ellis Island for deportation after the war, after the Board of Immigration Appeals turned down his appeal from a deportation order issued over a year ago. He was later ordered held also as an enemy alien. A hearing was held in December before a civilian board to determine whether he should be interned.

Valtin's detention on the basis of the deportation proceedings brought from the A.C.L.U., long interested in him as a political refugee from Nazism, an appeal to the Attorney General for his release on the $5,000 bond on which he had been free.

Exclude Many Rescue Ship Passengers

Less than a third of the fifty Drottningholm passengers held at Ellis Island for clearance of their citizenship on arrival of the rescue ship in June, have been admitted to the country. The remainder were ordered excluded after Justice Department investigation disclosed that they had lost their citizenship either through overstaying the legal period of absence, or through taking pledges of allegiance to the German Government required by the Nazi Arbeitsfront of those employed in German factories. The majority have appealed to the Board of Immigration Appeals.

Though expatriation is the manifest reason given for exclusion in these cases, it is understood that they are being barred because the Justice Department considers them undesirable. Court proceedings to test the alleged loss of citizenship by native-born Americans will be instituted if the Board of Immigration Appeals sustains the exclusions.

Radio Chains Lose To FCC, Plan Appeal

(*Continued from page* 1)

programs. It is believed by the FCC that the change would restore competition to the industry, assuring listeners the benefits of competition in quality and diversity of program material.

In ruling against the corporations, the court held that the FCC had the power to issue the regulations, that the monopoly practices are against the public interest, and that the regulations do not violate freedom of the stations.

Regarding the issue of free speech raised by NBS and CBS, the court said: "The Commission does therefore perhaps coerce their (the stations') choice and their freedom; and perhaps if the public interest in whose name this were done, were other than the interest in free speech itslef, we should have a problem under the first amendment; we might have to say whether the interest protected, however vital, could stand against constitutional right.

"But the interests which the regulations seek to protect are the very interests which the Amendment itself protects, i.e. the interest first of the listeners, next of any licensee who may prefer to be freer of the networks than they are, and last of any future competing networks. Whether or not the conflict between these interests and those of the networks and their affiliates has been properly composed, no question of free speech can arise."

Willkie Pleads For Communist In Denaturalization Trial

The U. S. Supreme Court heard on November 9th, the appeal of William Schneiderman, secretary of the California Communist Party, from the decision of a lower court upholding the revocation of his citizenship. The appeal was argued by Wendell Willkie.

Solicitor General Charles Fahy, appearing for the government, argued that since Schneiderman was a member of the Workers Party, predecessor to the Communist Party, when he was naturalized in 1927 he did not "hold true faith and allegiance" to the principles of the Constitution. Instead, Fahy held, Schneiderman advocated violent overthrow of the government, an alleged principle of his party.

Willkie challenged as imputation based on the prosecution's own interpretation of Communist theory, the charge that Schneiderman advocated violence, a tenet which "would not necessarily be binding on the member" even if advocated by the party.

Oklahoma Defendants

The defendants in the Oklahoma criminal syndicalism cases, four Communists sentenced to ten years in the state penitentiary for possessing and selling Communist literature, were denied an extension of leave from the state and ordered to return on December 1st. They are free on bail totalling $47,000 pending the decision of the Oklahoma Criminal Court of Appeals.

Sedition Record Since Start Of World War II

26 Are In Prison, Others Indicted Awaiting Trial

The report of the Attorney General for the first year of the war shows that some seventy publications were "silenced" by action of the Post Office Department on recommendation of the Special War Policies Unit of the Department of Justice. The charges were brought under the Espionage Act and affected exclusion of individual numbers of publications and the revocation of second-class mailing privileges. The figure evidently covers all action against individual issues. It is estimated that the total number of different publications barred runs between twenty and thirty.

No court contest has been brought by any publication. Charges are made and hearings are held only in the case of revocation of second-class mailing privileges. The other publications were barred without indicating the objectionable features. Efforts to reform the Post Office procedure to get specifications, charges and hearings are being continued by the Union.

Moved Carefully

The Attorney General's report cites the prosecutions brought under the Sedition and Military Disaffection Acts, stating that "the Department has virtually put an end to organized sedition in the United States, but it was obliged to move carefully in the process. The line dividing the rightful exercise of free speech and the utterance of sedition is seldom clear. A too zealous approach might easily be more damaging to the ultimate cause of democracy than the sedition it was attempitng to curb.

"William Dudley Pelley, George W. Christians, and Robert K. Noble are among the more arrogant defeatists who, along with 23 others have been sent to prison for sedition. Forty-six others, charged with sedition or similar morale-impairing crimes, are under indictment and awaiting trial in Washington, New York, Chicago and San Francisco. 'Social Justice,' 'The Gallilean' and the 'Philadelphia Herald' are representative of the 70 newspapers and publications which flourished as spokesmen for the American fifth-column before Pearl Harbor and which the Post Office at the Department's intervention has silenced."

Riker Acquitted

The latest prosecution for sedition was lost by the Government in December when a jury in the federal court at San Francisco acquitted "Father" William E. Riker of the Holy City cult. Riker was accused of attempting to undermine the morale of the army by telling four soldiers in conversation that the war was brought about by "Jewish financial interests" and that America should join with the "superior white races" of Germany and Italy in a war against the "yellow races of Japan and China."

It was brought out at the trial that three of the soldiers had been "planted" by the FBI to elicit statements from Riker, who was under suspicion. An observer for the A.C.L.U. reported that the testimony showed Riker was "a religious nut, absolutely harmless, scared stiff and not the slightest harm to anyone." Under cross-examination, Riker insisted he was a loyal American with a son in the army, and a purchaser of war-bonds.

Tolerance

"It will be well to bear in mind continuously that we are fighting today against intolerance and oppression, and that we shall get them in abundance if we lose. If we allow them to develop at home while we are engaging the enemy abroad, we have immeasurably weakened our fighting arm.

"Today we are living once more in a period that is psychologically susceptible to witch-hanging and mob-baiting. And each of us of not alert may find himself the unconscious carrier of the germ that will destroy freedom. For each of us has within himself the inheritance of age-long hatreds, of racial and religious differences, and every one has a tendency to find the cause for his own failures in some conspiracy of evil.

"It is therefore essential that we guard our own thinking and not be among those who cry out against prejudices applicable to themselves while busy spawning intolerance for others."—(*Wendell Willkie*)

Court Upholds Negro Quotas For Draft

The practice of setting separate draft quotas for Negroes in local boards was upheld in December by Federal Judge J. W. Byers at Brooklyn, N. Y. when he denied a writ of habeas corpus to Winifred Lynn, Negro gardener who is being prosecuted for failure to report for induction.

Lynn's petition charged that the induction was invalid, "having been issued as part of a Negro quota," in violation of the selective service law which states that "in the selection and training of men for Service, there shall be no discrimination on account of race or color."

To this, Judge Byer said that "if it is necessary to employ special troops for special assignments, that is a matter for the military authorities to decide. I think the point you raise is too narrow to justify deterring the military authorities in this time of national stress."

The petition was argued by Arthur Garfield Hays, general counsel for the A.C.L.U.

Okomoto Case Is Dismissed

The case against Tito U. Okomoto, American-born Japanese evacuee charged with leaving Phillips County Montana against the orders of General De Witt, was dismissed in November on request of the U. S. Attorney. No explanation for the government's move was given. There is reason to believe that the prosecutor was impressed by the arguments presented by defense attorney John Dwyer as to the unconstitutionality of the General's order.

Habeas Corpus Plea Tests Detentions

A decision is still pending in the case of Ernest and Toki Wakayama who are seeking their release from a relocation center on a writ of habeas corpus challenging the constitutionality of the detention orders. In arguing for the writ before the federal court at Los Angeles last October, A. L. Wirin, counsel for the A.C.L.U. charged that the imprisonment of the Wakayamas abridged their right of due process of law. The absence of military necessity was also pleaded.

Over Sixty Pacific Coast Exclusions

Report No Removals From Military Area On Atlantic Coast

On the west coast, over sixty citizens have been ordered out of the military area in the last three months as "dangerous or potentially dangerous," according to reports of the Northern California Branch of the A.C.L.U. All of those ordered out have departed without contesting removal in the courts.

Samuel Fusco, the first citizen removed from SanFrancisco, has decided to contest the power of the military to order his exclusion. He has resided at Salt Lake City since removal. The case is being prepared by the California branches of the A.C.L.U. Protests that his exclusion was unreasonable, recently brought an investigation by the War Department, the results of which have not yet been announced. His original removal hearing disclosed no connection with pro-Axis organizations, and he was evidently deemed "potentially dangerous" because of long association with members of the Japanese colony.

Others among those excluded were a San Francisco draft-board chairman and former police commissioner, three editors, two attorneys, and two surgeons. Most of them are naturalized citizens of Italian extraction, a few German. Some were prominent in Italian pro-fascist circles before the entry of the United States in the war. Practically all removals appear so far to have been made from northern California. No cases have been reported yet from other Pacific Coast centers.

No Eastern Removals

Although an order for the removal of allegedly dangerous persons from the east coast area has been in effect for three months, no removals have been reported to date.

After General Hugh A. Drum, Eastern Defense Commander issued the order on September 10, the A.C.L.U. announced it would not challenge the government's constitutional right to remove persons from military zones, but expressed opposition to "the exercise of that power by the military authorities on the ground that it should be a civil function." The Union expressed the belief that with such wide power, it would be easy for the military authorities to act on mere suspicion of unlawful conduct which could not be proved.

Though the law provides for civil trial for violation of the order, the Union declared that "trial by jury of those resisting removal does not constitute 'action by civilian authorities.' Since the main issue in a court trial will be refusal to obey a military order, the defendant will not have the opportunity to prove that he is dangerous."

A letter of protest to the Department of Justice brought the reply that "civilian officials will not conduct this procedure but in view of the fact that the military authorities may request enforcement of exclusion orders by federal prosecution—the military authorities have agreed to submit each case to the appropriate United States Attorney for his recommendation before an order is issued. The military authorities have not agreed, however, to be bound by that recommendation, but it is believed that this procedure is an aid to avoidance of the abuse of exclusion power."

Efforts of the Union to modify the system by advance civilian review at Washington of all exclusion orders have so far been unsuccessful.

Freedom

"War threatens all civil rights; and although we have fought wars before, and our personal freedoms have survived, there have been periods of gross abuse, when hysteria and hate and fear ran high, and when minorities were ulawfully and cruelly abused.

Every man who cares about freedom, about a government by law,—and all freedom is based on fair administration of the law,—must fight for it for the other man with whom he disagrees, for the right of the minority, for the chance of the underprivileged, with the same passion of insistence as he claims for his own rights.

If we care about democracy, we must care about it as a reality for others as well as for ourselves; yes for aliens, for Germans, for Italians, for Japanese, for those who are against us as well as those who are with us. For the Bill of Rights protects not only Americans citizens, but all human beings who live on our American soil, under our American flag. (*Attorney General Francis Biddle*)

Over 1000 CO's in Prison

(*Continued from page* 1)

on are Jehovah's Witnesses, who refuse to accept any conscripted service, claiming a classification as ministers. The next largest group is men who have not been given recognition as conscientious objectors on appeal and who refuse induction into the army. Selective Service has recently taken the illiberal position that no man whose appeal has been denied will be considered for parole.

Releases from the Civilian Public Service Camps, where 6,000 men are engaged in CCC type of work, to perform what is called detached service in small groups in agriculture and public health have increased, but the number is still small. Efforts to expedite releases into more useful work are being continued.

Legal work in behalf of conscientious objectors has recently been organized under a special Legal Service for Conscientious Objectors in Washington, D. C. in charge of R. Roland Brooks, formerly with the National Service Board for Religious Objectors, the agency operating the camps by agreement with the government. It was felt that a separation of functions would be more effective in correcting injustices and overcoming illiberal measures. All legal cases involving paroles, classifications and appeals may be called to the attention of the Legal Service at 1734 F. St., N.W., Washington, DC.

Bar Communists From Ballot In Five States

Illinois Court Holds Law Against Them to Be Invalid

The Communist Party won three and lost four contests to get on state ballots in the November elections. Attempts to ban the ticket in New York and California were voided by court action in which the A.C.L.U. participated.

The states where the party was barred, were Ohio, Pennsylvania, Indiana and Wisconsin. The Union assisted in unsuccessful protests before the election boards in Ohio and Pennsylvania, where it was held that the Communists advocate "overthrow of the government by violence."

In Illinois, U. S. District Judge William Holly held the statute barring the Communists to be invalid, but refused to issue an injunction because it was too late to reprint the ballots. Arthur Garfield Hays, ACLU counsel, argued the case in behalf of the Communists.

In a memorandum of law, Judge Holly said that the Governor and other state officials acted in an arbitrary manner and abused their power in refusing to certify the nominating petitions of the party's candidates without giving any reason for their action.

Statute Vague

He added that "apparently it was the theory of the officers that the Communist party is barred by the statutes of the state, barring organizations associated with Communist, Nazi, Fascist or other un-American principles" and "teaching subservience to the political principles and ideals of foreign nations or the overthrow by violence" of the government.

The opinion held that "if the term Communist is to be taken to mean simply belief in a system in which goods and the instruments of production are held in common by the people, then the statute is clearly unconstitutional. Certainly a party may not be excluded from a place on the ballot because it advocates economic ideas which may happen to be unpopular at the time.

"The other tests prescribed by the statute are so vague and indefinite as to make the act invalid. Such terms as 'un-American' and the 'political principles of foreign nations' lack the precision required of a statute which affects the right of a political group to appeal to the electorate."

Protests On Stage Censorship Keep 'Native Son' Drama Running

After numerous protests from prominent individuals and organizations that his decision in December to withdraw "Native Son," dramatization of Richard Wright's best seller playing in New York would encourage the forces of censorship, Lee Schubert, producer, changed his mind and decided to let the play run.

Schubert had announced he would close the play to avoid prosecution threatened by city authorities after the play was cited with others by a Catholic organization as being "immoral."

One of the organizations protesting was the A.C.L.U. The Union's Board, joined by the National Council on Freedom from Censorship and the New York City Committee adopted a resolution deploring "intimidation of New York treatre owners into withdrawing plays objected to by private interests."

The resolution said that "the action of Lee Schubert, in closing the play for fear of trouble and under admitted intimidation by private interests constitutes a form of censorship. It is no less serious to the freedom of the stage that it is accomplished by the apparently voluntary action of a producer rather than by threats of city authorities. It is deplorable when theatre producers or city officials yield to private concepts of morals, thus imposing these standards on the public.

"The only fair way to judge obscenity or any other violation of law on the stage is by a fair trial before a jury. Every other method constitutes unwarranted censorship.

"The objections to this play which evidently came chiefly from Roman Catholic sources are untimely, since the play previously ran for months in New York. Certainly Catholic or any other agencies have every right to publish lists of objectionable plays and to boycott them. But it is an inescapable conclusion that the producer of Native Son acted not because of a boycott but because of fear of official action inspired by it."

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Citizenship of Japanese Upheld by Federal Court

"The first section of the Fourteenth Amendment of the Constitution begins with the words, 'All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.'

"The amendment, in clear words and in manifest intent, includes the children born within the territory of the United States of all other persons, of whatever race or color, domiciled within the United States." (*From the opinion of the U. S. Supreme Court in the Wong Kim Ark case,* 1898).

'Book Trial' Convictions Reversed

Criminal syndicalism convictions against three defendants in the Oklahoma "book trials" charged with advocating violent overthrow of the government by holding membership in the Communist Party and possessing Communist literature were reversed in February by the state Criminal Court of Appeals.

This sent the cases back to the district court in Oklahoma City for a new trial. They will doubtless be dropped. Decision is still pending on the appeal of another defendant charged with the sale of literature.

The appeal court's decision upheld the constitutionality of the syndicalism statute but ruled that there was no competent evidence to show that the Communist Party sought to bring about industrial or political change in government by force or violence, or that either the Party or the defendants advocate the principles stated in the books comprising the bulk of the evidence. The opinion, written by Presiding Judge Jones, added that proof of advocacy of these principles would justify conviction.

The A.C.L.U. filed briefs as friend of the court in the four appeals, signed by Arthur Garfield Hays, general counsel.

Will Appeal 'White Primary'

The U. S. Circuit Court of Appeals at New Orleans in January refused to rehear the Texas "white primary" case in which the court last December sustained the right of the Democratic Party to exclude Negroes. The N.A.A.C.P., representing Lonnie Smith, a Negro voter in whose name the suit was brought has filed for a review in the U. S. Supreme Court.

The high tribunal will be faced

(*Continued on page* 4)

Military Order For Evacuation Is Challenged

A move to deprive 70,000 Japanese-Americans of their citizenship was blocked in February when the U. S. Circuit Court of Appeals at San Francisco rejected the appeal of the Native Sons of the Golden West from a decision of the federal district court last July, holding, in line with a Supreme Court decision, that all persons born on United States soil are American citizens.

The seven-judge court handed down its decision from the bench immediately after the appellant's case was presented without waiting for argument by opposing counsel. The appellant's argument, based largely on the theory of "white supremacy," was received with obvious disapproval. Counsel for the Native Sons, former California Attorney General U. S. Webb, announced that an appeal would be taken to the U. S. Supreme Court.

Challenge Evacuation

Three other cases affecting the rights of Japanese-Americans were heard by the court. Fred Korematsu of San Francisco, and Gor-

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Drop Nowak Indictment

The federal prosecution against Stanley Nowak, Michigan Democratic state senator, for alleged falsification of his naturalization oath in 1937 was dropped in February at the instance of Attorney General Francis Biddle who admitted an "error in judgment."

Nowak was indicted last December for "swearing falsely" that he was not a member of an organization "opposed to organized government." It was charged that he was a member of the Communist Party at the time of his naturalization and that the Party falls within the definition.

Henry A. Schweinhaut, representing the Attorney General, issued a statement in Detroit saying that "the facts are not such as to warrant a criminal prosecution and the Attorney General takes the entire responsibility for the error in judgment." He indicated that the Justice Department does not intend to bring denaturalization proceedings.

Nowak's indictment provoked a nationwide protest from liberal and labor organizations, among them the American Civil Liberties Union.

Elect New Members To ACLU Board, National Committee

The annual election of members of the Board of Directors and the National Committee of the American Civil Liberties Union on February 15 added to the board Ernest Angell, lawyer, president of the Council for Democracy; Prof. Karl N. Llewellyn of the Columbia Law School; and Prof. Robert M. Mac Iver of the Sociology Department, Columbia University.

New members of the National Committee elected are William Henry Chamberlin, author; Rep. John M. Coffee of Washington; Prof. Wm. F. Ogburn of the University of Chicago; James G. Patton, president of the Farmers' Union, Denver; Jennings Perry, editor of the Nashville Tennessean; Prof. Odell Shepard, former Lt. Governor of Connecticut; and Raymond Gram Swing, radio news commentator.

Networks Fight FCC Regulations

The fight of the giant radio chains NBC and CBS to void regulations of the Federal Communication Commission striking at the heart of monopoly practices in the network field reached the U. S. Supreme Court for the second time in February.

Last June the high tribunal ruled on a question of jurisdiction and sent the case back to a federal statutory court in New York for trial. In November the lower court sustained the FCC's regulations and the issue came back to Washington on appeal. Argument was completed and decision is pending.

The disputed rules, adopted almost two years ago and held in abeyance during litigation, would loosen the control of NBC and CBS over several hundred individual stations by preventing the renewal of contracts restricting the freedom of the stations in select-

(*Continued on page* 2)

Rehearing On 'Free Press' Granted by Supreme Court

Deadlock Broken; May Reverse Decision on Literature Taxes

The United States Supreme Court in February granted a rehearing in the famous "free press" case in which the court in a 5 to 4 decision last June sustained local ordinances taxing the sale of literature in public places, denying the appeal of Jehovah's Witnesses from convictions under such ordinances in Alabama, Arkansas, and Arizona.

Though this litigation involves only Jehovah's Witnesses, far-reaching consequences are involved for freedom of press and religion. The decision in June provoked a nation-wide protest from publishers, newspapers and religious organizations, culminating in the filing of a petition for rehearing supported by the American Newspaper Publishers Association, the Seventh Day Adventists, and the American Civil Liberties Union.

The decision to rehear was announced shortly after Wiley Blount Rutledge, Jr. was sworn in to fill the vacancy left by Justice James F. Byrnes last fall. Apparently this broke the deadlock between the dissenters in the original case, Chief Justice Stone with Justices Black, Douglas and Murphy, and Justices Frankfurter, Jackson, Reed and Roberts.

The dissenting opinion, delivered by Justice Stone expressed the view that "if the present taxes laid in small communities upon peripatetic religious propagandists are to be sustained, a way has been found for the effective suppression of freedom of speech and press and religion despite constitutional guarantees. The very taxes now before us are better adapted to that end than were the stamp taxes which so successfully curtailed the dissemination of ideas by 18 Century newspapers and pamphleteers and which were a moving cause of the revolution."

N. Y. Court Also Differs

This stand was reflected in the action of the New York Court of Appeals in January in refusing to apply the Supreme Court's decision to New York and reversing the conviction of a member of Jehovah's Witnesses for attempting to sell religious tracts without a

(*Continued on page* 4)

Tennessee Voids Poll Tax; Campaign for Federal Law

The Tennessee legislature in February passed a bill sponsored by Governor Prentice Cooper and long promoted by the "Nashville Tennessean" repealing the state's 50 year old poll-tax law. This reduced to seven the number of states still requiring payment of a poll-tax as a prerequisite to voting. These are Virginia, South Carolina, Georgia, Alabama, Mississippi, Arkansas and Texas.

It is anticipated that the opponents of the measure will seek to upset it on grounds of constitutionality since the state constitution provides that "each voter shall give satisfactory evidence that he has payed the poll tax assessed against him without which his vote cannot be received."

The fight to repeal the poll-tax by federal act continues with the introduction in Congress of a half-dozen such bills. Meanwhile, the way is being paved for an attack on the poll-tax in the courts. Several organizations, among them the A.C.L.U., are planning to institute a proceeding affecting the registration of voters in Virginia in the expectation that the matter will be brought into the Supreme Court within a year's time.

Justice Dept. Strikes At Lynchers

For the first time since 1903 and for the third time only in its history, the Department of Justice in January obtained a federal grand jury indictment against lynch-mob suspects. The bill was returned against four private citizens and a deputy sheriff, all of Jones County, Mississippi, charged with violating the federal civil rights statutes in the lynching of Laurel Wash, Negro, last October.

The deputy sheriff who was serving as county jailer was charged with depriving Wash of his constitutional rights in refusing to protect him by locking a "mob-proof" steel door, delivering him up instead to the mob. The others are accused of conspiracy to cause a state official to deprive Wash of his life without due process of law, to deny him equal protection of the law, and to inflict upon him "unusual and different" punishment because of his race and color.

Refuse To Free Sheriff in Attack On Sect Members

The U. S. Circuit Court of Appeals at Richmond, Va. in January sustained the conviction of a deputy sheriff in Nicholas County, West Va. for violating in 1941 the federal civil rights statute by an attack on Jehovah's Witnesses. The conviction was the first secured by the Department of Justice against a public official under that statute.

The lower court had found the official guilty not only of failing to protect a group of Witnesses in Richwood, West Va. but of assaulting them and forcibly administering large quantities of castor oil.

Circuit Court Judge Dobic in the opinion said: "We are here concerned only with protecting the rights of these victims no matter how locally unpalatable they may be as a result of their seeming fanaticism."

Civil Liberties Quarterly

A review of current news involving civil liberties in the United States.

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The States Report

A CHECK-UP with 112 of the Union's correspondents in 41 states in February showed a remarkable agreement on the effect of the war on civil liberties, confirming the conclusion previously expressed by the Union that there is an almost complete absence of repressive tendencies throughout the country and a surprising freedom of debate and criticism of war issues from every angle. Many parts of the country reported the general climate of freedom as better than a year ago, with less sense of tension or restraint. The only variations from the almost uniform reports concerned anti-Japanese prejudice in the western states, and the traditional and accentuated conflict over race relations in parts of the South. A continuing wide press hostility to labor's claims was indicated, and in some sections a far more favorable attitude to Negroes' claims. Absence of the anti-German prejudices so violent and widespread in World War I was noted by many correspondents.

Although the continuing issues of minority rights not related to the war present many cases, those arising from war pressures are comparatively few. They involve notably the problems inherent in the wholesale evacuation of the Japanese minority from the Pacific Coast; the removal by the military of "dangerous" individuals from military zones; scattered federal indictments for sedition; the seditious conspiracy case in the District of Columbia; the proceedings by the Post Office Department to revoke the second-class mailing privileges of a few anti-war publications—notably The Militant; a few instances of unreasonable application of the international cable censorship of news and opinion; and problems arising from illiberal regulations concerning conscientious objectors.

In the replies from the Union's correspondents these war-time issues stacked up as far less numerous than the issues not directly related to the war,—discrimination against Negroes, the rights of labor, the rights of Jehovah's Witnesses to carry on their propaganda (cited more often than any other), and scattering cases against Communists. Many correspondents agreed that while repression is absent there is an evident self-imposed restraint on minority activities. It is remarkable that hardly a case has arisen of action against pacifists such as marked World War I, when scores of teachers were dismissed, pacifist preachers lost their jobs, and public employees of pacifist views were discharged.

THE higher courts continue to sustain the principles of the Bill of Rights. Not a single adverse decision has been rendered in months; and there is the prospect of favorable decisions from the Supreme Court in major cases involving the sale of literature in public places, flag saluting in the schools, and radio monopoly practices. A group of significant cases involving the rights of Japanese-Americans is pending for decision by the Circuit Court of Appeals at San Francisco, which threw out at once an appeal seeking to deprive American-born Japanese of their citizenship. A test of martial law in Hawaii is on its way to the Supreme Court. The power of the courts to review errors of draft boards in not recognizing conscientious objectors is before the Supreme Court. Significant among court cases is the action of the Department of Justice in bringing the first federal case in years against lynchers.

AGAINST these more favorable aspects are to be charged the Administration's failure to support the President's Fair Employment Practice Committee in dealing with race discrimination; the poll-tax issue in Congress; the drive against labor's rights by Congressional reactionaries; the unsatisfactory administration of the draft act in relation to conscientious objectors, which has resulted in the imprisonment of twice as many men as in World War I (975 on February 20), the difficulties of getting loyal Japanese and Japanese-Americans out of the relocation centers into normal employment; and the continuation of the Dies Committee with its irresponsible and repressive tactics.

In the 1943 state legislatures now in session few repressive measures have been introduced; but no measures to extend civil liberties have made headway, despite efforts to promote bills against race discrimination and for state labor relations boards.

Among the significant tendencies reported by the Union's correspondents is the increasing interest of religious agencies in protecting civil liberties and in promoting tolerance, marked in many parts of the country, and the lack of any such centers of repressive activity as were formerly reported on the part of Legion Posts, professional patriotic organizations, and Chambers of Commerce.

Radio Networks Fight Regulations

(*Continued from Page* 1)

ing program material.

Counsel for the FCC argued before the Supreme Court that the proposed changes would restore competition to the industry, assuring listeners improvement in quality and diversity of programs. A brief filed by the A.C.L.U. as friend of the court urged that the contracts, which the FCC would abolish, "curtail freedom to listen and hence freedom of speech" by restricting the stations' selection of programs. The Mutual Broadcasting Co. intervened on behalf of the FCC.

The Union's brief was signed by Homer Cummings, former U. S. Attorney General, William Draper Lewis, director of the American Law Institute, and Morris L. Ernst, Benjamin S. Kirsch and Harriet F. Pilpel, counsel for the A.C.L.U.

Warning Sounded On P.O. Censorship

Exclusion from the mails by postal authorities of individual issues of newspapers, or books and pamphlets alleged to be "seditious" or "obscene" without hearing or charges was scored as a "dangerous extension of the trend toward unwarranted wartime censorship" in a letter of warning forwarded in January by the A.C.L.U. to publishers throughout the country.

The Union pointed out that whereas the Department is obligated by law to grant hearings when it moves to revoke a newspaper's second class mailing privileges, it may destroy separate issues, or books and pamphlets without specification or review. It has already done so in many cases, the Union reported, the latest involving the Militant, a weekly anti-fascist paper published in New York.

Criticizing the Department's procedure in the case of individual issues of a newspaper, the Union said that "if arbitrary and capricious judgments by bureaucratic officials are to be avoided in the present war, and if the tendencies to extend censorship already evident in this war are to be checked, the Post Office Department should promptly adopt regulations under which no action to exclude a publication from the mails should be taken without specific charges and a full hearing before a board."

P. O. Seldom Reversed

No satisfactory review in the courts is possible, the Union pointed out "for the only question which a court will consider is whether the Postmaster has grossly abused his discretion under the law. While such a proceeding will bring out the reasons which prompt a particular exclusion, it is very rarely that the courts interfere with the judgment of the Post Office."

The criticism of postal censorship was extended also to the hearings held since the war began in the case of several score "seditious" and "obscene" publications prior to revocation of their second class mailing privileges. Though approving the hearing procedure as entirely fair in itself and far preferable to the procedure in exclusion of separate issues, the Union charged that the authorities have failed, in judging the seditious nature of publications, to apply in several cases the Supreme Court test of "clear and present danger" condemning them instead because of a "general tendency." The Union expressed the view that "wherever there is a doubt in the borderline area between free speech and what is loosly called sedition, the benefit of the doubt should be given to the publication, in the interest of maintaining our democratic liberties."

Should Consult Experts

In the hearings on obscenity involving nationally known magazines such as Police Gazette and True Confessions, the Post Office Department is charged by the Union with having disregarded the recommendation of the Attorney General's Committee on Administrative Procedure that in such cases the Department should "consult with outside experts in the field of art, the sciences and literature in order to obtain their opinions prior to ultimate determination."

In order that the objectionable features of the Post Office procedure be eliminated, the Union recommended adoption of the method employed in connection with importation of seditious or obscene material from abroad. There, it was pointed out, the Customs Bureau seizes the allegedly offensive matter and submits it to a specialist in the Customs Bureau in Washington. If the material is judged obscene or seditious, a libel action is instituted against the offending matter thereby providing a trial before a judge and jury. Meanwhile the public interest is protected by impounding the affected material.

C.O. Legal Bureau Tackles New Job

A bureau for Legal Service to Conscientious Objectors recently established in Washington on an experimental basis has been taken over by the National Committee on Conscientious Objectors, organized by the American Civil Liberties Union. The Legal Service, organized by R. Boland Brooks, New York attorney, and George B. Reeves of Philadelphia, formerly associated with the National Service Board, is endeavoring to deal with critical problems which have arisen both in the classification and treatment of objectors.

It has been generally agreed among all those interested in conscientious objectors that bringing pressure to bear for the solution of these problems should be separated from the administration of the Civilian Public Service camps under the National Service Board. In addition to the service of Mr. Brooks and Mr. Reeves, Dorothy Detzer, secretary of the Women's International League, is giving part time to a solution of the problems.

According to Ernest Angell, Chairman of the National Committee, the principal issues concern the removal of military men from control over classifications and paroles, the assignment of objectors to "detached service" in agriculture and hospitals direct from draft boards and from prison, the retention of wages in detached service equivalent to a soldier's, and the speeding up of paroles and detached service outside the camps.

The results aimed at, Mr. Angell said, are to reduce the prison population and further commitments, and to get as many men as possible into useful work at wages outside the camps instead of the "C.C.C. type of work they now perform." Over 1,000 objectors are in prison, twice the number in World War I, and some 6,000 in Civilian Public Service Camps administered by the National Service Board for Religious Objectors.

News From The Front

DENIED JOB: Daniel E. Morgan, Jehovah's Witness living in Englewood, N. J. was denied appointment in January to a civil service position because of his refusal to salute the flag, despite his top rating in an examination for the job and his status as a war-veteran.

In offering him legal assistance, Arthur Garfield Hays, A.C.L.U. counsel said: "We believe that a requirement that public employees must salute the flag is a violation of the freedom of religion guaranteed by the federal and state constitutions when it is enforced against a member of Jehovah's Witnesses. To justify the overriding of religious scruples there must be a clear justification therefor in the necessities of national or community life."

SPEECH CENSORED: The Federal Communications Comission is investigating a charge of the Southern California Branch of the A.C.L.U. that Station KFWB of Los Angeles deleted from a speech by A.C.L.U. counsel A. L. Wirin in January, remarks concerning the rights of Japanese-Americans.

The broadcast, sponsored by the Los Angeles Committee on the Bill of Rights, was in celebration of the anniversary of the Bill of Rights. According to the committee chairman, station officials felt that comments on Japanese rights were "in bad taste at this time."

REINSTATED: Dismissed from the Los Angeles civil service last summer because statements critical of his department's wage policy appeared in the publication of the union of which he is president, Zera H. La Prade was ordered reinstated in December by the California Superior Court. The contention of the A.C.L.U. that his constitutional rights were abridged was supported by the court's opinion.

Persecution of Sect Scored by Clergymen

Widespread interest in the problems of the Jehovah's Witnesses is indicated in the great demand for the A.C.L.U.'s new pamphlet, Jehovah's Witnesses and the War, released in January.

A foreword to the pamphlet endorsed by 17 Protestant clergymen, two Roman Catholics and three rabbis declares that "Jehovah's Witnesses have been subjected to a religious persecution unmatched in our history as a nation save for the violence years ago against the Mormons. More than any other minority they are suffering wartime attacks on their freedom of conscience."

Affidavits of victims tell of the "shocking attacks" against members of the sect. Court cases are reviewed showing that Jehovah's Witnesses have been jailed in hundreds of instances on charges ranging from vagrancy to criminal syndicalism and seditious conspiracy. An analysis is given of the pending Supreme Court cases involving the right of the Witnesses to sell their tracts in public without having to pay license-taxes, and the right of their children to receive public education without having to salute the flag. The plight is told of their men of military age whose claims to military exemption as "ministers" have been widely denied by local draft boards. Instances are cited of their expulsion from jobs because of religious convictions.

Backed by Leading Clergymen

The pamphlet is endorsed by Dr. Henry A. Atkinson, New York; Bishop James Chamberlain Baker, California; Harry L. Binsse, New York; Rev. W. Russell Bowie, New York; Dr. Henry Sloane Coffin, New York; Dr. Henry Hitt Crane, Detroit; Dr. Frederick May Eliot, Boston; Dr. Harry Emerson Fosdick, New York; Dr. John Haynes Holmes, New York; Rabbi Morris S. Lazaron, Baltimore; Rev. Halford E. Luccock, Conn.; Bishop Francis J. McConnell, New York; Rev. John Howard Melish, Brooklyn; Rt. Rev. Walter Mitchell, Arizona; Dr. Reinhold Niebuhr, New York; Bishop G. Bromley Oxnam, Boston; Rt. Rev. Edward L. Parsons, San Francisco; Rev. Dr. D. DeSola Pool, New York; Rt. Rev. Msgr. John A. Ryan, Washington, D. C.; Rabbi Abba Hillel Silver, Cleveland; Dean Clarence R. Skinner, Boston; Rev. Ernest F. Tittle, Illinois.

"Americanism Is Not A Matter Of Race or Ancestry"—F.D.R.

"No loyal citizen of the United States should be denied the democratic right to exercise the responsibilities of his citizenship, regardless of his ancestry. The principles on which this country was founded and by which it has always been governed is that Americanism is a matter of the mind and heart; Americanism is not, and never was, a matter of race or ancestry. A good American is one who is loyal to this country and to our creed of liberty and democracy.

Every loyal American citizen should be given the opportunity to serve this country wherever his skills make the greatest contribution—whether it be in the ranks of the armed forces, war production, agriculture, government service, or other work essential to the war effort." (President Roosevelt in a letter to the Secretary of War expressing satisfaction with the move to reopen the ranks of the army to Japanese-Americans).

Leaders Urge McNutt, Biddle Resume FEPC Bias Hearings

A reorganized Fair Employment Practice Committee, completely independent except for responsibility to the President, adequately representative of racial and religious mincrities, well staffed and financed, was urged upon War Manpower Director McNutt and Attorney General Biddle by spokesmen for leading Negro, religious and liberal organizations at a conference in Washington on February 19 called at the request of President Roosevelt.

The representatives recommended also immediate resumption of the F.E.P.C.'s hearings on race discrimination in the railroad industry as well as six others suspended summarily by Mr. McNutt in January.

These proposals agreed upon in advance, were submitted in memorandum form at the conference by eight of the twenty organizations represented and endorsed in principle by all of them.

Independence Essential

Concerning the future of the F.E.P.C. the statement said that "the Committee can function effectively only as an independent agency directly responsible to the Executive Office. The problems with which the Committee has been and will continue to be confronted involve questions of high government policy at home and abroad. In the last analysis only the President can decide issues which at first sight may seem solely of domestic import, but which actually may affect profoundly the success of our present military and political offensive.

"Not only our need of manpower but our moral and political commitments to our allies and a decent respect for the opinions of mankind necessitate forthright action toward the ending of the discriminatory practices which today sabotage our war effort."

Representation

It was recommended that the "reconstituted committee must be large enough to be representative of labor, industry, the public, and of one or preferably more, of the larger racial and religious minorities."

The statement was submitted by representatives of the National Urban League, the Catholic Interracial Council, the Co-ordinating Committee of Jewish Organizations, the National Conference of Christians and Jews, the Workers' Defense League, the Council for Democracy, the Citizens Committee to Save the Jobs of Colored Locomotive Firemen, and the American Civil Liberties Union.

Reinstatement Order Ignored

One of the activities of the F.E.P.C. disrupted by Mr. McNutt's suspension order was an investigation into the refusal of the Pittsburgh Plate Glass Co. of West Va. in January to accept the Committee's recommendation for reinstatement of seven Jehovah's Witnesses fired a year before.

The reason given by the firm was that the other men, who allegedly brought pressure for dismissal of the Witnesses in the first instance because of their refusal to salute the flag, would quit and disrupt production if the sect members were rehired. This was the first case where religious discrimination was the basis for government intervention.

Dies Gets Two Years, $75,000; 'No' Vote 94, Tops Record

Overriding increased opposition in Congress and the protests of CIO unions and liberal groups, the House of Representatives in February gave the Dies Committee on un-American activities a two-year extension and appropriated $75,000 for a year's work.

The legislative procedure was marked by great speed and secrecy. Acting without warning and with only half its members present, the Rules Committee rushed through the adoption of the two-year term. A hearing was held but Congressmen opposing Dies were not notified. Interested organizations were denied the privilege of appearing. When the measure came up in the House 94 voted against it, the largest opposition registered in the Committee's five year history.

Secret Vote

Organizations hoping to continue the fight by opposing an appropriation in the Accounts Committee were caught unawares when the Committee announced it had already approved a $75,000 fund. With many opponents away from the Capitol, the appropriation was rushed to a vote and only 64 "no's" could be mustered.

Representative Jerry Voorhis of California, member of the Dies Committee who voted against its continuance and sharply criticized its chairman for his "undemocratic" direction of the committee's work and for "soft-pedalling" of fascist activities, was not renamed.

The American Civil Liberties Union opposed continuation and the appropriation because of the committee's "repressive, irresponsible, and useless activities."

Although a number of organizations campaigned vigorously against the Committee's continuation, few new forces were added to the previous opposition and it was therefore evident in advance that the pressure was insufficient to overcome the Committee's supporters.

Its work will be supplemented this year by a new committee created by Congress to hear charges of disloyalty brought against government officials and employees.

Oppose Move For Army Rule Over Japanese

Reopen Enlistment For Service In Special Combat-Units

A bill to transfer to the War Department all functions and personnel of the War Relocation Authority which supervises relocation centers for the 110,000 Japanese evacuees from the West Coast area, together with a resolution for a Senate investigation of the administration of the centers were introduced in Congress in February.

According to the American Civil Liberties Union, these measures came as the result of "agitation based on distorted accounts of recent disorders at one of the camps."

The Union opposed the transfer bill, stating in a letter to the sponsor, Senator Mon C. Wallgren of Washington that "the War Relocation Authority is doing an admirable job under great difficulties. Its efforts to resettle in normal life that portion of these people whose loyalty is attested by FBI investigation should be encouraged. The great majority are loyal, hard-working citizens ready to take their places in American life. The manpower shortage demands the maximum use of their available labor."

In reply, Senator Wallgren explained that he was interested only in segregating the disloyal evacuees and subjecting them alone to army discipline. He expressed the view that loyal Japanese Americans should be absorbed in industry and in the armed forces.

The bill is still in committee. It is understood that army officials are opposed to the transfer of the centers to the War Department.

Accepted in Army

Another important event affecting Japanese-Americans was the decision in February by the War Department to lift the ban of last May against their induction into the army and to accept volunteers for special "combat-units."

The A.C.L.U. in a letter to Secretary of War Stimson has urged that those not confined in the centers "be dealt with by Selective Service the same as all other American citizens and taken into the armed forces without segregation."

New Military Exclusions

Military exclusions of individual citizens from the West Coast area reached 120 in February, and six cases, the first thus far, were reported from the Atlantic area.

The A. C. L. U.'s California branches report that all persons ordered removed have left without contesting the action of the military.

The Union is opposed to all removals of civilians by military authority, holding it to be "so difficult and delicate a problem as to require civilian control."

High Court Orders Reargument In Communist Citizenship Case

A long-awaited opinion from the United States Supreme Court as to whether membership, in the Communist Party constitutes advocacy of the overthrow of government by force and violence was postponed in February when the court ordered reargument of the appeal of William Schneiderman, Party functionary, from the decision of a lower court upholding revocation of his citizenship.

In the argument on the appeal last November, the government held that since Schneiderman was a member of the Workers Party, predecessor to the Communist Party when he was naturalized in 1927, he advocated violent overthrow, an alleged principle of the party, and is thereby disqualified from citizenship.

Wendell Willkie, counsel for Schneiderman challenged as imputation, based on the government attorney's own interpretation of Communist theory, the charge that his client advocated violence, a tenet which "would not necessarily be binding on the member" even if advocated by the Party.

Sacramento Statute On Meeting Permits Held Unconstitutional

A Sacramento, California, ordinance requiring a permit for meetings in public places was declared unconstitutional in February by the California District Court of Appeals. The court granted a writ of habeas corpus to Anita Whitney, Communist candidate for city office in the last elections, jailed for making a speech in the city hall plaza without a permit.

The constitutional issue had been raised in a brief filed as friend of the court by A. L. Wirin, counsel for the A.C.L.U. in California. The court said that a statute which prohibits public speech "except by special permit" is unconstitutional.

Bridges To Appeal On Ouster

Harry Bridges, west coast labor leader, lost another round in his fight against deportation as an "undesirable alien" when the federal district court at San Francisco in February denied his plea for a writ of habeas corpus through which he sought to block Attorney General Biddle's deportation order of last May.

The court held that the order was issued "after a fair hearing on substantial evidence and no error of law occurred which operated to deprive petitioner of due process of law or any other constitutional rights."

The court also sustained the Congressional amendment of the Deportation Act in 1940 which makes deportable those with past as well as those with present membership in organizations advocating violent overthrow of the government. Bridges was held to come within the amendment through evidence given at a hearing conducted in 1941 by trial examiner Charles B. Sears that he was formerly a member of the Communist Party and of the Marine Workers Industrial Union.

Double Jeopardy Denied

Bridges' contention that he was placed in double jeopardy by being subjected to trial before Examiner Sears after having been cleared of identical charges in a hearing before Dean James M. Landis in 1939 were rejected by presiding judge Martin L. Welsh who held that the constitutional protection against double jeopardy "applies only to proceedings essentially criminal" and that a deportation proceeding is "aimed at the revocation of a privilege and not as a punishment for crime."

Bridges will appeal to the federal Circuit Court of Appeals and the case will undoubtedly reach the U. S. Supreme Court. The American Civil Liberties Union has opposed the proceedings against Bridges as involving persecution for alleged political opinions and connections, and hostility to his trade union activities.

Supreme Court To Review Rule On Flag-Salute

Expect Reversal Of 1940 Decision In Gobitis Case

With the decision to hear the appeal of the State of West Virginia from the ruling of a federal district court last October that a compulsory flag-saluting statute was void as applied to school children with religious convictions, the United States Supreme Court in January opened the way for reconsideration of its own decision in 1940 in the Gobitis case sustaining such statutes. The appeal will be argued this month.

Of the seven justices now sitting who participated in the Gobitis decision, four have given public expression to the view that it is unsound—Chief Justice Stone in the lone dissent on the original ruling, and Justices Black, Douglas and Murphy who took occasion to confess their error in supporting it, while writing a dissent in the literature-sales case last June. It is believed that Justice Rutledge, recently appointed, will provide the fifth vote for reversal.

Expulsions Decline

A change in the nationwide trend for expulsion of children of Jehovah's Witnesses from the public schools for refusal to salute the flag following the Gobitis decision, was noted last fall after Congress passed a law requiring only "standing at attention" as a full measure of respect for the flag.

School boards hesitating to adopt the Congressional standard because of its seeming conflict with the Supreme Court ruling, were encouraged when the three justices confessed their error, to be followed shortly by the federal court in West Virginia in its refusal to follow the Gobitis decision. Reinstatement of expelled children resulted in many instances. In Minnesota a district court recently issued an injunction restraining a school board from expelling children.

The American Civil Liberties Union has filed a brief as friend of the court in the scheduled appeal before the Supreme Court.

Court Maintains 'Witnesses' Not Unfit Parents

A rarely used form of attack against Jehovah's Witnesses, denying parents custody of their minor children on the ground of fitness was dealt a sound rebuke in February by the Washington Supreme Court in reversing a lower court ruling that the sect is a "fanatical organization with teachings entirely inimical to the rearing of children as American citizens."

The Supreme Court said: "We do not doubt the right of the state to suppress religious practices dangerous to morals, public safety, health and good order, but so far as appears from the testimony in this case, the teachings of Jehovah's Witnesses cannot be classed in any of these categories.

"We cannot find in the record any testimony which would justify the court in finding that this mother is unfit to have the care and custody of her children because of her religious beliefs, or that the children if left with her will be reared in an atmosphere of disloyalty to their country."

Mississippi Court Upholds War Gag Law

Dissent Says Statute Does Not Apply to Jehovah's Witnesses

A sweeping Mississippi statute making it unlawful in wartime to advocate "doctrines and teachings detrimental to the public safety" and to "encourage by speech or print disloyalty to the government or to create an attitude of stubborn refusal to salute the flag" was sustained in February by the State Supreme Court in a 3 to 3 decision.

The court denied in three separate cases the appeals of Jehovah's Witnesses from convictions in the lower courts for violating the statute by imparting to others their religious beliefs opposing man-made laws and flag-saluting. The conviction in the case of another appellant, Otto Mills, was dismissed for lack of evidence.

Answering the contention of the appellants that their free speech is violated, the controlling opinion written by Judge W. G. Roberds said: "If this were peace-time legislation, the writer would not hesitate to hold it unconstitutional as to appellant—but this is one of several statutes passed by the Mississippi legislature in 1942 to aid in the prosecution of the war." Precedents were cited to show that in wartime constitutional liberties may be curtailed to meet the emergency with the conclusion that "the rights of citizens must give way temporarily as this may be reasonably necessary for the nation's self preservation."

Rules Out Religious Issue

Judge Roberds said that the flag-salute "has nothing to do with religion" despite the appellants' claim that their attitude of refusal to salute is based on Biblical injunction. The dissenting opinion held that "we may differ with the appellant on his interpretation of the Commandments—nevertheless this is a matter for his own determination, not for the determination of the judges of this or any other court."

The dissent did not question the validity of the statute but held that it does not apply to the customary acts, principles, and teachings of Jehovah's Witnesses. The sect plans an appeal to the U. S. Supreme Court. The A.C.L.U. which filed a brief as friend of the court will file again on the appeal.

Time Is Now

"When the havoc of war passes, man must laboriously fashion a new structure for living. In the post war world our civil liberties must be extended, they must gain a popular acceptance among all people not merely as abstractions but as dynamic realities. Civil liberties cannot develop in a society that denies full economic opportunity or equal justice before the law to a part of its people. They cannot develop in a social system that complacently accepts inequality of opportunity. (*Wendell Berge, Assistant U. S. Attorney General before the Chicago Civil Liberties Committee*).

Negro Quotas In Draft To Be Appealed

The federal district court at Brooklyn, N. Y. in January denied a writ of habeas corpus to Winfred Lynn, Negro draftee who sought to challenge the constitutionality of draft quotas based on color. The A.C.L.U., representing Lynn, will appeal the decision.

The court's denial of the writ was based on the contention that Lynn had suffered no damage because of color in being called as one in a group of fifty Negroes requested of his draft board by the army last September, rather than in numerical order. In answer, Arthur Garfield Hays, A.C.L.U. counsel, charges that "since the theory of the government is that to serve is a privilege, it is definitely discriminatory to choose men out of turn when such selection depends in part upon the color of the inductee." Hays cited the provision of the Selective Service Act that "in the selection and training of men for service there shall be no discrimination on account of race of color."

Lynn's appeal to the federal circuit court will be the third court contest of his induction on ground of discrimination. Shortly after his board first called him, he sought a writ in the Brooklyn federal court which the judge denied, holding that an induction order cannot be challenged until the draftee has submitted to it. Following the court's direction, Lynn then offered himself for induction and sought release from the army on another writ. Denial of this second writ on the ground of "no damage" is the basis for the Union's scheduled appeal.

Union To Test Issue of Fair Trial for 'Indecent' Play

The issue of a fair trial in cases against alleged indecent plays will be raised in the New York Supreme Court by the A.C.L.U. on the appeal of Isidore A. Herk, producer of "Wine, Women and Song" from his conviction in January for presenting an indecent performance. The Union will file a brief as friend of the court.

After serving a few weeks of a six month sentence Herk was freed on a writ of reasonable doubt by Judge B. Bernstein who questioned the validity of the evidence on which the producer was convicted. The judge said that "whether a play is indecent or decent may depend on the reaction of the person who sees the play in the surroundings in which it is exhibited. There may be a vast difference between a bare description in words of what has been said or done upon the stage and an actual view of the performance."

Explaining the Union's participation, Elmer Rice, playwright and chairman of the National Council on Freedom from Censorship, an affiliate of the A.C.L.U. said:

"The Union regards prosecution on grounds of alleged indecency with jury trial as far preferable to any form of arbitrary censorship of the stage through revocation of theatre licenses or refusal to grant them, as has been customary in the past. But when prosecutions are brought, a judgment as to the always debatable issue of indecency can be fairly reached only by permitting the jury to see a performance in its entirety.

"This is the method employed in proceedings against motion picture films. In proceedings against books the jury is acquainted with the entire book. No less should be demanded of a jury in judging a play. The Union has no opinion as to the merits of 'Wine, Women and Song'. It is concerned solely with the issue of a fair trial."

Banned by P. O., 'Militant' Takes Fight to Courts

An appeal to the courts will be taken to contest the action of the Post Office Department in March revoking the second-class mailing privileges of the Militant, New York Trotskyist weekly, described by the A.C.L.U. as the "only clearly anti-fascist publication" cited under the Espionage Act.

The Department acted on the basis of a hearing before postal authorities in Washington last January. The A.C.L.U., which supported the defense at the hearing, will appear in the proceedings as friend of the court.

Appearing for the Militant at the hearing was Albert Goldman, attorney, supported on the constitutional issues by Osmond K. Fraenkel of the A.C.L.U.

Mr. Goldman argued that the excerpts from the Militant cited by the Post Office Department as inciting to military disaffection in the armed forces did nothing more than criticise the imperialist phases of the war, score discrimination against Negroes and expose inadequate recognition of labor. He cited other publications and utterances voicing similar views.

Mr. Fraenkel held that neither the Department of Justice, which initiated the proceeding, nor the Post Office Department had applied the "clear and present danger" test laid down by the U. S. Supreme Court requiring that "the substantive evil be extremely serious and the degree of imminence extremely high before utterances can be punished."

Right to Criticise

To the contention of the government attorney that "a possible effect" of the articles on those reading them would be to discourage enlistment," Fraenkel answered that "there can be no constitutional punishment for publication merely because there might have been a tendency to prevent someone from enlisting.

"There is no contention that there was anything in any of the articles which advocated resistance to the draft or army discipline. This paper is not charged with enemy connections. It is accused only of criticising, from a conventional socialist viewpoint, some aspects of the conduct of the war. Without the right to criticise there can be no freedom."

Cult Must Face Sedition Trial

The federal district court at Los Angeles in January denied a plea made by the Southern California Branch of the A.C.L.U. for dismissal of the indictment against leaders of the Mankind United cult, charged with conspiracy to interfere with the conduct of the war and to incite disloyalty in the armed forces. The case was ordered to trial.

Submitting a brief as friend of the court, A. L. Wirin, Union counsel argued that the indictment failed to demonstrate a "clear and present danger" of immediate injury to the nation's military effort resulting from the publications and utterances held to violate the Espionage Act. In the absence of this test, laid down by the Supreme Court in World War I, the Union contended the indictment is void.

Judge Leon R. Yankwich stated that the "clear and present danger" principle does not apply to a conspiracy case and refused to quash the indictment. He took occasion to laud the A.C.L.U. for its defense of free speech for persons with whose thoughts the Union disagrees.

Will Appeal 'White Primary'

(*Continued from Page* 1)

with resolving an apparent conflict between two of its own decisions dealing with state primaries. In a Texas case several years ago the court held that the state Democratic primary is a private affair of the party and that exclusion of Negroes is not in violation of their constitutional right to vote. In a Louisiana case recently decided the court ruled that the right to cast a vote in the Democratic primary is one bestowed by the Constitution and that interference with this right is an "interference with the effective choice of the voters at the only stage of the election process where their vote is of any significance."

Insist Cases Differ

Both the federal district court and the court of appeals have rejected the N.A.A.C.P.'s argument that the Louisiana decision applies in the Texas case, and have held that though the Louisiana primary is an "integral" part of the election process, the Texas primary is separate. Smith will plead that since the Texas primary is regulated by state law, it is also an "integral" part of the election machinery.

The A.C.L.U. which filed a brief as friend of the court in the court of appeals will also file in the Supreme Court.

Japanese Challenge Military Evacuation, Detention Orders

(*Continued from Page* 1)

don Hirabayashi of Seattle in separate cases appealed their convictions for violating the military evacuation orders of March 1942, challenging the power of the military to issue them. Minoru Yasui, American-born lawyer of Portland, Ore. appealed his conviction for violating a military curfew order.

In a decision handed down last December, the lower court ruled that the military are without power to regulate the conduct of citizens but held that Yasui had lost his American citizenship by working for the Japanese government. Yasui's appeal challenges the ruling that he is thereby an alien.

The Northern California Branch of the A.C.L.U. filed a brief as friend of the court in the citizenship case, opposing the appellant. It was signed by Wayne M. Collins and A. L. Wirin. A brief was also filed by the branch in the Korematsu appeal, signed by Wayne M. Collins.

Wakayamas Obtain Habeas Corpus Writ

The federal district court at Los Angeles in February granted a writ of habeas corpus to Ernest and Toki Wakayama, Japanese evacuees from the West Coast military area, challenging the power of the military authorities to detain American citizens in internment centers. A hearing is scheduled for this month. The Wakayamas are represented by counsel for the Southern California Branch of the A.C.L.U.

Hawaiian Tests Seizure Under Martial Law

Challenges Refusal Of Federal Court To Grant Him Writ

The constitutionality of military imprisonment of persons in the Hawaiian Islands under martial law declared after the attack by Japan will be challenged shortly in the U. S. Supreme Court.

The issue will be raised by the A.C.L.U. in a brief filed as friend of the court in the appeal of Hans Zimmerman from a decision of the U. S. Circuit Court of Appeals last December sustaining the federal district court at Honolulu in its refusal to grant a writ of habeas corpus which he sought on his detention by the army presumably as a "dangerous" person two months after Pearl Harbor.

The Union will urge that a writ should have been issued by the district court so that the court could decide whether or not detention on suspicion by the military instead of trial by civil court and jury was required by military necessity at the time.

In denying Zimmerman's appeal, the circuit court by a 2 to 1 majority held that with the declaration of martial law, the writ of habeas corpus had been suspended indefinitely. In answer to the A.C.L.U.'s contention stated in a brief that the military had no power to detain Zimmerman since the courts were still open, the opinion declared that "the civil courts are ill adapted to cope with an emergency of this kind. Their province is to determine the guilt or innocence of crimes already committed. In this respect their functions are punitive not preventive, whereas the purpose of the detention of suspected persons in critical areas in time of war is to forestall injury and to prevent the commission of acts helpful to the enemy."

The dissenting opinion held that "military government is not established by merely proclaiming it. It comes into being and exists solely by reason of the fact that strife prevents operation of the civil government. Where a person is taken into custody by the military, he may obtain a writ of habeas corpus and the court then decides the question as to whether or not the situation is one where 'in cases of rebellion or invasion the public safety may require that the petitioner be retained in custody'."

'Free Press' Rehearing

(*Continued from Page* 1)

license.

In voting unanimously to free the defendant, the New York court said: "In determining the scope and effect of guarantees of fundamental rights of the individual in the Constitution of the State of New York, the court is bound to exercise independent judgment and is not bound by a decision of the Supreme Court limiting the scope of similar guarantees in the Constitution of the United States.

"The Bill of Rights embodied in the constitutions of the State and nation is not an arbitrary restriction upon the powers of the government. It is a guarantee of those rights which are essential to the preservation of the freedom of the individual—rights which are part of our tradition and which no government may invade. At times when a legislative body has sought to invade a field from which, under the Bill of Rights, the government is excluded, and has violated rights guaranteed by the Constitution, the courts must refuse to recognize or sanction the legislative decree."

CIVIL LIBERTIES QUARTERLY

News of Issues Calling for Attention and Action by Members and Friends of the American Civil Liberties Union

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Conscientious Objectors Face Continued Injustice

HERSHEY REFUSES RELIEF: PRISONERS INCREASE, PAROLES CHECKED; COURT CASES PENDING

Constant complaints continue concerning the unsatisfactory set-up of "work of national importance under civilian direction", as prescribed by law for conscientious objectors. The complaints resulted in a communication to Major Gen. Lewis B. Hershey, director of Selective Service, by the National Committee on Conscientious Objectors in October urging that the work camps and detached service be put under different auspices after December 31 when the contracts with religious agencies expired.

The committee urged "that contractual relations between Selective Service and all agencies be discontinued and that the present camps conducted by religious agencies be treated as one group of places to which men may be assigned as at present; that the administration of work or national importance be turned over to a civilian administrative agency of the government to send men either to private camps, government camps, directly to detached services, to so-called guinea pig projects, or to any other approved services."

The committee argued that "these comparatively simple changes" would remove criticism that religious camps are virtually under military direction, would solve the problem of pay, would tend to assign men in accordance with their abilities, and would prevent many unnecessary commitments to prison.

General Hershey replied rejecting the suggestion with the comment that "the surrender of control both in degree and in method seems a statement in interest. The control would be in the hands of a large number of individuals who by their refusal to accept full responsibilities to their government have created the problem which we now try to solve.

"The method of assignment suggested varies little from present practices except in so far as the personnel who would carry it out for the Director, and the addition of services more acceptable to the individuals who choose the alternative of civilian public service in lieu of accepting their responsibilities as citizens to defend their nation in time of war.

"My observation leads me to believe that efforts to satisfy objectors may easily be carried to the place where considerable proportions of our citizenry will refuse to tolerate the present methods of supervising civilian public service."

The Committee points out that General Hershey takes a "punitive attitude" to objectors, not according them the "status granted by law." The committee will continue its efforts to effect a transfer from Selective Service of the only administrative function it exercises.

The unsatisfactory set-up has resulted in increasing the prison population of objectors, now numbering somewhat over 2,000. 700 of these are reported by the Bureau of Prisons to be men who have refused to accept service under the present Civilian Public Service set-up, most of them Jehovah's Witnesses. 400 more are men who would be recognized as genuine conscientious objectors if the tests of "religious training and belief" applied to many other men were similarly applied to them. The prison population is increasing because of the refusal of Selective Service to approve paroles except to the army and to CPS camps.

Parole to special services provided by the regulations has stopped. Regular paroles available to men serving one-third of their prison sentences continue but only a comparatively few have become eligible. The regular parole board handling the paroles of all federal prisoners has declined to accede to requests from Selective Service to deny regular paroles and is treating them like other prisoners.

Meanwhile court cases have been instituted by the National Committee on Conscientious Objectors on behalf of men in various camps to test the lack of provisions for pay for work, for allowances for dependents, and to challenge also the constitutional basis for civilian service. No decisions have yet been rendered.

The Supreme Court of the United States has before it two cases of conscientious objectors for decision, one of a Jehovah's Witness involving the refusal of the courts to review errors by draft boards when such errors are raised as a defense in criminal proceedings; the other of Arthur G. Billings of Texas involving the issue of whether a man is legally inducted into the army when the induction oath is read to him. Billings was court martialed for refusing service after induction. He contends that he should have been prosecuted in the civil courts. The Supreme Court rejected a plea from another conscientious objector, Walter F. Gormly of Milwaukee, who refused to report at a work camp on the ground that it would make him "a participant in the war machine."

Court proceedings have not yet been instituted in the case of Stanley Murphy and Lewis Taylor, conscientious objectors who went on a hunger strike at Danbury, Conn. prison and were transferred to the federal prison hospital at Springfield, Missouri, where they were brutally treated. Difficulties in securing interested counsel and in determining the most useful court action have delayed proceedings for relief. A Kansas City attorney has been retained by the ACLU to institute appropriate action. Taylor, meanwhile, has applied for parole.

C.O. Pamphlet

A pamphlet "Conscience and the War" reporting the treatment of conscientious objectors in World War II published by the National Committee on Conscientious Objectors has had a wide circulation, with a large order even from England. It is available through the Union's office, free to members, 10c to others.

International Issues of Civil Liberty Taken Up By Union

The Union's Board of Directors has authorized a special committee to examine the possibility of useful action concerning American responsibility for civil rights in the international field, both during and after the war. The extension of American authority in conjunction with Allied governments to occupied and liberated areas has raised questions as to the application of civil rights, together with the larger issues involved in the application of the "Four Freedoms" to the peace settlement. In addition the committee will examine the bases for an international "Bill of Rights" affecting communication by radio, cables, the mails, the control of the import and export of motion pictures, and the problems of migration and refugees involved in immigration laws.

A memorandum outlining the problems has been submitted to a number of experts for their opinion as to the role the Civil Liberties Union might play. Their replies will constitute the basis for consideration and report by the special committee.

C.O.'s Strike Against Race Bias and Censors

Groups of conscientious objectors at the federal prisons at Danbury, Conn. and Lewisburg, Pa. have gone on strikes to reform what they regard as unjust prison practices. At Danbury 21 men have been on work strike since August against racial segregation in the dining-room. The Bureau of Prisons has so far refused to consider establishing mixed racial tables, even voluntary. At Lewisburg 6 men went on hunger strike against the censorship of correspondence and literature, demanding reforms applicable to all federal prisons. For 38 days they were forcibly fed in the hospital. The strike was concluded after 64 days when a new statement which modified the rules was issued by the Bureau of Prisons.

Washington C.O. Director Drafted

The Washington office of the N.C.-C.O. has suffered a loss through the drafting of its director, George B. Reeves, who after securing a deferment on occupational grounds was suddenly reclassified for civilian service and ordered to a work camp just before he was to reach his 38th birthday. The National Committee protested what appeared to be "unseemly haste" in drafting him just before he would have been ineligible for service, but without effect. His place has been taken temporarily by a member of the National Committee, Frank Olmstead of New York.

Japanese Americans Segregation Completed

COURT APPEALS PLANNED
OPENING OF DRAFT URGED

With the segregation of disloyal Japanese at Tule Lake Center, California, to be completed early in January, it is expected that the campaign will be speeded to integrate loyal Japanese Americans and aliens into American life by release from the relocation centers. With segregation completed, no person of Japanese ancestry will be detained by compulsion at any other center than Tule Lake. All those found loyal are now free to leave for homes and jobs. A large number are reluctant to do so on account of widespread prejudice and the difficulty of making adjustments in new communities.

Of the 110,000 persons of Japanese ancestry removed from the Pacific Coast, 25,000 have been released from relocation centers to take homes and jobs elsewhere; 70,000 remain in the centers; and 15,000 at Tule Lake. Of these, however, only 5,000 or 6,000 fall in "disloyal" categories. The rest of them have voluntarily accompanied relatives there, a majority minor children.

Disturbances at the Tule Lake Center, due to resistance by 1,500 to 2,000 pro-Japanese Americans educated in Japan, have aroused widespread prejudice and opposition to the War Relocation Authority program, now under attack in Congress and the west coast newspapers. The disturbances have fit the propaganda of west coast reactionaries, who would deport after the war all persons of Japanese ancestry, despite constitutional guarantees and the President's assurances that they may be returned to the coast when military security permits.

The American Civil Liberties Union has urged all members and friends to write to Congressmen commending the policies of the War Relocation Authority and condemning the reactionary proposals for dealing with Japanese Americans. Attorney General Biddle, in a speech in New York in November, voiced an encouraging view when he said:

"Today the loyal Japanese who are American citizens are being gradually reestablished outside the centers in places where they may gain tolerance and acceptance. The Relocation Authority has no power to intern American citizens; and constitutionally it is hard to believe that any such authority could be granted to the Government. . . . We have too casually accepted, I think, this perhaps necessary but obviously temporary meeting of the problem. We have hardly recognized its serious consequences and the fact that it has never occurred before. Would anyone, before the war, have complacently accepted the proposition that the Government could move 75,000 American citizens out of their homes and hold them with enemy aliens for relocation? . . . But I am glad of the policy of the Relocation Authority which is directed towards sorting out the loyal citizens and returning them back into the community."

Two cases still before the courts may be taken up on appeal, one involving the constitutional issue of evacuation from the Pacific Coast and the other the right of detention of an American citizen after evacuation. One decision was recently rendered by the Circuit Court of Appeals at San Francisco sustaining evacuation. The other involving detention is before that court.

The A.C.L.U. has authorized bringing further cases in the courts at the appropriate time to enjoin the military authorities from excluding loyal Japanese Americans from the west coast, now that conditions have so greatly changed, and testing the detention of "disloyal" citizens solely by administrative process. Suits involving property obligations of the evacuated Japanese have been brought in the California courts jointly by the Japanese American Citizens League and the Southern California branch of the A.C.L.U.

It is expected that some move will be made to open Selective Service to Japanese Americans now that segregation of the disloyal has been completed. It is understood that there is resistance among army officers to placing them in regular military units; but there is resistance among Japanese Americans to being segregated. The A.C.L.U. has urged friends to address the Secretary of War asking that Japanese Americans be drafted on precisely the same basis as others.

The army and navy control of Japanese American students attending colleges with military and naval units still obtains, and efforts are being made to overcome it by representations to the Secretaries of War and Navy. The Union has urged its friends to join in that effort.

A.C.L.U. BACKS FEDERAL CONTROL OF ARMY VOTE

In a memorandum to all local committees the American Civil Liberties Union on December 28 urged members and friends to address their Representatives demanding that Congress provide a federal system of voting for all soldiers absent from their home states. Letters and telegrams were also suggested to be sent to Rep. Eugene Worley, chairman of the House Committee on Elections, urging amendment of the Senate Bill 1285 to restore the original provisions of the emasculated bill, and to set up the same system for men absent from their states whether located in the United States or abroad.

The Union's memorandum says: "Experience with the 1942 election shows clearly that no distinction should be made between soldiers at home or abroad, since the difficulty of getting out the vote does not lie in their accessibility to the mails but in the wholly inadequate absentee ballot laws of most of the states."

The Union's letter to members points out that "common sense supports the contentions in behalf of the original Senate Bill. Constitutional doubts, it is asserted, should be resolved in favor of enfranchising soldiers in war-time."

Civil Liberties Quarterly

A review of current news involving civil liberties in the United States.

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Review of the Quarter

The striking fact in civil liberties during the war that far fewer cases have arisen from the war than from the established conflicts in our democracy, has been emphasized by the decrease in war cases in recent months.

Not only have no new cases been brought, but the military authorities have apparently abandoned the procedure of removing "dangerous" citizens from the East and West coastal areas; the Post Office Department has brought no proceedings against publications alleged to obstruct the war and has restored the mailing privileges of at least one; and the Department of Justice has dropped a larger number of denaturalization cases brought against citizens of German and Italian ancestry. No new sedition cases have been brought by the Department of Justice.

The most glaring persecution resulting from the war is that of Japanese Americans on the Pacific Coast. The furor over alleged lenient treatment in relocation centers has intensified resistance to their return to California at any time. Propaganda out of all proportion to the extent of the disorder at Tule Lake, where the disloyal are segregated, has marked the California press and "patriotic" agencies.

Conspicuous among war issues is the continued unsatisfactory administration of the law concerning conscientious objectors, with over 2,000 men in prison.

In the major field of civil liberties outside war issues, race relations takes first place. The constant struggle of Negroes against discrimination and segregation has brought the first far-reaching order from the Fair Employment Practice Committee to southern railroads to cease discrimination. The order aroused instant opposition on the part of most of the railroads, with threats of carrying the case to the highest courts.

Notable among the events of the last few months has been the denial by the Supreme Court of review of the conviction of members of the Socialist Workers Party under the 1940 peace-time sedition law, which raised squarely the constitutionality of a statute which on its face violates the free speech and free press amendment. The Supreme Court has for review the important issues of the exclusion of Negroes from the Democratic "white" primary in Texas, two cases of conscientious objectors involving procedural points of wide application; and the conviction of a Negro in Oklahoma denied any of the established protections of law.

In the lower courts are pending suits attacking the Post Office censorship; the action of Congress in cutting off the federal payroll for subversive activities Prof. Robert Morss Lovett and two others; and further test cases involving the evacuation and detention of Japanese American citizens .

Appeal Filed in Negro Draft Case

Arthur Garfield Hays, acting for the Civil Liberties Union, filed a brief in October in the U.S. Circuit Court of Appeals at New York for Winfred William Lynn, a Negro inducted into the army in 1942, who charges that his induction came under a "Negro quota requisition", was discriminatory on account of race and in violation of the Selective Service Act provision "that in the selection and training of men under this Act and in the interpretation and execution of this Act, there shall be no discrimination against any person on account of race or color."

Lynn is seeking discharge from the army. He accepted induction in order to file a writ of habeas corpus, and his petition was denied.

The brief points out that the State Director of Selective Service admitted on the stand that Negro and white quotas were separate, and that color regulated the time of calling a man to service. Mr. Hays argues that Congress intended that the selection of men should be made strictly according to order number, and that men have a right to be so chosen and called in their turn as American citizens without regard to race.

Paper Regains Mailing Rights

The Post Office Department in December announced restoration of 2nd class mailing privileges to the Boise Valley Herald, a small weekly paper published at Middleton, Idaho, by A. Cornell and I. Cornell, opponents of military conscription.

At hearings in 1942, when the Herald's privileges were held subject to revocation under the Espionage Act of 1917, the paper was represented by counsel for the American Civil Liberties Union, who pointed out that the publication had offered no obstruction to the war effort, no information of use to the enemy, and no "clear and present danger to the war effort."

STATEMENT OF THE OWNERSHIP, MANAGEMENT, CIRCULATION, etc. REQUIRED BY THE ACTS OF CONGRESS OF AUGUST 24, 1912 AND MARCH 3, 1933, of CIVIL LIBERTIES QUARTERLY

Published every March, June, September and December at New York, N. Y. for October 1, 1943.

State of New York } ss:
County of New York }

Before me, a notary public, in and for the State and County aforesaid personally appeared Lucille B. Milner, who, having been duly sworn according to law, deposes and says that she is the editor of the Civil Liberties Quarterly and that the following is, to the best of his knowledge and belief, a true statement of the ownership, management, etc. of the aforesaid publication for the date shown in the above caption, required by the Act of August 24, 1912, as amended by the Act of March 3, 1933, embodied in Section 537, Postal Laws and Regulations to wit:

1. That the names and addresses of the publisher, editor, managing editor, and business managers are:

Publisher: American Civil Liberties Union, Inc., 170 Fifth Ave., N. Y. C.
Editor: Roger N. Baldwin, 170 Fifth Ave., N. Y. C.
Business Manager: Lucille B. Milner, 170 Fifth Ave., N. Y. C.

2. That the owner is:

American Civil Liberties Union, Inc., 170 Fifth Ave., N. Y. C., incorporated under the membership laws of the State of New York. No stock. Dr. John Haynes Holmes, chairman, Board of Directors, 170 Fifth Ave., N. Y. C., Roger N. Baldwin, director, 170 Fifth Ave., N. Y. C., B. W. Huebsch, treasurer, 170 Fifth Ave., N. Y. C., Lucille B. Milner, secretary, 170 Fifth Ave., N. Y. C.

3. That the known bondholders, mortgagees and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, other securities are:

None.

4. That the two paragraphs next above, giving the names of the owners, stockholders, and security holders, if any, contain not only the list of stockholders and security holders as they appear upon the books of the company as trustee or in any other fiduciary relation, the name of the person or corporation for whom such trustee is acting, is given; also that the said two paragraphs contain statements embracing affiant's full knowledge and belief as to the circumstances and conditions under which stockholders and security holders who do not appear upon the books of the company owner; and this affiant has no reason to believe that any other person, association, or corporation has any interest direct or indirect in the said stock, bonds or other securities than as so stated by him.

CIVIL LIBERTIES QUARTERLY
Lucille B. Milner, Business Manager

Sworn to and subscribed before me this 23rd day of September, 1943.

FRED M. GRAFER, Notary
My Commission expires March 30, 1945.

Congress Repeals Chinese Exclusion

With the passage by Congress in November of the administration bill repealing the Chinese exclusion laws, in effect for over fifty years, a long step was taken toward treating Oriental peoples on a basis of equality with others. The act will permit the entry to the United States of 105 Chinese a year under the quota system, and the naturalization of some 45,000 Chinese residents.

During the consideration of the bill, the Civil Liberties Union urged upon members of Congress amendments to put China on a basis of full equality with other nations. The bill is defective in doing so by counting in the quota Chinese wives and minor children of American citizens and in crediting to the Chinese quota citizens of other countries of Chinese ancestry. This discrimination, the Union says, contrasts with the provisions affecting other countries whose citizens in both these classes fall outside the quota. Fear of adding to Chinese immigration, opposed by the American Legion, A. F. of L. and other influential agencies, prevented the adoption of the proposed amendments.

Poll Tax Repeal Goes to Senate

The fight to abolish the poll tax in eight southern states as it applies to federal elections is before the Senate on a favorable report by the Judiciary Committee on House Bill 7. The Judiciary Committee rejected a proposal to abolish the poll tax by constitutional amendment, scored by the A.C.L.U. and others as a device to sidetrack the issue.

The Union is supporting the campaign of the National Committee to Abolish the Poll Tax by urging representatives and members throughout the country to write their Senators in favor of invoking the cloture rule so that a filibuster may be stopped and the bill brought to vote.

NEW RADIO POLICY IS DEMANDED FOR PUBLIC ISSUES

Ferment in the radio industry and in government agencies concerned with radio is producing an unprecedented yield of proposals for greater freedom of the air. Chairman James Lawrence Fly of the Federal Communications Commission has initiated discussion of the bias of news broadcasts and of commentators and has raised questions as to the access of trade unions to the air, advocating that they should be sold time and be permitted to solicit members. Mr. Fly maintained that "there seems to be a tendency in the industry generally to restrict and exclude rather than to lay down sound policies that will give us more public service. . . . It may well be that there ought not to be any sponsorship of news or comment."

In response the industry is examining the admittedly unsatisfactory role of sponsored commentators who, contrary to the code of the National Association of Broadcasters, engage in controversial discussion on paid time.

The Union's committee on radio, headed by Thomas R. Carskadon, has held frequent meetings with the industry and will meet with public officials in an effort to arrive at recommendations which will give access of all groups to radio for the discussion of public issues on free time, and eliminate controversy from paid time. The recommendations will probably be presented to the Senate Interstate Commerce Committee, which has held extensive hearings on the Wheeler-White bill.

Post Office Censorship Under Attack in Courts

SONG BOOK APPROVED BY ARMY AND NAVY IS EXCLUDED FROM U. S. MAILS

Two suits in the D.C. courts challenging the Post Office censorship and a hearing before postal officials on revocation of the second-class mailing privileges of "Esquire" have marked a drive to contest narrow interpretations of obscenity.

The two court cases involve a soldiers' song book, approved by the Army and Navy, entitled "Give Out", and "Preparing for Marriage", a pamphlet by Dr. Paul Popenoe endorsed by the American Social Hygiene Association. Both have been excluded altogether from the mails. Petitions have been filed in the federal court in the District Court of Columbia to set aside the Post Office orders. The case for "Give Out" is being handled by Arthur Garfield Hays of New York and Edmund D. Campbell of Washington, D.C. as counsel for the Civil Liberties Union; and for "Preparing for Marriage" by Charles A. Horsky of the firm of Covington, Burling, Rublee, Acheson and Schorb of Washington, D.C. enlisted through the Civil Liberties Union.

The hearings on the revocation of the second-class mailing privileges of "Esquire", required by law, presented for the first time in some years an array of expert witnesses attempting to show that the alleged obscenity is largely the "fiction of censors." Despite a recommendation by a majority of the Postmaster General's committee that the privileges be not revoked, Postmaster General Walker ordered them to be revoked on February 28th, thus giving time for a court review. The A.C.L.U. has offered to join in contesting the order.

"Esquire" is one of some fifty magazines of national circulation whose second-class privileges have been attacked in the last year by the Post Office Department, allegedly at the instance of the National Organization for Decent Literature. The second-class privileges of a few of the magazines have been restored on reapplication after the Post Office officials were satisfied that they had "cleaned up".

HOUSE COMMITTEE WARNED OF RACE BILL BACKFIRE

Drawing attention to the anti-free speech implications of two bills pending in Congress aimed at curbing racial and religious prejudice, the ACLU filed in November a memorandum with the Committee on Post Office and Post Roads urging that the bills be reported unfavorably.

The memorandum said in part: "These bills extend the arbitrary censorship powers of the Postmaster General. Legislation to punish or prohibit race hatred in their very nature are a limitation on freedom of speech. For what will be interpreted as an expression of racial hostility would depend on the prejudices of particular authorities. The offense is not and cannot be made sufficiently definite not to be subject to gross abuses, as all experience in the United States and abroad has proved. Racial hatred cannot be legislated out of existence. Only education and tolerance can overcome that."

The bill has aroused an extraordinary degree of support among Negro, Jewish and anti-Fascist agencies, apparently committed to the notion that race hatred directed against particular groups can be outlawed without reacting on their own. The bill is opposed not only by the Civil Liberties Union but by the Postmaster General, who filed a memorandum with the House Committee stating that the bill would cause great administrative difficulties and is quite unnecessary.

Union Aiding McMahon Inquiry

The Chicago Civil Liberties Committee has been requested by the Board of the A.C.L.U. to assist the investigation by the American Association of University Professors into the case of Prof. Francis E. McMahon, who resigned from the faculty of Notre Dame University in November under pressure of orders to submit scripts of his speeches and press releases for censorship.

In a letter to the Rev. J. Hugh O'Donnell, president of Notre Dame, Prof. Karl Llewellyn, chairman of the Union's Committee on Academic Freedom, expressed regret at the action taken, in view of its influence on other educational institutions. He pointed out that the Union has always intervened in the case of public institutions "where a teacher is dismissed without charges or a hearing before a jury of his peers" and held the principle of academic freedom would seem to apply "equally to a private institution in which the public has concern on moral grounds." Prof. McMahon's resignation involved utterances alleged to identify Notre Dame with his anti-Fascist and pro-Soviet positions.

Burlesque Showman Loses N. Y. Appeal

The producer of a New York burlesque show, "Wine, Women and Song" lost in November an appeal to the Appellate Division of the New York State Supreme Court from a conviction for producing an indecent show. The Civil Liberties Union had supported the appeal on the ground that members of the jury were not permitted to judge the merits of the show by witnessing it themselves. They received the evidence entirely by hearsay. No opinion was rendered. The conviction is the first in many years against a theatrical producer. He will be required to serve six months.

New Books on Civil Liberties

FALANGE, the Axis Secret Army in the Americas, by Allan Chase. G. P. Putnam's Sons. A documented but exaggerated exposure of the operations of the Spanish Falange as an instrument of Nazi world domination, as evidenced by its operations in the Americas and the Philippines. One chapter only deals with the Falange in the United States, but the penetration of the Fascist organization in Latin-America comes close to home.

CONSCIENCE AND THE LAW by Julien Cornell, counsel for the National Committee on Conscientious Objectors. John Day Co. The only adequate treatment of the complicated legal problems arising in the cases of conscientious objectors, written in popular style for laymen as well as for lawyers; and with a chapter comparing the British system with our own.

THE REPUBLIC by Charles A. Beard, subtitled "Conversations on Fundamentals", presents Prof. Beard and Connecticut neighbors talking out a fireside search for the fundamentals of the Constitution, democracy, civil rights, religious and political liberty. Largely a popular interpretation of legislation and Supreme Court decisions with a panoramic vista of what is in the books, dramatized by a Socratic conflict of views. Viking Press, New York.

HOW TO PREVENT A RACE RIOT IN YOUR HOME TOWN by Winifred Raushenbush, secretary, Committee on Race Discrimination. A 16 page pamphlet with practical suggestions growing out of the race riots of last spring and summer. Pamphlet available through the Civil Liberties Union, free to members.

Lifted Military Ban on Habeas Corpus Frees Hawaii Internees

BUT STATUS OF HABEAS CORPUS LAW IS STILL UNSETTLED

Federal Judge Delbert E. Metzger of Honolulu on October 21 dismissed writs of habeas corpus issued for two German-American internees after Edward J. Ennis, special representative of the Department of Justice, announced that they had been transferred to the mainland and freed. The action of the military authorities in thus mooting the cases makes unlikely any further court contest.

Mr. Ennis also announced that Lt. Gen. Robert C. Richardson, military governor of Hawaii, on October 14, rescinded his order forbidding habeas corpus proceedings. He stated that the general's action in resisting a civil court order had been taken at the direction of the Chief of Staff. Judge Metzger refused to dismiss the fine imposed on General Richardson for contempt, but cut it from $5,000 to $100. An appeal is possible to test the right of the court to issue the writ.

The issue of habeas corpus remains unsettled since the right to seek the writ was suspended by the martial law proclamation last spring. Judge Metzger contends that the writ cannot be constitutionally suspended while the civil courts are functioning.

A similar outcome settled the one previous case challenging the suspension of habeas corpus. Hans Zimmerman, an interned American citizen represented by the A.C.L.U., was freed by the military and sent to the mainland while the case was pending before the U.S. Supreme Court.

U. S. Supreme Court Takes Torture Case

The Supreme Court of the United States agreed in November to review the case of W. D. Lyons, young Negro farm hand tortured by Oklahoma police officers to extract a forced murder confession. The case has been handled by the National Association for the Advancement of Colored People, assisted by the ACLU.

Charged with the murder of his employer, Elmer Rogers, and Rogers' wife and small son, Lyons was rushed through preliminary hearings in a court-room crowded with people excited nearly to the pitch of a lynching mob. Lyons had no lawyer before or during the trial, and two local lawyers who refused assignment to the case were excused by the court.

The Supreme Court of Oklahoma, to which appeal was taken, confirmed the conviction without opinion.

Last Communist Convictions Void in Oklahoma

In a decision on September 15 the Oklahoma Criminal Court of Appeals reversed the conviction of a Communist in 1940 under the criminal syndicalism law for possessing and selling Party literature. The court had previously voided a conviction arising out of the same prosecutions based on membership in the Party. Although the appeal involved one man, Robert Wood, four others were similarly convicted, and the charges against them as well as Wood will be dismissed. All were under sentences of ten years, unprecedented in syndicalism cases.

The so-called "book trials" attracted national attention. The defense was directed by the International Labor Defense. The Civil Liberties Union assisted by briefs as friend of the court, signed by Arthur Garfield Hays, and filed on the appeals in both cases.

The court's decision did not void the statute, but held that its application required the test of "clear and present danger". The court relied heavily on the recent Supreme Court opinion in the Schneiderman case as to the proof of advocacy of violence by the Communist Party.

Coast Exclusions Reported Stopped

Inquiry of federal authorities by the American Civil Liberties Union indicates that the powers granted the military authorities to remove inland from coastal zones citizens held to be dangerous to military security are no longer being exercised. The powers originally granted by presidential proclamation early in 1942, under which the Japanese population was evacuated from the Pacific Coast, were also used up to recently to order inland numerous individual citizens after secret hearings before military boards. It is estimated that 250 persons were ordered inland from the Pacific coast and 50 from the Atlantic.

A few of those ordered removed contested the action in the courts and in all but one case the decisions were adverse to the military authorities. Aside from the check on the military by the courts, the apparent main reason for dropping the exclusion procedure, according to the Union, is the conclusion of the military authorities that no danger of invasion any longer exists on either coast and that a "disloyal" citizen would now be equally dangerous inland.

The only remaining question concerns the outstanding orders. In view of the court decisions, all those ordered inland are apparently free to return to their homes without risk of further action. Whether appeals will be taken from the orders against the military in the lower courts is as yet uncertain. The Department of Justice has so far refused either to prosecute those who refused to move or to appeal from adverse decisions in injunction cases, evidently regarding the procedure as unconstitutional.

Associated Press May Pick Members; Must Change Rules

A three-man federal court in New York City, by a two-to-one decision upheld on October 7 the right of the Associated Press to pass upon the applicants it admits to its membership, but directed that the by-laws be changed to prevent a member in the same field, such as a morning, evening, or Sunday paper in the same city, from presenting any bar to an election in that field. The case had been brought by the Department of Justice on a charge that the Associated Press conspired to restrain interstate commerce in violation of the anit-trust acts. The three judge court was composed of Judges Learned Hand, Augustus N. Hand and Thomas H. Swan. Judge Swan filed a dissent.

The majority opinion held that news as "commerce" is interstate, and that restriction of it is restraint of trade. The court also declared illegal under the present membership set up, by-laws which restrict AP news to members and which prohibit any member transmitting "spontaneous" local news to non-members. The court said, summarizing its opinion, that "the effect of our judgment will be not to restrict AP members as to what they shall print but only to compel them to make their dispatches accessible to others."

The Associated Press has until early in 1944 to file an appeal from the decision. The A.C.L.U. refrained from participating in the proceedings on the ground that no clear issue of freedom of the press was involved. The Union's attorneys are examing the decision with a view to possible participation if the expected appeal is taken.

Peacetime Sedition Law Review Denied by Supreme Court

The U.S. Supreme Court on November 22 refused to review the conviction of 18 members of the Socialist Workers Party at Minneapolis under the 1940 peacetime sedition act which makes it a crime to cause insubordination in the armed forces or to advocate the overthrow of government by force. Reconsideration was refused by the Court on December 6. The case was brought by the Department of Justice in the summer of 1941 and tried in the fall. The 18 of the 28 defendants convicted were sentenced the day after Pearl Harbor.

The conviction was the first since 1798 under a law creating the crime of sedition in time of peace. The American Civil Liberties Union had opposed the act when it was before Congress, and thereafter opposed the prosecution, aiding the defendants with funds and counsel.

The defendants, sentenced to varying terms up to 16 months, were released on bail pending appeal to the Circuit Court of Appeals where they were represented by Osmond K. Fraenkel, enlisted through the A.C.L.U. The Circuit Court of Appeals sustained the conviction on September 20. It had been assumed that the Supreme Court would review, since the constitutional questions were unprecedented.

In a statement on the case the Union said: "We deplore the refusal of the Sureme Court to review so important a case, which presents squarely the issue of whether Congress may in time of peace so clearly transgress the limitation placed upon it by the free speech and free press clause of the first amendment. While the Supreme Court has sustained state sedition laws, it has never sustained a federal statute contravening the first amendment. The court leaves the law on free speech in confusion."

The evidence against the Socialist Workers Party members consisted largely of the same Marxist literature used by the government against William Schneiderman, Communist Party secretary whom the government unsuccessfully sought to denaturalize.

The Minneapolis prosecution arose out of a conflict between A.F.L. and C.I.O. teamsters. The indicted Socialist Workers Party members were active in the C.I.O. union.

The defendants are scheduled to enter prison early in January. Most of them will go to Sandstone, Minn., a few to Danbury, Conn. The Civil Liberties Union is supporting petitions for presidential pardon.

File Suits for Dodd, Watson and Lovett

Suits in the federal Court of Claims at Washington, D.C. were filed in November on behalf of Prof. Robert Morss Lovett, Dr. Goodwin Watson, and Dr. William E. Dodd, who were cut off the federal payroll on November 15 by action of Congress. Congress provided that they should not continue to receive their salaries unless they were appointed by the President and confirmed by the Senate. President Roosevelt refused to follow that procedure on the ground that it was unconstitutional. He scored the acion of Congress as usurping executive functions.

The unprecedented suit in the Court of Claims was based upon the constitutional principle of the separation of powers, alleging that Congress has no right to name employees to be dropped from the federal payroll. Action was taken following reports of a House committee headed by Rep. Kerr of North Carolina that the men were disloyal because of connections with alleged Communist-front organizations. The original charges were brought by the Dies Committee. It is expected that the suit in the Court of Claims will be promptly appealed to the Supreme Court of the United States to determine an issue never before presented. The plaintiffs are represented by Charles A. Horsky of the Washington firm of Covington, Burling, Rublee, Acheson and Shorb.

A.C.L.U. Report Recommends Trade Union Bill of Rights

LAWS URGED ALSO TO INSURE DEMOCRACY

In a report on "Democracy in Trade Unions" issued in November in an 88-page pamphlet, the American Civil Liberties Union recommends a program of action to extend democratic procedure in trade unions and calls for a "Bill of Rights" for trade union members. Federal and state legislation against membership discrimination based on race, color or creed is also urged, together with bills to review disciplinary action or the failure to accord democratic rights in unions.

The report is the result of a two-year inquiry by a Civil Liberties Union committee under the supervision of Prof. Eduard C. Lindeman, of New York. Prof. Frank C. Pierson of Swarthmore College directed the research.

Initiated because of repeated complaints to the Civil Liberties Union by trade-union members who claim their civil rights are being violated, the report and the study on which it is based were endorsed by 26 authorities on industrial relations, including Bishop James Chamberlain Baker, Mary R. Beard, Morris Llewellyn Cooke, William Draper Lewis, James Myers, Msgr. John A. Ryan and William Allen White.

The signers say: "It is evident that unless the abuses in trade unions which have aroused widespread hostility are corrected, the drive for legislative control may not only undo the great gains for labor's rights of recent years, but also impose unwarranted restrictions. Those abuses arise largely from lack of democratic practices in many unions —resulting in the exclusion of Negroes, women and others qualified by their skills, in limitation of membership by high fees, in control by autocratic cliques, or in a few unions by racketeers—and in the failure of some unions to hold regular and fair elections and to account to the membership for union funds.

"These practices are, it is true, exceptions to the generally democratic methods of most unions. But they are exceptions conspicuous enough to furnish ammunition for labor's enemies, by which public sympathy is alienated and unreasonable public controls thereby more easily imposed. . . . The majority of unions satisfy reasonable requirements of democratic practice, though few are entirely free from criticism for lack of it in one respect or another."

All the recommended reforms, the report states, are already in effect in some unions.

Copies of the pamphlet may be obtained from the Union at 25c each, cheaper in quantity lots. It has been sent out widely to trade union officials and public officials engaged in labor relations with requests for comment on the recommendations.

Supreme Court Hears Negro Voting Case

The appeal of Lonnie E. Smith, Houston, Texas Negro, was argued before the Supreme Court in November from a Circuit Court of Appeals' decision sustaining the right of the Democratic Party to exclude Negroes from primaries. The case, sponsored by the National Association for the Advancement of Colored People, involves the important question of whether the right to vote in a state primary in a general election is protected by the federal constitution. Whitney North Seymour, counsel for the A.C.L.U. filed a brief as friend of the court. He said:

"The commands of the Constitution have not been so uniformly accepted as to assure full participation of our Negro citizen in their electoral rights. Many efforts have been made to frustrate these commands, as previous decisions of this court and common knowledge attest. Texas, as well as other states, has overlooked the constitutional injunctions. . . . In the present state of the world, a further declaration by the Supreme Court of the principles underlying the constitutional safeguards of the ballot, denying the power of the majority, on grounds of race or color, to repress a minority which is contributing so much to the nation's cause, would be heartening to all who believe in human liberty and dignity."

The National Lawyers Guild and the Workers Defense League also filed briefs supporting the position taken by the N.A.A.C.P.

Drop Detroit Draft of Negro Doctor Who Was Navy Volunteer

Prosecution was dropped by the Government on December 1 in the case of Dr. Edgar B. Keemer, Negro physician, arrested last July by F.B.I. agents in Detroit for refusing army induction, after volunteering for service in the Navy Medical Corps.

The case was of extraordinary interest to groups working for the eradication of the color bias in the war services, and was acted upon by the American Civil Liberties Union with the assistance of Walter M. Nelson, Detroit attorney.

The dismissal of the case by the office of the District Attorney apparently frees Dr. Keemer from further obligation to military service, and counsel declares it unlikely that the prosecution will be reopened.

Dr. Keemer's request for consideration without color bias as an applicant for service in the Navy Medical Corps, presented clear evidence that his qualifications were beyond question and that he was entitled to choose that branch of the service. His application had never been formally disposed of, and the reason orally given him for the delay in answering his application amounted to a refusal of his rights, "the refusal being actuated simply and solely because of his color."

It was pointed out that more than 30,000 Negroes have been accepted for service in the Navy, and that the Navy needs a large number of medical personnel of his type and experience. Representations were made in November to the Office of Naval Officer Procurement, asking that a reason be stated for the denial of Dr. Keemer's application. No reply was received from Naval authorities.

School Bus Law Tested in N. J.

Joining A. R. Everson, executive vice-president of the New Jersey Taxpayers' Association, the Union filed a brief in a suit before the New Jersey Supreme Court on October 6, contesting the 1941 law which provides free transportation to pupils of parochial and private schools as well as public. The Union's brief, prepared by attorney Joseph Beck Tyler of Camden, declares that the law is unconstitutional and that the Ewing (N.J.) township school board acted illegally in paying the transportation cost of children of 22 families attending parochial schools in Trenton.

The Union's brief states that "to hold that money raised by taxation for a free public school system may be used for the benefit of a denominational school where the teaching of a particular religion is compulsory means that the state is thereby supporting that particular religion by helping it to be taught to the children. It is contrary to a very fundamental concept of our government. A relaxation of principle may lead to other inroads on taxpayers' money provided for a free public school system."

The N.J. Supreme Court reserved decision.

On the Civil Liberties Front

UNFAIR TRIAL OF SEAMAN COUCHOIS APPEALED — Counsel for the Civil Liberties Union will assist in the appeal of James O. Couchois, an American seaman convicted in August at Mobile, Alabama, under the espionage act for utterances to members of a naval gun crew last year on the S.S. West Nohno. Couchois was sentenced to five years on two charges, the other involving the importation of an obscene book.

The Union's intervention will be based solely upon the lack of a fair trial. He was represented by counsel appointed by the court who was forced to trial within a few hours after his appointment. The National Maritime Union, of which Couchois is a member, refused to defend him on the ground that the indictment did not involve his union activities.

N. Y. RAPP-COUDERT WITNESS DENIED SUPREME COURT REVIEW—The U. S. Supreme Court on November 22 declined to review the conviction of Morris U. Schappes of New York City, former teacher at City College, convicted of perjury as the result of the Rapp-Coudert investigation into Communist activities in the New York schools. Schappes was sentenced to serve a year and six months and has been at liberty on bail. He was charged with testifying falsely before the investigating committee concerning his Communist Party associates at City College. He is the only witness before the committee jailed as the result of the proceedings. The Civil Liberties Union condemned the procedure of the Rapp-Coudert Committee at the time, particularly because of its star-chamber methods.

ONE OF THE REMAINING SCOTTSBORO BOYS PAROLED —The Alabama Board of Parole on November 18 released from Kilby Prison at Montgomery, Ala., one of the five Scottsboro boys still remaining in prison after serving six years of a 75-year sentence. He has been in prison since his arrest in 1931.

Four of the nine original Scottsboro boys were freed at the time of the last trials eight years ago. Efforts to free the remaining five on parole have been blocked by hostile influences, despite promises by governors and the parole board. The Scottsboro Defense Committee, headed by Dr. Allan Knight Chalmers, has quietly continued its work for paroles. Efforts will be continued to free the remaining four boys, all of whom have been in prison since 1931, though the actual time counted on sentences did not commence until completion of the trials several years later.

EVEN NEW YORK SCHOOLS DISCRIMINATE—An unusual issue of race discrimination in public schools of the North arose in the fall in Hillburn, a small town near Suffern, N. Y. inhabited largely by Negroes. A new district established this fall by the local school board required the town's Negro children to attend what was in effect a segregated and inferior school. They claimed the right to attend a larger and better neighboring school. The State Commissioner of Education sustained them, closing the segregated school. Most of the white children thereupon withdrew to attend a private school. The issue created quite a furore in the newspapers. The legal issues were handled by the National Association for the Advancement of Colored People.

LAWYER BANNED AS C.O. TO APPEAL—The refusal of the Illinois Supreme Court to admit to the Bar a conscientious objector solely on the ground of his beliefs will probably be appealed to the U. S. Supreme Court. The case is under consideration by the Illinois Bar Association, which has been asked to support counsel for Clyde Summers, now teaching law at the University of Toledo.

ASK FEDERAL PROBE IN NEW JERSEY—In a letter to United States Attorney General Francis Biddle, the Civil Liberties Union on Dec. 4 supported the request of the City Affairs Committee of Jersey City for a federal investigation of the denial of civil rights in New Jersey courts controlled by Mayor Frank Hague's administration.

Documented by reference to numerous instances of the perversion of justice in New Jersey for political ends, the City Affairs Committee complaint was sent to the Attorney General, followed by a letter from the A.C.L.U., asking an investigation to determine whether there is cause for federal intervention.

RACE ISSUES TO THE FRONT

The issue of race relations has emerged as the dominant issue of civil rights during the war, according to an American Civil Liberties Union survey of activities in the civil rights field. The survey shows that unprecedented efforts are being made not only in the traditional field of Negroes' civil rights but in relation to Mexican Americans and Orientals. The repeal of the Chinese exclusion act, which permits the naturalization of thousands of aliens in the United States, marks "a historic step forward," according to the Union's Committee on Race Discrimination.

Advances in the efforts to combat discrimination against Negroes are marked chiefly by the Fair Employment Practice Committee, which since its creation in 1942 has suffered numerous ups and downs. Msgr. F. J. Haas, chairman, was replaced by his assistant, Malcolm Ross, on the Monseigneur's elevation to be Roman Catholic Bishop of Grand Rapids, Michigan. F.E.P.C. hearings have been directed to discrimination in the railway industry and in the Pacific Coast war industries, with cease and desist orders based upon provisions in federal contracts. An opinion by Comptroller General Warren that the provisions were "merely directive" was overruled by President Roosevelt, who held them to be mandatory.

A bill to give the F.E.P.C. statutory authority is pending in the House, backed by a strong national committee for a permanent F.E.P.C. Other legislative proposals are also being explored, one of them to establish a federal fair employment practice act analagous to the National Labor Relations Act, with authority to issue orders against race discrimination in general under federal jurisdiction.

Backing Asked For Civil Service Loyalty Tests

In a letter to all local representatives and interested organizations, the A.C.L.U. on December 14 asked that expressions of support be sent to Harry B. Mitchell, president of the U.S. Civil Service Commission, endorsing the Commission's recent circular to its investigators warning them against asking improper questions concerning the loyalty to the United States of applicants for federal posts.

The Commission is under Congressional direction not to certify as employees persons who "advocate the overthrow of the government" or who are "members of subversive organizations." Under that authority the Commission does not certify Communists or members of Fascist or Nazi organizations. Specifications to identify Communists are included in the Commission's circular. No specifications have been worded to cover "Nazis and Fascists."

Publication of these instructions was followed by an attack in the House of Representatives, where "Communist pressure on the Commission" was charged.

The American Civil Liberties Union has answered the attack by commending the Commission's action as "plain common sense in the light of the widespread criticisms of loose and unwarranted questioning by investigators." The Union has also suggested in its circular to local correspondents that Congressmen be advised of their attitude to the Commission's order.

What You Can Do!

Members and friends of the Union who desire to support its campaigns by personal effort can help greatly by taking the following action:

1. **Poll Tax Repeal** (H.R. 7). Now before the Senate on a favorable report from the Judiciary Committee. Urge senators to vote for cloture on debate so that the bill may be brought to a vote. Constant pressure is needed to bring it to vote against a Southern filibuster.

2. **Censorship of Race Hatred Literature** (H.J.Res. 49 and H.R. 2328) in the Post Office Committee of the House. Write to the chairman of the House Post Office Committee, Rep. Thomas G. Burch, urging an unfavorable report on bills to bar from the mail literature inciting racial or religious hatred. Point out that such legislation is bound to be a boomerang against the very agencies which advocate it. Point out that no additional powers of censorship should be given to the Post Office Department, and urge that any such powers should be lodged only in the courts.

3. **Conscientious Objectors.** Commend the action of the Board of Parole in releasing conscientious objectors after serving one-third of their terms. Address Arthur D. Wood, chairman, Dept. of Justice. Urge Attorney General Francis Biddle to instruct hearing officers that the standard for judging "religious training and belief" should be the broad principles laid down by the U.S. Court of Appeals at New York in the Kauten case—thus preventing many unjust commitments to prison.

4. **Japanese Americans.** Commend the policies of the War Relocation Authority in releasing from the camps and resettling Japanese Americans in normal homes and work by writing your Congressman, in order to counteract the War Relocation Authority's critics in and out of Congress.

Write the Secretary of War, Henry L. Stimson, urging that Japanese Americans be drafted into the army on precisely the same basis as all other citizens.

5. **Federal employees.** Commend the U.S. Civil Service Commission for its recent common-sense instructions to investigators barring questions concerning an applicant's political views, reading, and associations, by addressing Hon. Harry B. Mitchell, chairman in order to help counteract Dies-minded critics in Congress.

Silver Shirt Navy Veteran Fights Ouster

A. L. Wirin, counsel for the Southern California branch of the ACLU, entered the federal courts at Los Angeles on December 20 to support legal action taken by Kenneth Alexander, former leader of the Silver Shirts in Southern California, ordered out of the Pacific coast area by the military authorities a year ago.

Alexander, who refused to go, brought an injunction last February to contest the army order. The case was dismissed on the ground that the military had taken no steps to carry out the order. Alexander then appealed. While the appeal was pending, the military police broke into his home in September, threw him into an automobile, and deported him to Nevada.

The new proceedings in the courts seek to enjoin the army from preventing his return, and in addition claim damages. The case is without precedent. In one previous case in the Los Angeles district, that of Homer Wilcox, leader of Mankind United, the military deported the man but only under the authority of a civil court order.

Alexander, a former British subject who became a citizen years ago, served in the U.S. Navy in the first World War and again in the present war until he was discharged on physical grounds. The action of the military authorities in ordering his removal was apparently based on his pre-Pearl Harbor activities in the Silver Shirts, which were closely identified with the German-American Bund.

Browder Bias Charged

Refusal to permit Mrs. Earl Browder, wife of the secretary of the Communist Party, to regularize her illegal entry from the Soviet Union years ago, has been scored by the ACLU among other agencies. A request for further consideration has been made of the Department of Justice, which has authority to permit her to go to Canada and enter legally. The Union's intervention is based on "implied discrimination against her because of her husband's political views." Mrs. Browder is not charged with being a Communist. She is free on bail under an order of deportation issued several years ago.

House Reorganizes F.C.C. Radio Probe Committee

The conduct of special House hearings on the Federal Communications Commission during the summer under the chairmanship of Rep. E. E. Cox of Georgia produced such a furore of opposition because of his personal animus that he was forced to resign on September 30. He was replaced by Rep. Clarence Lea of California, chairman of the House Interstate Commerce Committee. The resignation followed numerous protests, among them a printed A.C.L.U. memorial placed on the desk of every member of the House two days before the resignation.

The memorial was signed by Union representatives all over the country, among them historian Charles A. Beard, Prof. Robert E. Cushman of Cornell, Jennings Perry, editor of the Nashville Tennessean, Prof. I. Keith Tyler, director of the Institute for Education by Radio, and Clarence L. Watts of the Alabama bar. The memorial maintained that the conduct of the inquiry "forces the conclusion that it was not designed to carry out the will of the House but to exploit a case already prejudged in the interests of the personal interests of the chairman and of powerful forces determined to discredit governmental regulation."

A further protest by the Union against the bias of the committee's counsel, Eugene L. Garey of New York, has so far yielded no results save an announcement by the new chairman that star-chamber methods, badgering of witnesses, and refusal to permit replies by the F.C.C. will be discontinued.

The summer hearings revolved largely around the removal of pro-Fascist commentators from foreign language stations at the instance of the Office of Censorship. It is not yet clear which of the numerous charges of misconduct by the F.C.C. the House committee will emphasize in its further hearings.

Movie Consent Decree Expires

The consent decree entered into by the anti-trust division of the Department of Justice and five major motion picture companies expired on November 20 after three years in which the companies had operated under provisions laid down by joint agreement. Among the provisions were one affecting block-booking of motion pictures under which exhibitors were given more freedom of choice in selecting films than they had previously exercised. Other provisions of interest to the Civil Liberties Union relate to control of motion picture houses by the major producers, under which independently produced films confront great difficulties in distribution.

According to reports, the consent decree did not cure the many complaints made of monopolistic practices. Exhibitors have continued to charge that the motion picture monopoly is "more powerful and oppressive" than when the consent decree was arranged. It has not yet been indicated what action the government will take either to secure another consent decree or proceed to trial against the alleged monopoly.

Dangers of Hobbs Bill Shown

Infringements of personal liberty threatened by a House bill which would nullify the recent Supreme Court ruling in a labor case arising in Tennessee were scored in a memorandum sent to members of the House Committee on the Judiciary by the American Civil Liberties Union through Arthur Garfield Hays and Nathan Greene as counsel. The bill would admit as evidence in courts confessions obtained from prisoners held incommunicado before arraignment. The Supreme Court had explicitly ruled out such confessions.

The Union's memorandum says that "the practice of holding suspects incommunicado despite statutory prohibitions has been far too common in America. The Hobbs bill would put the stamp of legitimacy on this indefensible practice."

The memorandum concluded by quoting the Supreme Court to the effect that "it is less important that some offenders should go unwhipped of justice than that officers should resort to methods deemed inconsistent with ethical standards and destructive of personal liberty."

Wartime Cases Drop

A memorandum on federal prosecutions for speech and publication with the record up to November shows even fewer cases than those reported in an original memorandum published in June by the A.C.L.U., because a number of those then reported were later found not to involve speech or publication.

The record up to November shows that 30 federal cases have been brought under the Espionage and Selective Service Acts involving 130 defendants charged with utterances or publications obstructing the military service. In 14 of the cases 80 persons were convicted. 4 cases are on appeal involving 44 persons, 2 cases awaiting trial involving 34 persons of whom 32 are covered by the seditious conspiracy case in the District of Columbia. In that case the government is seeking a new indictment to replace that dismissed by the District Court. All but one of the defendants are free on bail. It is presumed that the new indictment will be based, like the old, on the peacetime sedition act of 1940 which the A.C.L.U. is challenging in the Socialist Workers Party case. The Union, however, has declined to be involved in the seditious conspiracy case before trial.

The report emphasizes the striking fact that as the war has gone on prosecutions have dropped. Only six were brought in 1943. No publications have been proceeded against by the Post Office Department under the Espionage Act in recent months and some whose second-class mailing privileges were previously revoked have had them restored, notably a little paper in Idaho, *The Boise Valley Herald.* It is expected that *The Militant,* organ of the Socialist Workers Party, will also receive its second-class mailing privileges again.

Cases against naturalized citizens to revoke citizenship because of disloyalty have numbered about 270, chiefly against members of the German American Bund and a few alleged Italian fascists. The Department of Justice has won 131 of the cases, lost 22, and dismissed most of the rest apparently chiefly because of the distinctions drawn by the Supreme Court in the case of William Schneiderman. Six cases are on appeal.

CIVIL LIBERTIES QUARTERLY

News of Issues Calling for Attention and Action by Members and Friends of the American Civil Liberties Union

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Chief Wartime Sedition Case Slated for Trial

The chief wartime sedition case, involving thirty persons from all over the country charged with conspiracy to cause disaffection in the armed forces will come to trial in the District of Columbia in late this month.

The indictment, brought in January under the 1940 peacetime sedition act, is the third charging a seditious conspiracy in the District of Columbia. The original indictment brought in July 1942 was based both on the peacetime act and wartime espionage act. A supplementary indictment returned in January 1943 named several additional persons. The district court held the indictments void insofar as they applied to alleged offenses committed prior to the passage of the sedition act. The January 1944 indictment, prepared after a year of study, was brought to overcome that difficulty.

Eleven persons previously indicted were dropped and nine were added. Among them are Joseph E. McWilliams of Chicago, leader of the Christian Mobilizers, and Law rence Dennis of New York, author and publisher of the "Weekly Foreign Letter."

Conspiracy Charged

The indictment charges a conspiracy with the Nazi government to promote disaffection among the armed forces, presumably prior to the declaration of war, since no wartime statute is invoked. A bill of particulars filed in March specifies numerous activities of the Nazi party engaged in a world-wide conspiracy to sow disaffection in order to achieve power. All of those indicted, save eight persons already convicted in other proceedings, are free on bail. They are represented both by personal counsel and lawyers appointed by the court. The case for the government is being handled by O. John Rogge, former chief of the criminal division of the Department of Justice.

The Civil Liberties Union announced when the latest indictment was returned that while "interested", it will reserve "any possible participation until after the trial." The Union also said that "aside from constitutional issues, the only practical question which concerns the defenders of free speech is whether the publications and utterances involve a 'clear and present danger, the Supreme Court's test for penalizing language' . The Union of course regrets the use of the peacetime sedition act, which we opposed in Congress and challenged in the Supreme Court in the Socialist Workers' Party case".

ACLU TESTS BOSTON BAN ON 'STRANGE FRUIT'

The banning in Boston and Cambridge of Lillian Smith's race relations novel "Strange Fruit" under the Massachusetts law on literary obscenity approached a climax when Bernard DeVoto, noted author and educator, bought a copy of the work at a Cambridge bookstore in the presence of four policemen.

Announcing it was prepared to carry the case to the State Supreme Court in the fight against the Bay State's "puritanical standards," the Massachusetts Civil Liberties Union pledged support in the defence of the bookseller and the purchaser. DeVoto and the bookseller, Abraham Isenstadt, who had notified police of the sale, were served with summonses for appearance in court.

The Union announced no test had been made in Boston, where the ban originated, because unlike Cambridge the action was not official, being taken "voluntarily" by the booksellers association at the "suggestion" of Police Commissioner Sullivan, who had received complaints against the book.

To correct earlier reports to the contrary, a representative of the publishers, Reyanl & Hitchcock, announced that a revised edition of the book with the "objectionable passages" deleted is not in prospect. The publisher "has no intention whatsoever of tampering with a fine and important book," he added.

300 Attend ACLU Annual Conference

The Union's annual conference, called on Lincoln's Birthday, February 12, at the Hotel Baltimore, New York, to discuss problems of the "Bill of Rights in War", was attended by over three hundred members and guests, including many students from colleges and high schools.

The program centered around four issues: race discrimination, conscientious objectors, labor's rights and trade union democracy, and international problems of communication, refugees and a "Bill of Rights." Speakers at the luncheon were Dillon S. Myer of Washington, head of the War Relocation Authority, Dr. Mordecai Johnson, president of Howard University, James B. Carey, secretary of the C.I.O., Norman Thomas for the National Committee on Conscientious Objectors, and Dr. Wm. Allan Neilson of the Carnegie Commission to Study the Peace.

SENATE BILLS WOULD CURB INDIAN RIGHTS

Urging defeat of four bills pending in the Senate Indian Affairs Committee as "designed to wipe out the gains made over a decade in restoring to Indian tribes increased autonomy over their own

(*Continued on page* 2)

White Democratic Primary Outlawed By Supreme Court

Negroes may not be excluded hereafter from voting in the Democratic "white" primary in Texas, according to an 8 to 1 decision of the U. S. Supreme Court handed down on April 3. The test case, brought to resolve conflicting decisions of the court in Texas and Louisiana, was organized by the Natl. Assn. for the Advancement of Colored People, backed by the ACLU which filed a brief signed by Whitney North Seymour of New York and Geo. Clifton Edwards of Dallas. The court held that "when primaries become part of the machinery of choosing officials, the same tests should be applied to the primary as are applied to the general election." The court, noting the conflict with previous decisions in Texas cases, observed that "when convinced of error, this court has never felt constrained to follow precedent." Justice Roberts filed a dissent highly critical of the court's changes of view, which he classed with railroad tickets "good for this day and train only."

While the decision removes one obstacle to Negroes voting in Southern Democratic primaries, which constitute the election, other formidable obstacles remain in the poll tax and educational tests. Mexican Americans, also excluded from white primaries in Texas, will also be equally affected by the decision.

White Supremacy Resolution Buried In So. C. Senate

A resolution adopted by the South Carolina House of Representatives in January, reaffirming "our belief in established white supremacy as now prevailing in the South," and demanding that "the damned agitators of the North leave the South alone," was buried in the Senate Judiciary Committee, marking the end of an outburst which aroused national attention.

Concurrent with the killing of the white supremacy resolution, a large group of prominent So. Carolinians released on March 16 a public "Statement on the Race Problem in South Carolina." Declaring that the "race problem has always been nation-wide," the statement contends that "social equality is not a part of the Negro problem in South Carolina. . . . The emphasis that is placed on this subject is an unworthy one, an unreasoning appeal to fear and prejudice and is calculated to prevent a fair and just consideration of our race problem in its fundamental aspects."

Recommendations to the "citizens of South Carolina" include the formation of groups to study the race question; the promotion of equal civil rights for Negroes in provisions for jury service, representation on boards administering their affairs and property, the use of Negro police in Negro residential districts and improved public facilities for Negroes; and better educational provisions and opportunities. On the question of Negro suffrage, it sees "no immediate solution," and advocates no specific measures.

Jap-American Removal Case Before High Court

The issue of the evacuation and detention of the entire population of Japanese ancestry on the Pacific coast is before the U. S. Supreme Court in the case of Fred Korematsu of California, who resisted evacuation and detention on the ground that it was unconstitutional. He was sentenced to five years' probation. The Circuit Court of Appeals in San Francisco certified his case to the United States Supreme Court, which held last June that a sentence of probation is appealable. The Circuit Court then proceeded to sustain his conviction.

The case is distinguished from those decided last June by the Supreme Court upholding curfew regulations applied by the military on the coast to persons of Japanese ancestry, by raising not only the issue of evacuation but detention in concentration camps as an inseparable factor. The brief field by the Union as a friend of the court urges review in order to establish a clear demarcation of "the boundaries of military power for civilians and because the case presents problems of detention of citizens without judicial process, of discrimination on account of race and of summary action without hearing." The brief is signed by M. L. Grupp and Clarence E. Rust of San Francisco; Prof. Edward Borchard of the Yale School, Osmond K. Fraenkel, Arthur Garfield Hays of New York and Harold Evans, Dr. William Draper Lewis, and Thomas Raeburn White of Philadelphia.

Detention Tested

Another case testing detention is pending before the Circuit Court of Appeals in San Francisco, brought by Miss Mitsuyi Endo, American-born citizen of Japanese descent, now in a relocation center. The Northern California branch of the Union has filed a brief in her behalf. If an appeal is taken to the U. S. Supreme Court, the national office will participate.

Suits to test the right of the military authorities to continue to exclude persons of Japanese ancestry from the Pacific coast, which is no longer a "theater of war," will be brought shortly through the joint action of the Japanese-American Citizens's League and the American Civil Liberties Union.The test cases, long contemplated, have been held up pending arrangements to raise the issue in the most effective form and also to determine whether the military authorities might not act on their own initiative. Only soldiers in uniform have been permitted to return to the coast by military order, together with the Japanese wives and children of Caucasian citizens.

Draft Opened

The War Department in January issued an order to Selective Service opening military service to Japanese-Americans who had been deferred since May, 1942. The action was based upon the success of the volunteer regiments of Japanese ancestry who have been fighting with distinction in Italy. The new recruits will be used largely as replacements. Other branches of the military forces are still closed to them. Some Japanese-Americans have refused to accept drafted service in seggregated units. One man who advised his fellow draftees not to accept service has been indicted for sedition. Dissatisfaction over discrimination on the grounds of racial origin has brought protests from men of military age in one relocation center who petitioned the War Relocation Authority urging restoration of their "full rights as American citizens."

Prejudice against Japanese-Americans has resulted in efforts to curtail their rights in western states. In Colorado the legislature defeated by a narrow margin a proposal to bar them from the ownership of land. In Ogden City, Utah, the City Council recently denied business licenses for the use of property owned by Japanese-Americans. A similar effort is under way in Salt Lake City. Resistance to discrimination is being led by the Japanese-American Citizen's League, with the aid of representatives of the American Civil Liberties Union.

Dies Attacks WRA

Continued agitation in Congress and on the West Coast against the policies of the War Relocation Authority has resulted in a demand by a sub-committee of the Dies Committee on Un-American Activities for the resignation of Dillon S. Myer, its director. A minority report has been filed by Rep. H. P. Eberharter of Pennsylvania. The War Relocation Authority, now transferred to the Department of the Interior, is however continuing its policy of releasing as rapidly as possible all of those in the relocation centers for whom jobs and homes can be found outside the West Coast. The Tule Lake center in California, in which about 1,000 aliens and citizens of Japanese ancestry held to be disloyal to the United States are confined, continues to be a source of controversy, with the prospect that jurisdiction over it is likely to be transferred to the Department of Justice.

Civil Liberties Quarterly

A review of current news involving civil liberties in the United States.

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Review of the Quarter

Race relations, both domestic and in their international implications, continue to take first place among the issues of civil rights. The conflict over the prospective return of the Japanese population to the Pacific Coast arouses hostilities essentially racial, however disguised by the appeal to national security in war. Advances have been made in reopening selective service to Japanese Americans, though still on a segregated basis; and in the steady though slow resettlement throughout the country of thousands of those held in the camps. The Supreme Court's acceptance of a case raising the issue of evacuation and detention gives some ground for hope of a decision less racial than those of last June.

Another battle-ground of racial issues is the President's Fair Employment Practice Committee, threatened by Congressional hostility to upsetting the established patterns in the South. While more agencies are engaged in interracial efforts between Negroes and whites than in years, the varied forms of discrimination and segregation yield only at minor points. The Supreme Court has just laid the basis for extending political rights to Negroes in the South by voiding their exclusion from Democratic primaries. The Senate has before it the poll tax bill passed by the House, which is incorrectly regarded by Southerners as aimed primarily at getting Negroes the vote.

These major campaigns somewhat overshadow another of considerable proportions in recent months aimed at making criminal the advocacy of racial or religious intolerance, and barring from the mails all matter of that character. The campaign is aimed essential at anti-Semitism. Though it has not yet succeeded in getting any legislation passed it reflects a widespread determination to attack in summary fashion an evil which the Union, in common with many other agencies, holds can be better fought without such obvious risks to civil liberty.

Other issues on the Bill of Rights front of democracy deserving of national note are:—the forthcoming trial of thirty persons in the District of Columbia charged with 'seditious conspiracy' with Nazi agents; the soldiers' vote law, so inadequate as to promise further agitation; the pressures to reform the treatment of conscientious objectors, now almost wholly under control of military officers in Selective Service headquarters; the censorship of alleged obscenity by the Post Office; and the several aspects of freedom on radio involved both in proposed legislation and the inquiry into the Federal Communications Commission by the House.

On the whole, as the war progresses, little pressure is evident for suppression of any sort, and public debate on all issues continues without appreciable restraint. In a presidential campaign year that tendency, remarkable in our country at war, will doubtless be strengthened.

CITIZENSHIP FOR FILIPINOS BACKED

A provision for naturalization of Filipinos resident in the United States will be presented to the House of Representatives in the bill advancing the date of Philippine independence, now before the House Insular Affairs Committee after passing the Senate.

Bills to accomplish this purpose have been previously introduced. The proposal is supported by the Philippine delegation.

The American Civil Liberties Union is supporting the proposal as a move to extend to nationals of an Oriental country for which the U. S. assumed obligations, the opportunities recently accorded the Chinese by the repeal of the exclusion act.

A similar bill to extend citizenship to Indian nationals resident in the United States has also been introduced under pressure of the Indian community, following the repeal of the Chinese exclusion act. Citizens of India were naturalized up to 1924 when the Supreme Court held that they were not "white persons" within the meaning of the law.

Circuit Court Upholds Race Draft Calls

Draft boards may legally establish separate quotas for white and colored men called to service, despite a prohibition in the Selective Service Act against discrimination of any persons because of race or color, according to a decision of the United States Circuit court of Appeals in New York, February 2nd. Two judges upheld a lower court in refusing relief to Winfred Lynn, a colored soldier who sought a writ of habeas corpus to test the legality of his induction. Judge Charles E. Clark dissented. The case was handled by the American Civil Liberties Union for Lynn through Arthur Garfield Hays, and an appeal will be taken to the United States Supreme Court.

The majority opinion held that "separate quotas in the requisitions based on relative racial proportions of the men subject to call do not constitute prohibited discrimination." Judge Clark dissenting, said, referring to the separate white and colored quotas, "I do not see how such a result is consistent with selection without regard to color. However undesirable the colored people regard service in segregated units, they are justified in asserting that it is less degrading than no service at all, or service delayed if not belittled in the light of their available manpower."

The case is being publicized, and funds raised by a special independent Winfred Lynn Defense Committee. The case has attracted wide attention, particularly in the Negro press. It is the only test in the courts of separate draft quotas for colored and whites.

WOULD CURB INDIAN RIGHTS

(*Continued from Page* 1)

affairs and property," the American Civil Liberties Union has joined the American Association on Indian Affairs, the Home Missions Council of North America and other agencies in a campaign to preserve the reforms of the Indian Reorganization Act of 1933.

In a widely circulated memorandum, the Union's Committee on Indian Civil Rights, through Jay B. Nash, chairman, urges friends of Indian rights to address the Senate Indian Affairs Committee in opposition to all the bills. The bills provide: (1) for the transfer of the Indians' management of tribal business to Congressional control; (2) for the repeal of the Indian Reorganization Act of 1933, (3) for the removal of restrictions of Indian property so that it could be acquired by non-Indians; and (4) for the application of state penal laws to Indian reservations, thus abolishing the Indians' own tribal courts.

High Court Holds J. W. License Tax is Invalid

The judgment of the South Carolina Supreme Court affirming the conviction of a Jehovah's Witness as an itinerant peddler for selling religious literature without paying a license tax in the town of McCormick was reversed on March 27 by the Supreme Court in a six to three decision. The opinion was written by Justice Douglas with a reluctant concurrence by Justice Reed and comment by Justice Murphy on the dissenting opinion. Justice Douglas held that if a "license tax would be invalid to one who preaches the Gospel from the pulpit" it is equally invalid when applied to "those who spread their religious beliefs from door to door or on the street."

The dissenting justices holding that "the implications of the present decision are startling," warned that it creates a precedent for exempting from taxation all "publishers and news vendors."

A brief had been filed in the Supreme Court by the American Civil Liberties Union as a friend of the court, with Dorothy Kenyon, Monroe Lazere and Clifford Forster as counsel.

Sustain Mass. Decision

In another case in which issues of religious freedom are involved, the U. S. Supreme Court on January 31 upheld the Commonwealth of Massachusetts by a five to four decision in the case of a nine year old child prohibited from selling literature on the streets under a law denying street trades to boys under twelve and girls under sixteen. The child was a member of Jehovah's Witnesses, whose counsel appealed the case on the ground that religious freedom is impaired by denying the right of anyone to sell religious literature.

The majority opinion by Justice Rutledge answering the contention of Jehovah's Witnesses that the street is their church said: "However Jehovah's Witnesses may conceive them, the public highways have not become their religious property merely by their assertion. And there is no denial of equal protection in excluding their children from doing there what no other children may do."

A dissenting opinion by Justice Frank Murphy and three other justices held that Jehovah's Witnesses are a "militant and unpopular faith harassed at every turn" and that the dangers to children selling literature on the streets are so "exceedingly remote" that there could be no excuse for prohibiting it.

What You Can Do!

Members and friends who desire to assist in current campaigns should take the following action promptly. Every letter and telegram helps.

Poll tax — Write or wire your own Senators urging that they support every move in the Senate necessary to bring the poll tax bill, H. R. 7, to vote. Urge them to vote for cloture after reasonable debate and for the bill. Report any definite pledges you get to the ACLU.

F.E.P.C. — Write or wire to the Chairman of the House Appropriations Committee, Clarence Cannon, urging a favorable report on the President's request for $585,000 for the next fiscal year for that committee. Urge on your own Representative opposition to the rider on a Senate bill cutting off any executive agency not approved by Congress after a year, and ask him to vote to retain the F.E.P.C.

Race and Religious Hatred Bill — Write Hon. Thos. G. Burch, chairman of the House Committee on the Post Office, urging an adverse report on H. R. 2328 to give the Postmaster General power to exclude from the mails all matter arousing race and religious hatred, and making it a crime to deposit such matter in the mails.

Japanese-Americans — Write the Secretary of War, Hon. Henry L. Stimson, urging that Japanese-Americans of military age be admitted to all branches of the army for which they are qualified, without segregation or discrimination.

ACLU Won't Intervene In AP Appeal

Reaffirming in February a position taken a year ago when the government's anti-trust suit against the Associated Press was brought, the Board of Directors of the Union has agreed that "no issue of freedom of the press, properly speaking is involved" in the appeal to the Supreme Court taken by the AP against a decision of the District Court at New York requiring changes in the AP by-laws. The Board holds that the issues are essentially economic, involving in substance the question of the relation of a competitor to a new applicant for membership. The District Court's recent decision indicated that if the by-law removing a competitor's influence in the election of a new member were revised, the other orders made by the court would be vacated or modified.

A memorandum on the issue, on which the Union Board's decision was based, said: "Since the Government's suit did not interfere with the right of newspapers to print anything, we must reject the AP argument that the action was attempting to restrict freedom of the press. We also reject the Government's claim that it was promoting freedom of the press in bringing the suit. The Union recognizes that all monopolistic practices interfere with freedom and that monopoly in news distribution interferes with the ability of newspapers to function. However, competing news services exist and many newspapers are able to function without AP service. Hence, the interference with freedom concerned here was not of a character to involve clear issues of freedom of the press."

FALANGIST MAY LOSE CITIZENSHIP

Denaturalization proceedings were begun in San Juan, Puerto Rico, by the Department of Justice on Febraury 21 against Isidor Conde Fernandez on the ground that he obtained his citizenship by fraud because of membership in the Falange, Spanish Fascist organization. The case is the first brought against any Falangist.

Attorney General Francis Biddle charged that the Falange Party is the "prototype" of Fascism, and said that no Falangist could become a loyal American citizen. Conde Fernandez insisted that he had lived as a "good citizen in Puerto Rico for twenty-eight years."

FCC Answers Congress Critics

Controversy over government regulation of radio, together with charges against the Federal Communications Commission, has marked proceedings in both the House and Senate in recent months. In the House, the special investigating committee under the chairmanship of Rep. Clarence Lea of California has at last got around to calling representatives of the Federal Communications Commission to answer the many charges of misconduct made by witnesses called by the former chairman, Rep. Eugene Cox of Georgia, who resigned under fire, and the counsel for the committee, Eugene L. Gary of New York, who resigned some months later under pressure. The American Civil Liberties Union published in the fall a pamphlet on the misconduct of the hearings under the title "Fair Play to the FCC", and urged removal of both Cox and Gary.

Hearings Concluded

In the Senate, hearings have been concluded on the Wheeler-White bill, on which Senator B. K. Wheeler and Wallace H. White of Maine were reported in the press to be in disagreement on their recommendations for revision of the radio law. The leading radio companies which have urged amendments to restrict the powers of the Federal Communications Commission have apparently concluded that no legislation is better than what they would be likely to get from Congress. It is doubtful whether any legislation at all will be enacted.

The American Civil Liberties Union, following conferences with Senator Wheeler, chairman of the Interstate Commerce Committee, has recommended a series of amendments to insure fair treatment of public controversy, to require all stations to set aside desirable time for the discussion of public issues, to free stations but not speakers from legal liability for remarks on such programs, and to require all stations to keep accurate public records of all applications for non-commercial time.

The issue of alleged monopoly control of communications through newspaper ownership of radio stations was concluded when the Federal Communications Commission in January voted unanimously to permit newspaper publishers to buy and operate radio stations on condition that licenses will not be granted where the Commission finds that such ownership creates a local monopoly contrary to the public interest. The American Civil Liberties Union had long urged such a policy.

Military Exclusion Orders On Coasts Suspended

Although both east and west coast military zones are nominally under special army restrictions, the military authorities have discontinued the exclusion from these areas of citizens held to be dangerous to military security, and have apparently suspended practically all of the 350 orders estimated to be oustanding.

A few contests of the orders are still pending in the courts. One brought by Homer G. Wilcox of "Mankind United" was virtually mooted by the action of the military authorities in suspending the order, but since it is still legally in effect the appeal may be heard. In all but one of the court contests which have reached trial, exclusion has been held void. In a California case, the federal court held that the orders can be enforced only by prosecution.

MILITARY POWER

and

CIVIL RIGHTS

A statement of policy on war-time issues

AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue New York City
December, 1942
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Military Power and Civil Rights

ONE of the most perplexing questions in law and public policy in war-time is the relation of the military power to civil rights—within our constitutional framework of the supremacy of the civil authority. It has arisen much more sharply in the present war than in World War I, due to the war's "total" character, and particularly to the extraordinary situation on the Pacific Coast created by the presence of tens of thousands of Japanese aliens and citizens whose loyalty was under grave suspicion. To evacuate them, the President issued a decree giving unprecedented general powers to the military authorities to create military areas and to remove from them any and all persons held dangerous to military security.

Total war has demanded not only conscription of men of military age, but has raised for the first time in American history the question of compulsory war service for the whole civilian population. England has adopted it, contrary to all precedents, and it is widely urged here to aid the total mobilization of man power.

Outside these two major issues, other problems of military power in relation to civil rights have arisen covering (1) the proper extent of martial law in Hawaii, now being tested in a court case; (2) the enforcement of the orders of civil courts on members of the armed forces; (3) the freedom of men in the armed forces to express their views to the President and members of Congress; and (4) the proper jurisdiction of a military commission to try enemy saboteurs landed from submarines.

NOT one of these issues marked World War I. The only other war in which any of them arose was the Civil War, when the extent of military power became an issue of major importance with the suspension of the writ of habeas corpus by President Lincoln and the assumption by military courts of power to try civilians outside military areas.

That debate was settled by the decision of the United States Supreme Court in ex parte Milligan, decided in 1866 after the war was over. The Court held that trials of civilians by military tribunals are unconstitutional where the civil courts are open.

Further the Court held that outside a zone of actual military operations or one threatened by immediate invasion not even a declaration of martial law can suspend the functioning of the criminal and civil courts.

The decision bears both on the present issue of martial law in Hawaii and, more important, on the powers granted by the Presidential decree of Feb. 19, 1942 to the military to remove from military zones any or all persons held dangerous to internal security.

Conscription for civilian war service, though never before the Supreme Court, is probably constitutional. Several decisions assert the underlying principle. For example, the Court used this language in a case involving compulsory military training in colleges: (Hamilton v University of California, 1934.)

> "Government, federal and state, each in its own sphere owes a duty to the people within its jurisdiction to preserve itself in adequate strength to maintain peace and order and to assure the just enforcement of law. And every citizen owes the reciprocal duty, according to his capacity, to support and defend government against all enemies."

BUT constitutional principles do not alone make up the issues which concern defenders of civil liberties. Quite as important to civil rights are the questions of public policy, and of the use of powers which may be entirely constitutional. The Civil Liberties Union, like other agencies, is confronted with difficult and debatable questions concerning the relation of military power to civil rights, from these several viewpoints.

On the issue of removals of citizens from military zones, does not the government have the power constitutionally to clear actual zones of operations of any and all persons save those the army permits to remain? If that power exists over any such military area, may it not be also exercised in large coastal areas threatened with invasion? If so, is not the only question for defenders of civil liberties the reasonableness of military orders?

On the issue of compulsory civilian war service, the question arises whether a provision for total exemption of those conscientiously opposed would not remove it from the field of civil liberties. If the right of conscience is thus recognized, what question remains save one of desirable public policy?

AFTER debating these two major issues, and taking a referendum vote of all the members of the Board of Directors and National Committee, the Union adopted the following declarations of policy:

1. Removals from Military Areas

Adopted June 22, 1942, following a referendum vote of the Board of Directors and National Committee showing 52 favoring, 26 opposed, 8 undecided and 9 not voting (total of 95).

The government in our judgment has the constitutional right in the present war to establish military zones and to remove persons, either citizens or aliens, from such zones when their presence may endanger national security, even in the absence of a declaration of martial law. Such removals, however, are justified only if directly necessary to the prosecution of the war or the defense of national security.

Except in cases of immediate emergency, the necessity for such removals should be determined by civilian authorities and such removals should be carried out by civilian authorities. Such removals should be carried out in a manner, and based upon a classification, having a reasonable relationship to the danger intended to be met.

Each person affected should have an opportunity of showing that he does not come within the necessities of the situation; and hearing boards should be established to pass upon all such claims.

Persons so removed, unless held for other reasons, should be allowed full liberty in the United States outside of such military zones. Their property rights should be fully protected and reasonable arrangements should be made for their resettlement in places of their own choosing outside of such zones.

A contrary resolution voted down in the referendum provided that "any order investing civil or military authorities with power to remove citizens from any zone constitutes a violation of civil liberties."

The effect of the declaration of policy adopted by the Union is to remove from the test cases in the federal courts the Union's

support of a challenge to the Presidential order of February 19. It leaves the Union free to raise all the constitutional issues involved in the military orders issued under it. The Union is engaged in a half dozen cases in the federal courts on the Pacific Coast challenging discrimination against citizens of Japanese descent; contesting the power to detain them; contesting evacuation without individual examinations of loyalty; and challenging military necessity in removing them from such vast military zones. In some of the cases the constitutional power of the President to issue the decree of February 19 is challenged, but it has been raised under auspices independent of the Union.

The resolution also commits the Union in principle to aiding in contesting removal of individual citizens, other than the Japanese, from military zones, since the power is not exercised by civilian authorities.

2. Compulsory Civilian War Service

Adopted June 22, 1942, following a referendum vote of the Board of Directors and National Committee, showing 51 favoring (2 with qualifications), 23 opposed, 2 undecided and 19 not voting. (total of 95)

The government, in our judgment, has the constitutional right to mobilize all persons subject to its jurisdiction for the purpose of the prosecution of a war, whether for combatant or civilian service.

Such mobilization, however, is justified only if directly necessary to the prosecution of a war and

Such mobilization should be carried out on a fully democratic selective service basis similar to our present draft laws and

Provision should be made for the complete exemption of those found to be conscientiously opposed to participation in war service.

The Union has opposed the several bills introduced in Congress for compulsory civilian service on the ground that they do not conform to this declaration of policy.

ON THE lesser issues of military powers cited on page 1:

(1) The Union is contesting the suspension of the privilege of the writ of habeas corpus in Hawaii in a court case now on appeal;

(2) It has urged the military authorities to recognize the jurisdiction of civil courts in civil matters affecting members of the armed forces;

(3) It has supported the right of men in the armed forces to express their views on public issues in private communications to the President and to members of Congress, and to appear, like officers, before Congressional Committees on request,—rights now prohibited by military rules.

IN ORDER to indicate the conflicting view-points involved in the debate on the two major issues, two representative statements of the contrary positions are given. They will make clearer to members and friends the underlying considerations.

The position taken by the majority is supported by the following statement prepared by a member of the Board who does not necessarily reflect the views of all those who voted for the two declarations of policy.

When the very existence of a relatively free social order is threatened from without, by forces that seek to destroy its libertarian institutions and to rob those who live within its framework of those conditions of life and of conduct which they regard as their precious heritage and inalienable right, the first business of the individual becomes the preservation of the democratic society itself,—even though, in the process, he may be required to surrender momentarily certain inherent rights or established privileges.

A rational man whose body is attacked by a disease that may prove fatal, willingly foregoes the satisfactions and the freedom of movement that characterize his normal healthy state; he submits to bitter dosages or the surgeon's knife in order that the danger that threatens him may be averted and that he may be restored to vigorous soundness. A similar rule of common sense should be applied to grave disorders of the body politic.

The United States is at war. It is fighting for the continuance of its existence as a society which by comparative standards is democratic and free. To hold this view is neither to deny nor to blink at the manifold injustices and inequalities that mar the American political and economic structure. It is merely to recognize the fact that in a grossly imperfect world the American way of life is, to say the least, as good as anything that modern society has yet evolved; and that we Americans stand a better chance of correcting our own abuses and putting our own house in order by defending our existing social institutions than by allowing them to come under the domination of the Axis powers, or acquiescing in the establishment of a world in which the destructive and inhuman philosophy of those powers prevails.

It is also indubitable (deplorable though it may be) that at this moment in history the preservation of our society can be assured only by military victory. To achieve that victory, an energetic prosecution of the war by the armed forces is not enough. What is required is the mobilization of every social and economic agency for the national defense; for it is a commonplace that the outcome of modern wars depends not merely upon the military prowess of soldiers in uniform, but upon the efficient functioning of industry, agriculture and transportation; upon the production and conservation of raw materials; and, perhaps most of all, upon the effective cooperation of the civilian population in the achievement of these ends.

Obviously these stern requirements cannot be met without drastic and far-reaching dislocations of the normal mode of life, nor without a surrender of many of the privileges and immunities which the citizen rightly demands and enjoys in times of peace and security. Ever-mounting taxes; rationing of the necessities of life; regulation of travel and illumination; price-fixing and preferential allocation of goods and raw materials—all these are undoubtedly restrictions upon the liberty of the individual; but all these are generally recognized and accepted as the inevitable inconveniences and penalties attendant upon a unified national effort to defeat the common enemy as speedily and as expeditiously as possible.

By far the greatest of all encroachments upon personal liberty is universal military conscription, for this entails not only the removal of the individual from his home and normal occupation,

but demands his submission to rigorous military discipline and even his enforced exposure to mutilation and death. Beyond this the control of society over the individual can hardly go. Yet the legality and propriety of military conscription has been accepted by the most ardent advocates of civil liberty, for it is generally conceded that—making due allowance for the conscientious scruples of exceptional individuals—a society has the immemorial right to demand that those who are best qualified shall be summoned to defend the commonwealth against aggression, even at the cost of their lives.

If this most rigorous of all demands is admissible, it can hardly be said that the imposition of lesser dislocations and sacrifices is improper. In the prosecution of a war that spreads over vast areas and entails a multiplicity of activities, a shipyard mechanic, a wheat farmer, an airplane spotter, a first-aid instructor may be as important as a soldier in uniform; and military strategy may necessitate the isolation of large regions or the removal therefrom of persons known to be, or suspect of being, in collusion with the enemy.

It follows therefore that governmental action in assigning civilians to specified tasks or removing them from designated military zones differs from their induction into the armed forces and their transportation overseas only in the respect that it involves far less hardship and danger. And since the individual citizen is hardly capable of making a correct estimate of military necessity or of determining what expedients are required to meet it, it becomes clear that the promulgation and execution of such measures must be entrusted to the properly-constituted civil and military authorities,—subject to reasonable safeguards against the abuse of power.

It is absurd to say that this realistic recognition of the need for effective social control in a time of crisis and peril implies an acceptance of the totalitarian philosophy, a surrender to Fascism or even a denial of the principle of civil liberty.

To take this view is to put an unwarranted emphasis upon superficial forms and to ignore the important underlying intent. America with all its faults stands for something in a troubled and darkened world,—something worth defending, worth fighting for, worth dying for. Civil liberty is only one of the great

facets of that larger human liberty which has always been the American ideal. If that larger liberty is snuffed out by the ruthless enemies of all freedom, civil liberty goes with it—and so does everything else that for most of us makes life worth living.

The dissenting view is supported by the following statement prepared by a member of the Board who does not necessarily reflect the views of all those who voted against the policies adopted.

The argument that if the United States loses the war there would be no civil liberties left for anybody is used as the justification to curtail civil liberties now. Such an argument pushed to its logical conclusion would justify even the adoption of Fascism in the United States to beat the Fascism of our enemies.

The logic of such a position in a war waged by democracies for democratic ends is absurd. We should accept as basic the assumption that while the perpetuation of the war system will probably be fatal to democracy, our democracy can fight this war and keep the essence of democratic liberty. We acknowledge that some liberties must be restrained or curtailed in the interest of fighting the war, but restraints should be limited to measures clearly related to military necessity. Every defender of civil liberties accepts censorship of communications abroad, the internment of dangerous enemy aliens, and the discretionary withholding of military information.

But these controls do not carry with them a justification for curtailing critical dissent from war policies, nor abridgment of freedom of speech and press of minorities, nor for compulsory labor service, nor suspension of established constitutional processes. If we thus under the specious plea of wartime necessity surrender essential democratic processes we would lose the democracy we profess to be defending.

As our experience in other wars has demonstrated, and as the experience of England and the British Commonwealth testifies, a democracy can maintain its essential liberties and procedures in wartime; but only by the utmost vigilance on the part of patriotic citizens devoted to democratic rights. Such efforts are to be construed not as obstruction of the war but as contributions to its democratic aims. It is this high public service which

the A.C.L.U. is under obligation to render without compromise or caution. If we cannot render this service we should renounce our pretensions as a Civil Liberties Union.

Concerning the specific issue of compulsory civilian service, it would appear that everything necessary to enlist the civilian population can be accomplished by a general registration for voluntary service in accordance with each individual's abilities and preferences. The patriotism of the American people would insure their not refusing to perform any requested services without the stigma of compulsion. No issue of civil liberties would be raised by compulsory registration and voluntary service.

Total mobilization of all men and women for war service is a step on the road to totalitarianism. No exemptions on grounds of conscience can overcome the evil of regimenting the entire population. It is a form of forced labor which would fix work and wages, hold workers to specific jobs, and destroy the right to strike. No peril which faces the United States which might be met by total mobilization is comparable to the internal danger of turning over such vast power to the government, particularly if it were entrusted to the military. Military control over civilian life leads eventually to Fascism. Conscription of civilians is to be distinguished from military conscription, which—whatever the theoretical case against it—is a practical necessity in time of war and rests on established precedent, unlike this proposal.

As to the power of the military to remove citizens from prescribed military areas, while any reasonable person would concede the right to clear all citizens from zones of military operations or those threatened with invasion, this is an entirely different proposition. Giving the military the power to select those whose presence is in their judgment undesirable means the surrender of constitutional guarantees.

American citizens should not be deprived of their liberty to work and live where they will without being tried for some offense in a court of law. To give the military authorities the arbitrary power of exile from large zones is virtually to abandon

the Bill of Rights. Nor should such power be entrusted to the civil authorities, for a system of virtual exile from large areas of persons against whom no charges can be brought in court is repugnant to all concepts of civil liberties and contrary to constitutional guarantees.

Nor is such a sweeping grant of power needed as a practical matter. It has never before been exercised in time of war in the United States and was invoked in this war solely because of the difficult problem of the Japanese population on the Pacific Coast. But that problem could have been solved by civil procedures without a general and vast grant of unreviewed power to the military. The Civil Liberties Union is contesting every application of that power: it should contest the power itself. It is logically absurd to support the constitutionality of the Presidential order of February 19 and then to contest every application of it.

The absurdity is further emphasized by the fact that in every case contesting the application of the power counsel for the person affected has challenged the power itself independently of the Union. And to extend the power under which the Japanese were evacuated threatens a state of quasi-military law over vast areas and possibly throughout the country.

Since military rule and the process of reasoning which justifies it are entirely in accord with the totalitarian standards of government, no possible interest in preventing sabotage or insuring "internal security" can be as great as the sure danger to every principle of justice in a free country.

It is the peculiar obligation of the Civil Liberties Union in wartime to resist encroachments upon the fundamental principles of the Bill of Rights in order that precedents may not now be established which threaten to continue in time of peace. It is neither doctrinaire nor obstructionist, but a high patriotic duty to stand resolutely for those principles and practices on which democratic institutions rest and without which the hope of a victory for democracy is meaningless. We cannot win a war for democracy by sacrificing the liberties we profess to defend.

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Our Japanese Refugees

By GALEN M. FISHER

The uprooting of 60,000 Americans of Japanese parentage from our western seaboard is for them an ordeal of personal suffering. It is also a test of their ability to rise above resentment and to maintain faith in their America and ours. For white Americans, it is a testing by fire of devotion to the letter and spirit of the above antipathy toward persons of Japanese race. For white Christians, it is a challenge to demonstrate that Christian brotherhood transcends blood and skin color.

The presidential proclamation of February 20, 1942, authorized the secretary of war and the military commanders designated by him to "prescribe military areas . . . . from which any or all persons may be excluded." Martial Law was not invoked, but presumably the Supreme Court would validate the proclamation on the ground that it was within the powers of the president as commander-in-chief of the armed forces in time of war and national emergency. However, the fifth and fourteenth amendments to the Constitution specifically provide that neither the nation nor the states shall "deprive any person of life, liberty or property without due process of law." The presidential proclamation could have been executed without violating this provision. There have been no hearings nor other "due process of law" for the Japanese evacuees.

One must sympathize with the army, especially after the grievous losses at Pearl Harbor. Their task of the defense of the Pacific coast is huge and difficult. But the army had no right in law to order the compulsory evacuation of 60,000 American citizens, on the basis of their racial character, without any pretense of judicial hearings. Its action smacks of branding a racial group as "second-class citizens" and sets a dangerous precedent. Someone will at once ask: "Did not the proof of fifth column activity by Japanese-American citizens in Hawaii on December 7 give the army ample warrant for taking drastic steps? Must it not protect the country against a possible body-blow even at the cost of suspending normal constitutional rights?"

No Sabotage in Honolulu

The irony of this argument was thrown into glaring relief on March 20, when the mainland press carried this startling cablegram, sent on March 14 by Honolulu Chief of Police Gabrielson to the Tolan Congressional Defense Migration Committee: "Pursuant request Delegate King, advise you there were no acts of sabotage in city and county of Honolulu December 7, nor have there been any reported to police department since that date. Police department had charge of traffic on Pearl Harbor road from Pearl Harbor to Honolulu shortly after bombing started with several officers on duty there There was no deliberate blocking of traffic during December 7 or following that date by unauthorized persons."

The president of the Honolulu chamber of commerce and the chairman of the Honolulu Citizens Council wired jointly to delegate King this additional information, in refutation of an equally false rumor: "Upon consultation with chief of police and heads of army and navy informed that to date there has been no single instance of Japanese truckdrivers or other truckdrivers running machines into U. S. planes on the ground, of Japanese or others disabling automobiles of army and navy officers, or of Japanese or others throwing furniture into the streets to blockade army and navy officers."

Uncomfortable Questions

These telegrams raise uncomfortable questions: Why did not the Roberts report include such a declaration? Why did the secretary of war and the commander of the Fourth Army, who ordered the evacuation, allow the universally accepted rumors of Japanese fifth column activity at Pearl Harbor to go without denial, unless they likewise were in the dark, which seems incredible? Did the censorship at Honolulu prevent the truth refuting this damaging charge from getting to the mainland public by either wire or post? And finally, why did not more of us supposedly propaganda-proof citizens take the rumors with many grains of salt and insist on impartial proof?

If the Truth Had Been Known

The pity of it all is that the whole situation as to evacuation might have been radically changed if the truth had been generally known. One of the main arguments given by the army for removing all persons of Japanese

race from the coast was to protect them from the grave danger of mob violence. That danger was real. It arose in part from well-founded reports that Japanese official espionage had been going on in both Hawaii and the mainland. But it arose even more from popular swallowing of the now discredited rumors of sabotage by civilian Japanese at Honolulu and Pearl Harbor. In defense of the army, it may properly be said that it is not their business to deny false rumors or to guide public opinion. But if the army is thus absolved from blame, then all the greater blame attaches to those federal civilian authorities who, if they knew the truth about the alleged sabotage, did not promptly make it known and thus allay the anti-Japanese hysteria which swept over the Pacific coast and went far to give the army a plausible justifiction for indiscriminate evacuation.

But the chain of evil causation goes much farther back. It includes the long record of anti-Oriental discrimination, especially in California. We and our fathers have sown dragon's teeth for sixty years. I am not denying that Chinese and Japanese immigration should have been controlled, but it should have been done equitably, as by the application of the quota to them as to all other peoples. As has been said in the New Republic: "After the passage of the immigration act of 1924 a statesmanlike policy would have made it possible for all resident Japanese to become citizens (and the same observation also applies to the Chinese and Filipinos). Having permitted those people to enter the country, we should have made the best of the situation by making it possible for those who were then residing here to become American citizens if they so desired."

As in a Greek tragedy, the sad denoument which has now come upon us is the nemesis of a chain of evil deeds.

High officials in Washington have recently complained that the limited number of protests against indiscriminate evacuation that had reached them from California had been drowned out by the raucous chorus in favor of it. Consequently they say they were forced to yield against their own better judgment. Unfortunately, there is truth in this complaint. To be sure, vigorous apeals for "selective evacuation," at least for citizen Japanese, were made by groups of eminent white citizens, notably by the Committee on National Security and Fair Play, headed by former Assistant Secretary of State Henry F. Grady, General David P. Barrows and prominent representatives of education, labor, religion, industry, and law. Chester Rowell, California's most noted columnist, repeatedly argued for selective evacuation of both aliens and citizen Japanese.

Why Protests Were No Louder

But it is also true that the mass of intelligent people in the churches and outside kept still, not because they favored indiscriminate evacuation, but apparently because they could hardly conceive that the authorities would adopt it. In support of their confidence in a temperate policy they had the precedent of Hawaii where, despite all the then accepted rumors of fifth columnsts and the preponderance of the Japanese population, neither the army nor white civilians had made any move toward placing all Japanese in concentration camps, and only a fraction of one per cent had been interned. Furthermore, pronouncements appealing for fair play and democratic treatment of all Japanese residents had been made by the President, Attorney General Biddle, Governor Olsen and other high officials. What wonder that hosts of liberty-loving citizens hardly dreamed that the army would actually yield to the clamor of the extremists!

Alas! they guessed wrong. The extremists, led by Japanese-baiters like Hearst, by irresponsible radio commentators and by politicians bent on catering to mass prejudices, were joined by business interests eager to crowd out Japanese rivals, as well as by honest patriots who believed every Japanese was a fifth columnist. The demand for unconditional and immediate evacuation was no doubt congenial to the military mind, which must reduce risks and wants to wash its hands of civilian problems. It is accustomed to handle men as mechanical units, rather than as bundles of democratic self-determination. So on the very day — March 3—that the Committee on National Security and Fair Play issued its release warning that "the indiscriminate removal of citizens of alien parentage might convert predominantly loyal or harmless citizens into desperate fifth columnists," General De Witt issued his "Proclamation No. 1, and the supplementary orders for sweeping evacuation.

The die was cast. Yet even then, influential groups persisted in urging General De Witt to appoint hearing boards as a means of differentiating between loyal and disloyal or suspicious citizen Japanese. They argued that expulsion of any citizen bloc on the basis of racial origin would violate the principles for which America professes to be fighting, would drive loyal American citizens of Japanese descent to desperation and disloyalty and would play into the hands of Japan by giving her authentic support for her claims to be the protector of all colored races against the persecuting and arrogant white nations.

What of the effect of the total evacuation order on the Japanese? The older generation, for the most part, have suffered in stoical silence. Although all of them have lived in America for from twenty to fifty years, and many have longed to become citizens, our naturalization laws have denied them that privilege and mean-minded Americans have strewn their path with thorns. That there were potential fifth columnists among them is hardly open to doubt, as the arrest of over 2,000 by the FBI attests, although no widespread plot has been uncovered. It would not be strange if most of the Japan-born still felt a strong attachment to their fatherland. Yet theirs seems to be a divided loyalty, for thousands have been proud to see their American sons enter our armed forces.

The Nisei, citizen born, have shown diverse reactions. Some have felt humiliated and despondent at having their loyalty impugned. Others have resolved to accept evacuation as their peculiar sacrifice for their country and to emulate the American pioneers who wrested success from adversity.

Atrocities Committed Against Japanese

Since December 7 there have been all too many atrocities committed against innocent Japanese by bullies or misguided psuedo-patriots. The curtains and blinds of Japanese homes are generally drawn. Uncertainty and gloom are the dominant mood. The prospect of evacuation is blighting careers, reducing prosperous families to poverty, forcing abandonment of farms and businesses into which has gone the unstinted toil of decades. For very many of them all this suffering is entirely vicarious, on behalf of a Japan whose policies they condemn. It would be easy to compile a volume of heart-rending sories. It must suffice to tell only one.

Hideo Murata was an alien Japanese who had lived in the town of Pismo Beach, near San Luis Obispo, for twenty years. As a veteran of the A. E. F. in the first World War, he had been given an "Honorary Citizenship Certificate from Monterey County," signed by the county supervsiors. This he kept as his most treasured possession. On the certificate were engraved these words: "Monterey County presents this testimony of heartfelt gratitude . . . . her honor and respect for your loyal and splendid service to the country in the Great World War. Our Flag was assailed and you gallantly took up its defense." When Murata heard reports that he was to be evacuated he was incredulous, so he sought light from his old friend the sheriff. To his dismay, the sheriff said that no exceptions were to be allowed. Murata thereupon went to a local hotel, paid for his room in advance, and next morning was found lying dead in his bed. He had taken strychnine. In his pocket they found the certificate, with its official seal.

Few Foresaw Confusion

The crowd demanded evacuation, and got it, but few people foresaw the confusion that the action would produce and no one did anything about it in advance. I would be the first to pay tribute to the conscientiousness and high-mindedness of all army officers and the federal officials whom I have recently been meeting, but this business of tearing 100,000 people from their homes and resettling them is complex and vast. It is not properly a military problem, but one in social engineering and political dynamics. In fact, military training unfits more than it fits men to solve it. It must therefore be a relief to the army, as it is to the rest of us, that the administration of the moving and resettlement of the evacuees has been given to civilian officials from the social security, agriculture and justice departments.

Looking back over the confusion of the last few weeks, I presume the army would agree with the social engineer that the cart got before the horse. It was a case of leap first and then look. Possibly it was unescapable under war conditions. Certainly it caused grief to the Japanese victims and chagrin to many citizens. Some of the Japanese in panic sold their property to sharks for a song. When the army, with the best of intentions, said that it favored voluntary resettlement, some Japanese rushed eastward only to run afoul of exclusion sentiment and threats of bodily harm. If the proclamation of evacuation could have been deferred until the blueprint of the resettlement program, including the custody of property, had been drawn, it would have prevented endless trouble and hardship. Failure to do this has weakened the

confidence of the Japanese in the justice and efficiency of our government.

Voluntary Efforts Fail

With characteristic self-reliance, the Japanese have eagerly supported all sorts of proposals for resettlement "on their own." Several of the Christians have backed a scheme for establishing a cooperative farm colony which has been zealously promoted by a number of Christian Nisei graduates in agriculture, medicine and economics. But despite all their efforts and the encouragement of federal agricultural officials, they have thus far failed to find any large suitable site. Either water has been lacking or vital military plants were near, or the white inhabitants objected to Japanese settlers. Utah seemed to offer the most eligible sites, but even there protests against a "Japanese invasion" arose.

One of the worst fiascos happened in southern California. The Maryknoll Fathers conceived the excellent idea of compiling an occupational census of adult Japanese to be used as an aid to intelligent resettlement. Some 23,000 persons signed up—practically the entire adult population. I understand that the fathers had given no assurance of immediate placement, but quite naturally many of the signers were ready to grasp at any straw and accepted roseate rumors as solid fact. When the truth became known that the fathers had no definite plans for employment or resettlement, the jolt was severe. Hope turned to cynicism. Another factor that has depressed the spirit of the Japanese in southern California is that they now realize how much of the recent furor for total evacuation was worked up by ambitious politicians, notably by one man who wanted to make the anti-Japanese agitation a stepladder to the governorship.

The experience of the past few weeks with schemes for voluntary resettlement makes it evident that government must solve the problem. It is hoped that the spirit of voluntarism will be given as free a play as possible, and the private agencies such as the American Friends Service Committee will be asked to coperate. But the securing of land and the devising of ways to give useful employment to the hands and heads of so many thousands is something only government can do.

What the Churches Can Do

Far from leaving it all to Uncle Sam, there are two things that the churches in the interior states can do, and they should lose no time in starting. They can find work for a few Japanese Christians in their own communities and they can assure such Japanese as may come to live awhile among them of fair and friendly treatment. There are perhaps 4,000 Japanese Christian families. Even if only a fourth of them were to find work, that would raise the morale of all the others. The procedure is simple.

A central executive committee has been formed at Berkeley by representatives of all the Protestant churches having work among the Japanese. It offers to act as a clearing house between the Christians who want new homes and work, and the national boards and local white churches to the eastward who are to find openings. This committee is the agent of the Commission on Aliens and Prisoners-of-war created by the Federal and Home Mission councils in New York. Local churches who find openings for Japanese should send information as to nature of work, name and address of employer, wages, living arrangements and sponsoring committee in the church to the chairman of the executive committee, Dr. F. Herron Smith, 2816 Hillegass Avenue, Berkeley, California. Branch regional committees are being formed at Los Angeles, Seattle and Portland, Oregon. Churches that are instrumental in placing a few Japanese in their towns need feel no anxiety lest the newcomers become a burden on the community. The Japanese hold an enviable record for absence of dependency and of juvenile delinquency.

It is planned by the federal resettlement authorities to establish eight reception centers for evacuees in places just east of the prohibited areas. The evacuees will be moved community by community, so that the Japanese churches may continue to function as units under their pastors.

This evacuation is unprecedented in American history in the numbers involved and in the fact that the evacuees are all of one race. It is fraught with two-edged difficulty and significance. It may hinder or help national unity during the war. It may aggravate rather than reduce the problems of interracial assimilation after the war. It therefore behooves private citizens no less than public officials to follow every stage of the resettlement process with a cooperative hand but a critical eye. In it all, the churches may find unexpected opportunities for service.

(Reprint from the Christian Century.)

THE IMMEDIATE ISSUES

For action by members and friends of the
AMERICAN CIVIL LIBERTIES UNION

I. The Pacific Coast Evacuation Order

The Union's position on this order is expressed in the following extracts from a letter to the President:

"Under your order the military commander of the Pacific Coast area has set aside a zone running from the Canadian to the Mexican borders covering portions of eight states from which five designated classes of aliens and citizens are to be excluded. The first class to be evacuated is the entire Japanese population, whether aliens or native-born American citizens of Japanese ancestry.

"This unprecedented order, in our judgment, is open to grave question on the constitutional grounds of depriving American citizens of their liberty and use of their property without due process of law. It would appear reasonable to assume that the protection of our country in war-time can be assured without such a wholesale invasion of civil rights and without creating a precedent so opposed to democratic principle.

"But quite aside from the constitutional aspect, your order is obviously open to great abuses in administration, for it clothes the military authorities with unchecked power to remove vast populations from areas which in their uncontrolled judgment are declared to be defense zones.

"This wholesale evacuation of citizens as well as aliens will, in our judgment, adversely affect our democratic practices and aims. This action will add substance to the agitation abroad of Axis propagandists who constantly attack racial prejudice and discrimination here as revealing the insincerity of our democratic professions. It will inevitably tend to undermine the loyalty of American citizens of Japanese ancestry, producing precisely the opposite effects to those intended. It already threatens cruel and unnecessary hardships in removing tens of thousands of peoples from their homes, depriving thou-

sands of American-born students of their educations at schools and colleges, and from a practical standpoint offering no comparable opportunities to make a living or get an education elsewhere. It is likely to create a new set of problems possibly involving mob violence in the regions to which they are removed.

"In the case of German and Italian aliens, the order makes no distinction between those sympathetic with enemy countries and those refugees from their tyrannies who have sought asylum here.

"May we earnestly urge upon you, Mr. President, the following suggestions to minimize injustice:

1. that any American citizens ordered out of the zone, be evacuated only after individual examinations, before or after removal, of their conduct and records so that those whose loyalty and conduct put them above suspicion may be allowed to remain? Considerations both of public policy and of law are persuasive that the rights of citizens of Japanese descent, which are equal with those of other American citizens, should be given every possible protection;

2. that the enemy aliens to be removed—Japanese, German and Italian—be examined, before or after removal, on the basis of their conduct and records in similar fashion to the examinations already provided for those enemy aliens interned by the Department of Justice?

"We are not alone in urging this course. Well-known agencies on the Pacific Coast have already urged modifications in enforcing the order. The recommendations to Congress of the Tolan Committee, which has just completed an exhaustive investigation, urge individual examinations by hearing boards of all Italian and German aliens after their removal with a view to the return of all those found loyal. Such a procedure would appear to us certainly equally desirable for American citizens of Japanese ancestry. Considerations both of public policy and law would appear to bear out the wisdom of making all reasonable distinctions in an effort to reconcile, as far as possible, civil rights with military necessities."

Among the signers were:

EDWARD ALSWORTH ROSS
national chairman

JOHN HAYNES HOLMES
chairman,
Board of Directors

EDWARD L. PARSONS
vice-chairman,
National Committee

ROGER N. BALDWIN
director

EDWIN P. RYLAND
chairman, Southern
California Branch

CLINTON J. TAFT
CAREY MCWILLIAMS
JEROME W. MACNAIR
MRS. JOHN BEARDSLEY
(Los Angeles)

PHILLIP ADAMS
CHARLES R. GARRY
MORRIS M. GRUPP
JOSEPH S. THOMPSON
(San Francisco)

Members and friends are requested

(1) to write to Secretary of War Henry L. Stimson urging the creation of hearing boards before or after removal to permit exemptions from the order, certainly in the cases of those who so request. A few exemptions have already been made.

(2) to send communications to local newspapers in order to arouse a larger public interest in a more reasonable treatment of German and Italian refugees and of American citizens of Japanese ancestry.

On the same issue, the following paragraph from a letter addressed to Lieut. Gen. John DeWitt by representative Californians is of interest. Among the signers of the letter were: Ray Lyman Wilbur, President, Stanford University, Monroe E. Deutsch, Vice-president and Provost, University of California, Alexander Watchman (A.F.L.) and George Wilson (C.I.O.):

> "In view of the report from the Chief of Police of Honolulu, Mr. W. A. Gabrielson, that no acts of sabotage were committed in Honolulu or Pearl Harbor on December 7th, and that none have been committed since that time, the wisdom or necessity of the segregation of *all* Japanese residents of the State may certainly be questioned. Moreover, the doubtful constitutionality of the internment of citizens without due process of law presents a problem in civil liberties which might prove embarrassing."

II. The Sedition Prosecutions

The action of the Department in invoking the Espionage Act of 1917 and the Military Disaffection Act of 1940 has raised the issue of prosecutions for utterances for the first time in the war, and apparently contrary to the Attorney-General's declaration of December 21 that such prosecutions would be brought only in cases of "direct and dangerous interference with the conduct of the war." The following extracts are taken from a letter to the Attorney-General under date of April 4:

> "It would be impossible for defenders of civil liberties not to be disturbed by the action of the Department in bringing the first three prosecutions for opinion since the war began. These prosecutions, on the face of the evidence offered by the Department in its press releases, do not appear to come within the principle which you laid down on December 21 last in which you stated that 'the Department has concluded that free speech as such ought not to be restricted by punishment unless it clearly appears that such speech would cause direct and dangerous interference with the conduct of the war.'
>
> "We are entirely in agreement with that principle, which follows the line laid down by the Supreme Court of the United States in the World War cases, requiring a 'clear and present danger' of substantive evils to justify any prosecution for speech or publication.

> "The prosecutions which the Department of Justice has now instituted are ominous, for they indicate a tendency to repeat the unjustified suppression of opinion in the first World War. Two of them are brought under the same section of the 1940 act which punishes incitement to disaffection in the armed forces; the other under the same section of the Espionage Act of 1917 which was the basis of most of the free speech prosecutions in the first World War.
>
> "We are not so much concerned with the charges in these three cases as we are with the policy they represent, which, if expanded, would inevitably have widespread effects on public discussion and debate. For there will be thousands who will read into such prosecutions a warning against expressing views

which may be construed as interference with the conduct of the war. As in the case of the first World War, it was not the few thousands who were imprisoned but the tens of thousands who were silenced by fear who weakened the democratic process of debate and dissent. You have yourself said that 'if we care about democracy we must care about it as a reality for others as well as ourselves . . . ; for those who are against us as well as those who are with us.'

"We submit that in order to maintain that principle, the government should not resort to prosecutions for opinions alone, save when the utterances are clearly within the definition you yourself laid down on December 21. It seems to us inconceivable that these cases go over the line into territory where the government may properly act. Since you have cited with commendation the record in Great Britain in war-time, may we point out that not one single case of this character has been brought in Great Britain in two and a half years of war?

"May we express the hope that the Department will scrupulously examine any further complaints based upon opinion alone, with a view to adhering to the principle already enunciated, based as it is upon the line drawn by the Supreme Court; and that no influence will be permitted to deflect the Department of Justice from maintaining that policy?"

Members and friends are urged

(1) to write to Attorney-General Francis Biddle urging adherence to his declared policy of bringing prosecutions only in cases of direct and dangerous interference with the conduct of the war, and

(2) to address letters to editors of local papers in order to arouse public support of that position, particularly when papers appear to sanction some other test.

III. "Social Justice"

The action of the Post Office Department, at the instance of Attorney-General Biddle, in bringing proceedings against "Social Justice," allegedly Father Coughlin's paper, for revocation of second-class mailing privileges under the authority of the 1917 Espionage

Act, brought from the Union the following telegram to the Postmaster General under date of April 15:

"While we hold no brief for the editorial policy of Social Justice and detest its intolerance, we deplore summary action under the Espionage Act. If the precedent thus established is extended, no periodical enjoying second-class privileges is safe from the threat of an arbitrary censorship not subject to court review on the facts, and when desired, by the judgment of a jury.

"We have long urged for the post office the system which has operated so fairly and successfully for ten years in the customs service where ultimate decisions of this grave character are left to courts and juries. Distribution is prevented by the right to seize and hold questionable matter until decisions are reached.

"We are far more concerned with the general system than with the merits of this particular case. In time of war particularly great care is obviously needed to prevent prejudiced and arbitrary judgments. While legislation is necessary to provide for court review, may we urge your consideration of creating by executive order at least a review board to pass on all exclusions from the mails? May we further urge as a general policy adherence to the test laid down by the Supreme Court in World War cases of a 'clear and present danger' of direct interference with the war. The discredited record of post office censorship in the World War should be sufficient incentive to correct the procedure now, before similar unfortunate precedents are again established.

ARTHUR GARFIELD HAYS, *General Counsel*
ROGER N. BALDWIN, *Director.*"

Members and friends can aid by writing Postmaster General Frank C. Walker, Washington, D.C., urging a system of control of matter to be excluded from the mails which will substitute the collective judgment of a board of review for the present Post Office censorship; and ultimately with resort to the courts, as in the Customs Service. Letters to local papers commenting on the issue and calling attention to this view would be helpful.

IV. Revocation of Citizenship of Naturalized Americans

Attorney-General Francis Biddle announced on March 26 that the Department of Justice was proceeding in some hundreds of cases to institute proceedings in the courts to revoke the citizenship of naturalized American citizens "whose course of conduct, activities and statements show their true allegiance and fidelity to be to a foreign country rather than to the United States."

The following quotations from the Union's letter to the Attorney-General under date of April 2 state our position:

> "We note with profound misgivings your announcement under date of March 26 that you are authorizing proceedings to cancel the naturalization of several hundred American citizens. . . . Your statement further makes clear that the Department intends to proceed on the basis of evidence subsequent to naturalization, although under the law the only ground on which you can proceed is fraud at the time of naturalization.
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> ---
>
> "If in any case it can be shown that such fraud was committed and that the state of mind of an alien at the time was such that he could not in good conscience take the oath of allegiance to the United States, it would rest on sound ground. But you are proposing to go much further by showing the subsequent acts and state of mind of a naturalized citizen in relation to his right to retain his citizenship. Obviously the further evidence gets from the time of naturalization the less reliable it is as an indication of a state of mind at that time, and the greater the departure from established law.
>
> "Since all naturalized citizens enjoy exactly the same rights as native-born citizens, their citizenship has never been revoked for conduct subsequent to naturalization, except under a special statute relating to protracted residence in their countries of origin. To do so under the pressure of war-time conditions would establish a precedent under which no naturalized citizen would feel secure in his citizenship. Since the evidence to be used deals with opinions as well as conduct, these proceedings would

inevitably create fear on the part of all naturalized citizens to express themselves on public issues."

Members and friends of the Union can assist by addressing Attorney-General Francis Biddle urging that the government adhere to the established principle of law that citizenship may be revoked only for fraud at the time of naturalization, and that any subsequent evidence must relate to the fraud. The same point should be made to newspapers commenting on the issue, particularly if any such case arises in your locality.

The co-operation of all members and friends is urged in order to help offset the pressures on the Administration to go beyond what we regard as reasonable measures of protecting the country's interests.

Keep this leaflet for future reference whenever any of these issues arises locally which present an occasion for comment.

Any members or friends of the Union in disagreement with the positions taken in these communications are invited to express their dissent. The Union's officers and Board believe that they faithfully reflect not only the Union's established policies in taking these positions, but the views of most of our members on the means for maintaining democratic rights in war-time.

AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue
New York City
April, 1942
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add 193

SENATE BILL No. 877

CHAPTER 623

An act to add Chapter 8, comprising Sections 1131, 1132, 1133, 1134, 1135 and 1136 to Part 3, Division 2 of the Labor Code, relating to hot cargo and secondary boycotts.

[Passed over Governor's veto, June 5, 1941. Filed with Secretary of State, June 7, 1941.]

The people of the State of California do enact as follows:

Section 1. Chapter 8 is hereby added to Part 3, Division 2 of the Labor Code to read as follows:

CHAPTER 8
HOT CARGO AND SECONDARY BOYCOTTS

1131. The "hot cargo" and "secondary boycott" are hereby declared to be unlawful.

1132. Any act, combination or agreement which directly or indirectly causes, induces or compels a violation of any of the provisions of this chapter, or inflicts any loss, injury or damage on anyone because of his refusal to violate any of the provisions of this chapter shall be unlawful.

1133. Any person injured or threatened with injury by any violation of any of the provisions of this chapter shall be entitled to injunctive relief therefrom in a proper case, and to recover any damages resulting therefrom in any court having jurisdiction in the State of California.

1134. Definitions:

(a) As used in this chapter, "hot cargo" means any combination or agreement resulting in a refusal by employees to handle goods or to perform any services for their employer because of a dispute between some other employer and his employees or a labor organization or any combination or agreement resulting in a refusal by employers to handle goods or perform any services for another employer because of an agreement between such other employer and his employees or a labor organization.

(b) As used in this chapter, "secondary boycott" means any combination or agreement to cease performing, or to cause any employee to cease performing any services for any employer, or to cause any loss or injury to such employer, or to his employees, for the purpose of inducing or compelling such employer to refrain from doing business with, or handling the products of any other employer because of a dispute between the latter and his employees or

(OVER)

a labor organization or any combination or agreement to cease performing, or to cause any employer to cease performing any services for another employer, or to cause any loss or injury to such other employer, or to his employees, for the purpose of inducing or compelling such other employer to refrain from doing business with, or handling the products of any other employer, because of an agreement between the latter and his employees or a labor organization.

(c) As used in this chapter, "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(d) As used in this chapter, the term "employer" includes any person acting in the interest of an employer, directly or indirectly and any association of employers, including growers and other hirers of labor.

(e) As used in this chapter, the term "employee" includes any natural person who works for any person for compensation.

1135. This chapter shall be in effect until May 1, 1943, and thereafter:

(a) During the continuance of the existence of the National emergency declared by the President of the United States to exist, by his proclamation issued under date of September 8, 1939.

(b) During any period of war between the United States of America and any foreign power, legally declared to exist.

1136. If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this chapter, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Sec. 2. This act is enacted for the purpose of preserving tranquility among the citizens of this commonwealth and to insure during this present critical period of National emergency and intensive armament the unobstructed production and distribution of the products of our factories and fields, for the continued protection and preservation of our democratic way of life and for the general welfare of the people of this State.

Americans of Foreign Birth Mobilize for *Victory!*

A Declaration of Principles adopted by the National Board of Directors of the American Committee for Protection of Foreign Born setting forth the role, contributions, and responsibilities of Americans of foreign birth in our war program for victory.

Mobilize for Victory!

All loyal Americans of native and foreign birth are united in the defense of our existence as a nation, our liberties as a people, our very lives. The brute forces of world fascism, under the leadership of Hitlerism, would destroy everything human and decent in America — the haven of opportunity and equality for the liberty-seeking peoples of all countries, all races, all creeds. Only total victory for our country and our allies will preserve for all Americans the democratic rights guaranteed by the Constitution and the Bill of Rights.

UNITY

Because of the grave dangers threatening us, everything must be subordinated to the task of cementing unity for the war effort. Our allegiance to America will be judged by our actions, and the measure of our contributions, during this critical period.

The American Committee for Protection of Foreign Born pledges to the President of the United States the full limit of our efforts and resources for the protection of our country. We pledge to do our utmost for the speedy mobilization of the foreign born for the defeat of the Nazi-Fascist-Japanese aggressors.

14,000,000 AMERICANS

Naturalized citizens and future citizens know that their right to live as free men in a free country depends upon our winning the war. They and their sons are serving in the armed forces; their wives and children are engaging in different phases of civilian defense. **They are responding as loyal Americans, just as the Lafayettes, von Steubens, Pulaskis and Mazzeis have responded in every critical period since the founding of our country.**

A Declaration of Principles adopted by the National Board of Directors of the American Committee for Protection of Foreign Born at an emergency meeting in New York City on December 12, 1941, during the week Germany. Italy and Japan declared war against the United States.

LOYAL AND DEVOTED

The 14,000,000 Americans of foreign birth are an integral part of the army producing the sinews of war in the steel mills, the coal mines, the rubber, auto and aircraft factories. Every battleship, every gun, every tank — somewhere along the line — has been advanced toward the battlefront by the labor of a foreign-born American.

EXPOSE AXIS AGENTS

Enemies of America will find the foreign born loyal and devoted to their adopted land. Not only are the foreign born counteracting and exposing the propaganda of anti-American elements in their own ranks, but they are also reporting Axis agents — whether these be native-born citizens, naturalized citizens, or non-citizens — to the proper Federal authorities for the nation's protection.

Unity of all Americans is essential to victory and should not be weakened by artificial barriers of birth or citizenship. Agents of Hitlerism, seeking our defeat and destruction, are attempting to create disunity by dividing the American people into native born and foreign born in order to disrupt our war efforts and undermine national morale.

NO PERSECUTION

We commend Attorney General Francis Biddle for the understanding and foresight displayed in his public statement of December 10th, when he said, in part:

> "The great majority of our alien population will continue to be loyal to our democratic principles if we, the citizens of the United States, permit them to be. We must remember, especially, that most of those who came here from other lands did so because they revere and respect the freedom which America is able to offer them.
>
> "The defense of our country will be hurt, not helped, by any persecutions of our non-citizens. If we create the feeling among aliens and other foreign-born that they are not wanted here, we shall endanger our national unity. Such an impression would only give aid and comfort to those enemies whose aim it is to infect us with distrust of each other and turn aliens in America against America. To do this would be to defeat what we ourselves are defending."

WE PLEDGE . . .

We pledge our efforts to insure that, by fair employment practices, naturalized citizens and future citizens are enabled to contribute to the full measure of their skill and labor to our war production program, and to eliminate discrimination against loyal Americans of foreign birth.

We pledge our help to encourage loyal non-citizens to become naturalized so that they can assume greater responsibilities as citizens and increase their contributions to the defense of their adopted land.

As Americans, we pledge ourselves to the defense of our country and to victory in our war against Hitlerism.

★ ★ YOU CAN HELP ★ ★

MOBILIZE FOR VICTORY

1. Volunteer your services for civilian defense. Report to your local Office of Civilian Defense. Your life and the lives of your family and friends are at stake. Volunteer today.

2. Buy Defense Bonds or Stamps on sale at all banks and post-offices. Bonds cost $18.75. Stamps come as low as 10c. It will cost money to defeat the Axis. Your Government calls on you to help now.

3. Have your organization hold a special meeting to discuss in what manner it can best contribute to America's war effort. Notify officials and the press of your decisions.

4. For America's protection, report Axis agents and those who attempt to undermine our war program to the Department of Justice, Washington, D. C., or to your local police department or F. B. I. office.

5. Report all instances of unfair employment practices against Americans of foreign birth, which interfere with our war production program, to the Committee on Fair Employment Practices, Washington, D. C., or to the American Committee for Protection of Foreign Born, 79 Fifth Avenue, New York City.

6. Order a quantity of these folders for distribution among your friends and members of your organization. (100 for $1.50; 200 for $2.50; 500 for $6.00; 1,000 for $11.50)

7. Funds are urgently needed to enable us to carry on our work for mobilizing the foreign born for victory. Get your organization and your friends to contribute. Send your contribution today. These efforts are made possible solely by public voluntary contributions.

American Committee for Protection of Foreign Born
79 Fifth Avenue, New York, N. Y.

I enclose $.....for the purposes indicated below:

- ☐ My contribution to the work of the American Committee for mobilizing the foreign born for victory.
- ☐ My annual contribution to the American Committee. (Annual contributors receive published material regularly. Supporting: $1; Press: $3; Contributing: $5; Sustaining: $10; Honorary: $25 or more)
- ☐ For your special folders, "Americans of Foreign Birth Mobilize for Victory!"

Name .....

Address .....

City .....

AMERICAN COMMITTEE FOR PROTECTION OF FOREIGN BORN

79 Fifth Avenue
New York, N. Y.

HUGH DeLACY
Chairman

Vice-Chairmen: PEARL M. HART, Chicago; EDWARD LAMB, Ohio; REV. EDGAR A. LOWTHER, California; HON. STANLEY NOWAK, Michigan; DR. MAX YERGAN, New York.

CURT SWINBURNE
Secretary

ALDEN WHITMAN
Assistant Secretary

IRVING NOVICK
Naturalization Aid Director

ABNER GREEN
Educational Director

The American Committee for Protection of Foreign Born is an independent non-partisan organization. The American Committee was organized in 1933 and cooperates with all existing organizations interested in the welfare of the foreign born. **The work of the American Committee is made possible solely by public voluntary contributions from individuals and organizations.**

PRESENT AIMS

1. To mobilize Americans of foreign birth for victory.

2. To promote better relations and unity between native born and foreign born.

3. To encourage fair employment practices in order to enable Americans of foreign birth to contribute to the full measure of their skill and labor to our war production program.

4. To encourage and to help non-citizens become naturalized in order to enable them to assume greater responsibilies as citizens and to increase their contributions to the defense of their adopted land.

The American Committee maintains a Naturalization Aid Service to assist non-citizens who wish to become naturalized citizens. Advice and assistance on naturalization and citizenship problems can be obtained free of charge by applying at the Committee's office either in person or by mail.