

MEDICAL SCHOOL
DEPARTMENT OF PSYCHIATRY AND NEUROLOGY
MINNEAPOLIS, MINNESOTA 55455

December 23, 1968

Dear Sylvia,

This is a short note to tell you that I probably won't be able to send the things I promised, with the exception of the enclosed memo, until after I get back to Minnesota, since I have cheap and readily available copying services there, but not here.

Vince tried to call Dave Lifton last night but was unable to reach him at the number he had for him. The number I had for him turned out to be a rooming house of some sort, and no one had heard from him. There is a good chance that either Dave accidentally sent me the wrong one or, more likely, that I copied it incorrectly from one of his letters. He is not listed with information.

By the way, when we were speaking about the idea of a re-opening of the investigation, I forgot to mention that there is a Congressional subcommittee which has allegedly been looking into the assassination for some time. The rumors of this, which I heard some time ago, were publicized in the Washington (D.C.) Examiner of Nov. 21, 1968. According to the article, there are some sympathetic congressmen. I will be seeing Eugene McCarthy sometime next year, and I have already been told by several reliable sources that he is more than sympathetic.

I forgot to mention, in case you hadn't noticed, that the idea expressed by some Parkland doctors and taken up by many critics, that the throat wound was one of entrance and that the bullet hit the spine and split apart, was shown to be more than just possible by the autopsy of Martin Luther King. One dum dum was fired into his throat and never exited out the back. This, would of course, also explain damage both above and below the wound on the inside. One of the most illogical bases for Tink's arguments about this wound was that there was no wound of exit.

Take care and have a happy holiday, short though it may be for someone not in college. I will send you the memos as soon as I can. Hope you get your heat back on.

Warm regards,

Lary

I trust that we can work together in the future, our differences w/ regard to Garrison & Vince notwithstanding. I feel completely at ease corresponding w/ Dave Lifton who shares your views.

Don't send a copy of the enclosed memo to Dave. I will send him several myself.

FEDERAL COURT INJUNCTIONS ON STATE CRIMINAL PROCEEDINGS

Until the last decade courts of equity refused to use the injunction to impede the enforcement of criminal law. Recent developments have undercut the basis for this noninterference due to an increasing concern over the due process to provide relief against official action interfering with the right to own and use property. In 1894 the Supreme Court held that a federal court could enjoin the initiation of criminal proceedings to enforce the invalid rate regulations fixed by a State RR. Commission. (Reagen V. Farmers Loan & Trust Co., 154 U.S. 362--1894) Although many courts failed to allow injunctive relief, a substantial number of comparatively recent American cases had granted injunctions against criminal proceedings. (See "Injunctions Against Criminal Proceedings," 14 Harvard Law Rev. 293--1900)

Although this above injunction procedure centers around statutes of states and the violation of the statute, certain unique cases have occurred which greatly expand the scope of injunctive decree in criminal proceedings.

In United States v. Wood, 295 F 2d772 (5th Cir., 1961), cert. denied, 369 U.S. 850 (1962), a prosecution of a civil rights worker on a breach of the peace charge was enjoined. The Government, not the criminal defendant, was the plaintiff, and the interests protected were those of the Negro voters of the county who, it was feared, would be intimidated by the prosecution regardless of the outcome of the trial. Implicit in this decision was the belief that the arrest and prosecution was discriminatory enforcement of the ordinance, for neither the ordinance's validity nor its applicability was challenged.

In the Wood case, the defendant, a Negro from Tennessee, attempted to aid a negro couple in registering to vote in Mississippi. He was pistol-whipped by the register of Walthall County after his attempt to register the two eligible voters. Shortly after this incident he was arrested for "disturbing the peace and bringing an uprising among the people." The U. S. Court of Appeals granted an injunction on the Mississippi court.

Cooper v. Hutchinson, 184 F2d119 (3rd Cir.--1950), is one of the few cases involving a petition for an injunction running directly against a court. The defendant, a state judge, had refused to allow the plaintiff's out-of-state counsel, who had already prepared and conducted part of the case, to continue to defend the plaintiff against a capital charge because the honorable counsel continued to object to evidence. The court of appeals ordered the district court to retain jurisdiction until the state appellate courts could review the action, holding open the possibility of an injunction of relief where denied by the state courts

Noted: See 78 Harvard Law Review 996. Parts of this paper are directly taken from page 1027 of the Harvard Law Review, v.79.

1. Title II of the Civil Rights Act of 1964 [4255 2000a-2000a-b] constitutes express authorization within the meaning of this section for a federal district court to stay state court prosecutions when the injunctions are otherwise appropriate. See Title 28 United States Code Annotated

S 2283, subsection 1; Dilworth V. Riner,
343 F(2d) 226

2. U.S. courts can act via injunction and Jurisdiction:

1. When authorized by an act of Congress
2. When necessary in aid of its jurisdiction
3. When necessary to protect and effectuate its judgments

3. The Federal injunction on state court proceedings has been used often in recent civil rights cases. See 390 F 2d 56 et. al.

4. For further studies see the following cases:

385 F2d 746	14 LE(2) 27	215 FS 291
390 F2d 56	8 AL(3) 18	227 FS 560
262 FS 877	8 S.SC. 1120	227 FS 582 (j)
262 FS 882 (j)	369 U.S. 850 *	229 FS 447 (d)
266 FS 270	8 LE(2) 9 *	229 FS 936
273 FS 685	82 S.C. 933 *	229 FS 1015
274 FS 553	304 F2d 589	371 F2d 373
278 FS 119	306 F2d 228	372 F2d ### 824
281 FS 581	310 F2d 442	377 F2d 64
281 FS 654	322 F2d 781	385 F2d 740
337 F2d 590	323 F2d 359	266 FS 570
337 F2d 601 (j)	323 F2d 601	273 FS 135
360 F2d 697	331 F2d 835 (j)	19 AL(3) 464
242 FS 527	265 F2d 318	342 F2d 167
242 FS 528	73 AL2 1169 *	
255 FS 81	88 FS 774	
255 FS 414	2NJ 540	
380 US 484	67 A2d 298	
	187 F2d 621	
	203 FS 25	
	210 FS 711	

Key: (j)= dissenting opinion
(d)= distinguished
* = original case

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