E. Schwartz wrote "Conspiracy On Appeal," the 500-page brief challenging the lawfulness of the convictions based on a variety of issues, including the gross inadequacy of the voir dire conducted by Judge Hoffman, the blatantly antagonistic behavior of Hoffman toward the defense, the use of illegal electronic surveillance, and the constitutionality of the anti-riot act itself.

The appeal was argued before the U.S. Court of Appeals for the Seventh Circuit on February 8, 1972 and, in November, 1972, the Court unanimously overturned the convictions (though it upheld the constitutionality of the anti-riot act by a vote of 2-1). After several weeks the Justice Department chose not to pursue the substantive charges any further.

(Arthur Kinoy, Doris Peterson, Helene E. Schwartz, with the help of many other attorneys)

(14) UNITED STATES v. EQBAL AHMAD, et al. This was the so-called Berrigan Conspiracy Case -- a federal indictment in Harrisburg, Pa., of six, then eight anti-war activists on charges of conspiracy to kidnap Henry Kissinger, blow up heating systems in government buildings in Washington, D.C., and break into draft boards. Sending letters, both "threatening" and "contraband" into and out of a federal prison was also charged. There were seven "unindicted co-conspirators," from whose number Father Daniel Berrigan was dropped in the superseding indictment.

On April 5, 1972, the jury in the Federal District Court for the Middle District of Pennsylvania, returned a verdict that they were unable to reach a unanimous decision on counts 1 through 3 -- the kidnapping and conspiracy charges leveled against seven defendants who were then on trial -- nor were they able to arrive at a verdict on counts 2 and 3 which then remained outstanding against Father Philip Berrigan and Sister Elizabeth McAllister for sending communications threatening to kidnap Henry Kissinger through the United States mails. The remaining seven counts, relating to the sending of letters, resulted in a finding of guilty by the jury and so Sister McAllister faced a total miximum punishment of 30 years, and Father Berrigan faced a total miximum confinement of 40 years. The defense made motions following the trial for judgments of acquittal on counts 1 through 10 under Federal Rule of Criminal Procedure 29, and those motions were denied.

The defense also conducted a hearing and appeal on the electronic surveillance the government had admitted. (The judge had ruled that this could take place only after the trial.) At that hearing, an FBI agent testified under oath that they had indeed conducted a tap of the subject (who must remain nameless) from November 24, 1970 to January 6, 1971, six days before the return of the indictment in this case. More amazingly, he said under oath that the purpose of the electronic surveillance was to "investigate this case." By his testimony, therefore, he admitted to the commission of a crime prohibited by 18 U.S.C. §25.

In September, 1972 Philip Berrigan was sentenced to two years on his convictions and Sister Elizabeth McAllister was sentenced to one year, pending the outcome of her appeal. Berrigan was paroled in January, 1973, and on June 27, 1973 the Third Circuit Court of Appeals reversed all of the convictions except one minor one (attempting to send a letter out of jail) against Berrigan. The government declined to appeal this decision to the Supreme Court.

(William C. Cunningham, William Bender, with Ramsey Clark, Paul O'Dwyer, Leonard Boudin, Tom Menaker and others)

(15) UNITED STATES ex rel ROBERT RICE v. LEON J. VINCENT Rice, one of the original Harlem Six, petitioned the U.S. District Court for the Southern District of New York for a writ of habeas corpus because of (1) the recantation by the chief witness against him and (2) the discovery that the fingerprint found at the scene of the crime and attribute

to him had been designated to be of no value for more than a year prior to his first trial. When the application for a writ was granted, the District Attorney of New York County applied for a stay thereof pending an appeal, which stay was granted by the U.S. Court of Appeals for the Second Circuit. The District Judge's order setting bail for Rice in the sum of $10,000 was also stayed by the Court of Appeals. Argument on the appeals from the order granting the writ and setting bail are scheduled to be held on October 19.

(William Kunstler)

(16) STATE v. CRUZ — Pancho Cruz was convicted in December 1971 of possession of firebombs. He was accused by assistant D.A. John Fine (who was also responsible for the persecution of Carlos Feliciano) of being a member of the Puerto Rican revolutionary group, MIRA, although no proof to this effect was introduced at his trial. The D.A. also accused him of participating in the bombings of department stores and theaters in the New York area although no proof of this was introduced at trial. As a result of the prejudicial comments of the D.A., however, Pancho was convicted and sentenced to 7 years confinement. Since his trial, he has become an important figure in the drive for Puerto Rican independence.

The Center is appealing the conviction on many different grounds, including the constitutionality of the statute defining bombs and the statutory presumption that everyone in an automobile is presumed to know all the contents of that auto, even if the person (as was Pancho) was just a passenger. Other grounds include prosecutorial misconduct, illegal search and seizure, illegal wiretap, and violation of Miranda rights (which requires the police to inform an arrested person of his/her legal rights).

A motion for a new trial was denied by the same judge who sentenced Pancho, and the Appellate Division has affirmed the conviction. The case is presently before the New York Court of Appeals and a brief will be filed there in the fall.

(Mark Amsterdam)

(17) UNITED STATES v. TORRES and VEGA — Two Puerto Rican migrant workers who are members of the Puerto Rican Socialist Party were charged in 1970 with possession of molotov cocktails during a riot in the city of Hartford. They were convicted in 1971, but when the community became involved with the case, a local reporter found new evidence showing that the two men were not guilty. On the basis of the new evidence, the Center was successful in obtaining a new trial for the men. In April 1973, the two men were re-tried and found guilty in spite of eye witness testimony to the effect that they did not possess or attempt to throw any molotov cocktails. The all-white jury took only 15 minutes to reach their verdict.

The case is presently being appealed to the Court of Appeals for the Second Circuit on the grounds that the jury composition denied the defendants a fair trial. Other issues relate to the refusal of the trial judge to sustain a challenge for cause against 8 members of the jury panel who admitted belonging to groups which intentionally excluded non-whites, the constitutionality of the Firearms Act, a self-incriminatory as well as extremely vague statute. The two men have also successfully passed lie-detector tests, indicating their innocence, and this information will be presented to the Second Circuit Court of Appeals. The brief is expected to be filed in October.

(Mark Amsterdam)

(18) PEOPLE v. PRESTON LAY, et al. — A petition for a writ of certiorari on behalf of the only two remaining defendants in this case, which was known as the conspiracy to kill-a-cop-a week case, was denied by the Supreme Court and they are presently serving short sentences in state prisons.

(William Kunstler with Larry Rabinowitz)

(19) UNITED STATES v. GLICK

In December 1970, eight young resisters who call themselves "The Flower City Conspiracy," were found guilty by a federal jury in Rochester, New York, of breaking into and taking records from the Rochester offices of the Selective Service System, United States Attorney, and the Federal Bureau of Investigations.

John Theodore Glick was one of these defendants. They were sentenced to terms varying in length from 9 months to 18 months -- Glick receiving 18 months. Their bond was revoked, and they began their sentences immediately. Glick, representing himself, had his appeal dismissed, but later reinstated by the Second Circuit when the Court discovered his trial transcript had not reached him until July, 1971. By that time, Glick had been included as one of the eight defendants in the superseding indictment returned in Harrisburg, Pennsylvania, on April 30, 1971. Notice of appearance was filed for Glick; his release on bond ($10,000) pending appeal in United States v. Glick was obtained on October 1, 1971.

A motion was filed in the Second Circuit asking the Court to order the trial judge in his case to hold a hearing and place on the record whether he communicated with the jury during their deliberations, in the absence of defense counsel and the defendant; and, if so, the nature and extent of those communications. The motion was based on the affidavit of a newspaper reporter who interviewed two of the trial jurors the day after their verdict.

At a hearing ordered by the Second Circuit into this matter Judge Burke, the judge in Glick's case, admitted communicating to the jury during its deliberations but maintained the view that it in no way influenced the jurors. The District Court denied Glick a new trial after the haring and the appeal went back to the Second Circuit.

On June 29, 1972, the Court of Appeals unanimously reversed Glick's conviction. Much of the research for this appeal was borrowed from the Center's Chicago Conspiracy Appeal briefs - and when the Seventh Circuit finally reversed those convictions, one authority it cited in support of its decision was the Second Circuit's opinion in Glick!

(William Cunningham with Paul O'Dwyer)

(20) BILLICK v. DUDLEY

A monumental victory was achieved when the U.S. District Court for the Southern District of New York ordered expunged the records of some 86 young persons who were arrested on alleged drug charges in 1966 only to have the charges against them dismissed for lack of evidence the following day. The District Court's broad order directed, among other things, that the records of the Criminal Court of the City of New York be expunged insofar as reference to these charges was concerned. Prior to the institution of litigation the Police Department had voluntarily agreed to expunge any records in its possession relating to the arrests of the young people. The Corporation Counsel of the City of New York has announced its intention to appeal this decision to the U.S. Court of Appeals for the Second Circuit.

(William Kunstler with Margaret L. Ratner)

(21) NEW JERSEY v. BOBBY LEE WILLIAMS

Defendant was shot by a policeman from the Plainfield Police Department immediately before the policeman died at the hands of an angry crowd that reacted to the wanton shooting of Williams. Williams was subsequently indicted for inciting to riot, assault with intent to kill, and assault on a police officer. The incitement count was nolle prossed after the statute was attacked by motion as unconstitutional.

Williams was acquitted of assault with intent to kill, and the jury hung on the charge of assault with a dangerous weapon (given to the jury as a "lesser included offense" of the charge of assault with intent to kill).

The primary constitutional issue in this case, raised both on appeal in the state court and in the federal courts by way of habeas corpus proceedings, is the legality of the intentional sealing of Williams' indictment for a period of more than eleven months. The issue of the alleged violation of Williams' Sixth Amendment speedy trial rights was pursued in the New Jersey Supreme Court and thereafter in renewed habeas corpus proceedings in the New Jersey District Court, the United States Court of Appeals for the 3rd Circuit and the Supreme Court of the United States. The habeas proceedings were unsuccessful. After serving a short sentence, Bobby Lee Williams was released from incarceration.

(William Bender and William Kunstler)

(22) UNITED STATES ex rel. YANES v. MALCOLM

In another attempt to expand the use of Federal writ of habeas corpus to bring relief to state defendants denied their constitutional rights in the prosecutorial process (see United States ex rel. Goodman v. Kehl), Center attorneys sought to enjoin the ongoing trial of four defendants facing substantial criminal charges growing out of a brief takeover at the Riker Island Juvenile Facility in New York City. Despite repeated assertions that they were trying to retain a private attorney, and despite the fact that at the outset of the trial they had a commitment from William M. Kunstler to represent them after only a brief adjournment, the Court ignored their protest and forced them to go to trial. Being denied the right to counsel of their choice, they refused to permit their assigned attorneys to put in any defense and were summarily convicted. The habeas corpus petition was filed before the verdict and denied without opinion. The denial of the right to counsel is now being challenged on appeal in the state courts.

(William Kunstler, Rhonda Copelon with William Schaap on the habeas corpus petition; Mark Amsterdam on the appeal)

(23) COMMONWEALTH OF PENNSYLVANIA v. THOMAS WANSLEY

Mr. Wansley, who had been serving life imprisonment for rape and related crimes allegedly committed in 1962, was granted a writ of habeas corpus by the United States District Court for the Eastern District of Virginia on the grounds of prejudicial pre-trial publicity and tainted evidence. Mr. Wansley is presently free on $10,000 bail while decision is awaited in an appeal by the Commonwealth to the U.S. Court of Appeals for the Fourth Circuit.

(William Kunstler and Philip J. Hirschkop)

(24) STATE v. KEATON

Three young black men were charged and convicted of murder in Florida and sentenced to death. The Center undertook a substantial part of the appeals work. The convictions were based primarily upon confessions extorted by trickery after several days of intensive questioning. The defendants had been refused counsel and the right to speak to relatives. This, as well as the constitutionality of the death penalty, was a major point of the appeal.

After defendants were convicted, three other persons, unknown to the defendants were charged by the same District Attorney who prosecuted the defendants with the exact same crime! This too became a key appellate point. In the summer

of 1973 the Florida Supreme Court reversed the convictions and dismissed the indictments.

(Jim Reif with Margaret Ratner, Paul Ross and Kent Spriggs)

F I R S T A M E N D M E N T

(25) UNITED STATES SERVICEMEN'S FUND v. INTERNAL REVENUE SERVICE

This suit by the United States Servicemen's Fund alleges that USSF's tax exemption was revoked as a result of pressure from the White House to "get" the political enemies of the Nixon administration. The complaint alleges taht USSF was singled out for revocation because its views on the war and the military were opposed to those of the administration (The IRS revocation letters to USSF show that IRS was concerned with First Amendment activities.). The complaint further alleges that USSF was the subject of illegal wiretapping and burglaries.

The complaint was filed in Federal District Court in the District of Columbia and the government has moved to dismiss the complaint as being barred by an anti-injunction statute. We have replied by showing that in similar cases where the constitutionality of a regulation is in question or the constitutionality of the revocation process itself is under attack, the anti-injunction statute has no effect. A ruling on the government's motion to dismiss is expected sometime in late September.

(Nancy Stearns, Mark Amsterdam, Peter Weiss with Mitch Rogovin)

(26) BERRIGAN v. SIEGLER

This is a civil action challenging the right to withold permission of parolees to travel where it is violative of their First Amendment rights and done for political purposes.

Fathers Dan and Phil Berrigan, while on parole from their prison sentences, sought permission of the U.S. Board of Parole to accept an invitation to travel to Hanoi. Emergency application was made to the U.S. District Court, which denied permission. On the following day, the Circuit Court reversed, but Chief Justice Burger in turn stayed the ruling of the Circuit Court. The case is now proceeding on a non-emergency basis, as the time limit for acceptance of the invitation has passed, and is again pending before the Circuit Court.

(Morton Stavis, Doris Peterson)

(27) DOMESTIC SATELLITE CASES

The Network Project, a research collective working in the area of communications policy, has been challenging the FCC's trend toward deregulation of the airwaves and, in particular the FCC's decision to approve a number of petitions from such corporate giants as Western Union, AT&T, RCA and Hughes Aircraft, for the construction of domestic satellite communications facilities, without any provisions for public access or "public dividends."

The Center, believing that this policy raises important First Amendment problems, among others, has assisted the Network Project in preparing petitions to deny some half dozen domestic satellite licenses. Some of these petitions are still under consideration. Others have been dismissed by the FCC and notices of appeal have been filed with the U.S. Court of Appeals for the District of Columbia

(Peter Weiss in collaboration with Andrew Horowitz and Gregory Knox of the Network Project and attorneys Richard Ottinger and Morton Hamburg)

(28) JEANNETTE RANKIN BRIGADE v. CAPITOL POLICE

This was an action challenging the constitutionality of a federal statute prohibiting demonstrating, walking or standing in groups on Capitol grounds. On appeal of a denial of a three-judge court, the Court of Appeals (Judges Fahy and Burger) held that the case was not moot, that the First Amendment issue was not insubstantial, and that a three-judge court should be convened. Judge Bazelon dissented on the ground that the Court of Appeals should declare the statute unconstitutional on its face, thus making remand unnecessary. See 421 F.2d 1090 (D.C. Cir. 1960). On remand, cross-motions for summary judgment were made and the case was argued in July 1971, before the three-judge court.

This is the same statute used to arrest approximately 990 Mayday supporters assembled on the steps of the Capitol in May 1971, to hear anti-war speeches by United States Congresspeople. Congresswoman Abzug and Congressman Dellums joined as parties plaintiff to complain of these subsequent Mayday arrests. The three judge Federal District Court, in May 1972, declared the statute to be unconstitutional, enjoined its enforcement and refused to accept the government's proposed saving contruction of the statute.

On June 8, 1972, the government filed a notice of appeal signifying its intention to appeal this decision directly to the United States Supreme Court.

A motion to affirm the decision of the three-judge Federal District Court was prepared and filed and the motion resulted in the dismissal of the government's appeal with an affirmance of the judgment below.

(William Bender, Morton Stavis with Lawrence Speiser)

W I R E T A P P I N G

(29) KINOY v. MITCHELL

This is a civil action by Center attorney Arthur Kinoy and his daughter, Joanne Kinoy, for damages and injunctive relief for electronic surveillance conducted in violation of the Fourth Amendment and 18 U.S.C. §2520.

Unlike what occurs in a criminal proceeding, the government did not affirm or deny wiretapping. Rather they moved to dismiss the action, which motion was denied by the District Court in July, 1971. Subsequently, the government, in answering the complaint, denied "illegal and unconstitutional surveillance" of Arthur Kinoy, thus initially refusing under a claim of executive privilege to disclose the existence of surveillance.

Finally, on May 25, 1973, spurred by plaintiffs' discovery efforts, the government, on the basis of a partial search of agencies and indices, repudiated its answer and admitted that Arthur Kinoy had indeed been overheard by electronic means 23 times on alleged national and foreign security surveillances conducted without a court order.

The government is presently filing motions to attempt to avoid liability and production of the Attorney General's authorizations, the logs and other evidence derived from the surveillance. The government will urge, among others, the novel position that United States v. United States District Court (in which the Court agreed in an 8-0 decision with defense counsel Arthur Kinoy that warrantless national security surveillance violates the wiretap statute and the First and Fourth Amendments) should not be applied to invasions before its decision, a position which would sweep the Watergate bugging within its protective "cover."

In addition to defeating the government's unfounded claims of legality and privilege for these executive-ordered surveillances, we are also seeking to uncover the full scope of surveillance of the Kinoys, as the search conducted by the government is admittedly and facially inadequate.

(Rhonda Copelon, Arthur Kinoy and Jim Reif with Jeremiah Gutman and Michael Ratner)

(30) DELLINGER v. MITCHELL — This is a suit under the Fourth Amendment and 18 U.S.C. §2520, for damages and injunctive relief for electronic surveillance of the Chicago Eight, and nine anti-war and black liberation organizations. In connection with the Chicago Conspiracy trial and the trial of Muhammad Ali for refusing to submit to induction, Clay v. United States, 430 F. 2d 376 (5th Cir. 1970, rev'd on other grounds, 403 U.S. 698, 1971), the Justice Department again admitted surveillance without a warrant and made the same national security argument as above. This lawsuit was instituted not only to vindicate Fourth Amendment rights, but as a means of preventing interference with plaintiffs' First Amendment activities. After notices for depositions, interrogatories and requests for admissions were served, the District Court granted defendants' motion to stay all proceedings until final disposition of the Chicago Eight trial and appeal. On appeal, the District of Columbia Court of Appeals unanimously held the stay invalid and remanded to the District Court for further proceedings.

On remand, the government again sought a stay of trial pending the Supreme Court's decision in the "wiretap" case. The plaintiffs opposed the stay. The court ordered that the trial go forward.

The government sought to oppose all of the plaintiffs' discovery by asking the court to decide several important questions ex parte (without the presence of all parties) and in camera (in chambers). These questions include the issue of the retroactivity of the Keith decision, the good faith of the Attorney General, the Director of the F.B.I. in conducting the wiretaps, the question of possible immunity of government officials and the legality of some of the surveillance under the statute and pursuant to a foreign security exception to the Fourth Amendment. The plaintiffs oppose the government on all these issues and the case is now pending argument on all these questions in the District Court.

(William Bender, Arthur Kinoy, William Kunstler)

(31) SINCLAIR v. KLEINDIENST — This is a civil action for damages on behalf of John Sinclair, Lawrence "Pun" Plamondon and John Waterhouse Forrest arising out of the admission of national security surveillance in the criminal case which became United States v. United States District Court. The action has been filed in both the District of Columbia and the Southern District of New York in order to obtain personal jurisdiction over all of the defendants. This suit names Clyde Tolson as a party defendant in his capacity as the executor of the estate of the late J. Edgar Hoover. Plaintiffs' discovery has been filed and we are awaiting the government's answers or motions in opposition to discovery.

(William Bender)

(32) BERRIGAN v. KLEINDIENST — This is a civil action for damages arising out of the admission of unlawful national security electronic surveillance during the Harrisburg trial. The suit has been filed in the Eastern District of Pennsylvania, discovery demands have been served and the discovery issues are presently being litigated.

(William Bender with Jack Levine)

WOMEN'S RIGHTS

(33) A PETITION TO DENY THE LICENSE RENEWAL OF WABC-TV

A petition to deny the license renewal of WABC-TV, brought on behalf of the New York Chapter of the National Organization of Women (NOW), was filed with the Federal Communications Commission on May 1, 1972. Based on extensive monitoring studies conducted by NOW, the petition charges massive violations of FCC regulations in that WABC-TV (a) does not consult with women or women's groups regarding women's programming; (b) presents a distorted and one-sided image of women; and (c) employs a smaller percentage of women than any other local television station.

Following the filing of the petition, a series of negotiations with the station, lasting three months, was entered into. These negotiations failed to produce a satisfactory solution, particularly with respect to balancing the one-sided programmatic presentation of the role of women in society. WABC-TV has filed a Response to the petition, and Center attorneys have filed their Reply, which covers the legal and factual insufficiencies in the station's position. The Reply calls for an FCC hearing to review the policies and practices of WABC-TV regarding the allegations in the petition. We are awaiting a decision by the FCC.

(Rhonda Copelon, Nancy Stearns, Janice Goodman, and Liz Schneider, with Deborah Biel, Judith Hennessee and Joan Nicholson from NOW)

(34) KLEIN v. NASSAU COUNTY MEDICAL CENTER

This is an affirmative civil rights action brought on behalf of several indigent pregnant women who were denied abortions in the spring of 1972 in accordance with a policy to perform no abortions at the facility, which is the only public hospital serving the County.

The pretext for this policy was a regulation issued by the New York State Commissioner of Social Services excluding women who wish the so-called "elective" abortion from reimbursement under Medicaid. In spite of the State's position that the regulation was not restrictive of abortions, a three-judge Federal Court in the Eastern District of New York unanimously enjoined enforcement of the regulation. As this decision pre-dated the U.S. Supreme Court's decision holding abortion to be a constitutional right, the Court based its injunction on the theory that both abortion and childbirth are elective options and that to provide Medicaid reimbursement and hospital services for the latter and not the former is to unconstitutionally coerce the indigent to bear children.

The injunction was appealed to the Supreme Court which has recently remanded the decision to the District Court for reconsideration in light of the Supreme Court decision on abortion. We are now developing the factual record showing the restrictive effect of the Medicaid regulation. The hospital is performing abortions regularly now, although not for non-county residents which is a major legal issue to be decided on the remand.

(Rhonda Copelon, Nancy Stearns, Janice Goodman with Burt Neuborne and Jerome Seidel)

(35) BYRN v. NEW YORK CITY HEALTH AND HOSPITALS CORPORATION

In an attempt to invalidate the New York law permitting abortions, a Fordham University law professor sought and obtained appointment by the Queens County Supreme Court as guardian ad litem for all fetuses about to be aborted in municipal hospitals. Judge Francis Smith entered a preliminary injunction against all municipal hospital abortions pending the outcome of the

litigation, and granted a motion for several pregnant women and the Womens Health and Abortion Project to intervene as defendants in the action.

An appeal was taken to the Appellate Division which ruled that the injunction was improperly granted and dismissed Prof. Byrn's complaint. Byrn appealed to the New York State Court of Appeals, which also rejected his contentions. He was unsuccessful in obtaining a further stay pending his appeal to the U.S. Supreme Court. On February 26, 1973 the U.S. Supreme Court dismissed his appeal for want of a substantial federal question.

(Nancy Stearns, Rhonda Copelon, Janice Goodman and Kenneth Norwick)

(36) WOMEN OF RHODE ISLAND v. ISRAEL
ABORTION COUNSELING SERVICE v. ISRAEL

These consolidated cases are both §1983 (civil rights) actions challenging Rhode Island's abortion statutes (including one that prohibits abortion counseling). After the District Court judge denied a preliminary injunction, a three-judge court was convened (Judges Coffin, Pettine and Wyzanski) to hear a request for a temporary restraining order on behalf of a pregnant woman in November, 1971. The court was unable to reach a decision before the time passed when the plaintiff needed an abortion. Therefore, she obtained an out of state abortion and the court held the application for the t.r.o. moot.

On the merits, the court witheld decision until the Supreme Court had ruled in Roe v. Wade and Doe v. Bolton, and then held the Rhode Island statutes unconstitutional in conformity with those decisions. Immediately thereafter, the State Legislature passed a new abortion statute declaring a fetus to be a human being from the moment of conception with full constitutional rights under the Fourteenth Amendment.

After a hearing, Federal District Court Judge Pettine declared the new statute unconstitutional in an action brought by pregnant women (Doe v. Israel). The State, as well as "right to life" groups sought a stay pending appeal to the First Circuit. A temporary stay was granted but then dissolved by the First Circuit following oral argument on June 6, 1973. The case is presently pending in the First Circuit.

(Nancy Stearns with Janice Goodman, Richard Zacko and Charles Edwards)

(37) WOMEN OF THE COMMONWEALTH v. QUINN

This is a class action brought by more than 100 Massachusetts women to challenge the State's restrictive abortion law. A three-judge court was convened and the judges assigned were the same as in the Rhode Island case (see above). Following the Supreme Court's abortion decisions, the Massachusetts law was held unconstitutional.

(Nancy Stearns, Kathleen Allen, Helen Gray, Judy Schatzow Remcho)

(38) ABELE v. MARKLE

This case arose, in 1971, as a federal civil action challenging the constitutionality of Connecticut's abortion statute. After the statute was struck down by a three-judge federal court, Gov. Meskill reconvened the State Legislature which passed a new and even more restrictive abortion statute.

In response, a motion was filed before the original three-judge court asking that they enforce their original injunction by enjoining the new statute, and that they hold Governor Meskill in contempt for violation of their original injunction.

Though the contempt order was denied, the court held the new law, which purported to grant Fourteenth Amendment rights to the fetus, unconstitutional and, on Sept. 20, 1972, enjoined its enforcement. In holding the statute unconstitutional, the court held that women have a constitutional right to an abortion up to the time of viability - the same cut-off period later adopted by the Supreme Court in its landmark abortion decisions (Roe v. Wade and Doe v. Bolton).

The State again appealed and sought a stay of the injunction which was granted by the Supreme Court in October, 1972. After the Supreme Court's abortion decisions, the two Abele cases (old and new laws) were remanded to the three-judge court, on April 26, 1973, once again declared the statutes unconstitutional and enjoined their enforcement.

(Nancy Stearns with Catherine Roraback, Katherine Emmett, Marilyn Seichter, Barbara Millstein, Ann Hill and many other women attorneys)

(39) POE v. NORTON

A suit on behalf of pregnant women challenging the denial of abortions by the Connecticut Department of Social Services. A temporary restraining order was granted by the District Court prohibiting the Department from denying further abortions. The State of Connecticut conceded that should the three-judge once again hold the abortion law unconstitutional in the remand from the Supreme Court in Abele v. Markle, that this suit would be rendered academic. The three-judge court did so rule in April, 1973.

(Nancy Stearns, with Catherine Roraback, Ann Hill, Katherine Emmett and Marilyn Seichter)

(40) IN THE MATTER OF SHULMAN (AMICUS)

Amicus (friend of the Court) brief filed on behalf of New York City Chapter of National Organization for Women (NOW) in action by doctor challenging constitutionality of New York City Department of Health regulation that requires the filing of a fetal death certificate which includes the name and address of the woman following the performance of an abortion.

The requirement had been held unconstitutional by Judge Spiegel in the Supreme Court and the Health and Hospital Corporation and the New York City Department of Health appealed to the Appellate Division.

The amicus brief argued that abortion is a fundamental right under the First, Ninth and Fourteenth Amendments and that abortion patients are entitled under the right to privacy, to anonymity in their determination to have an abortion.

The briefs were submitted prior to the abortion decisions by the Supreme Court in Doe v. Bolton and Roe v. Wade though the argument followed those decisions.

The appellate division reversed Judge Spiegel and remanded in light of Roe and Doe (although it is not clear how or why they came to that conclusion which appeared to be in direct conflict with those decisions).

On remand Judge Spiegel once again held the requirement unconstitutional.

(Nancy Stearns and Janice Goodman. Miles Jaffe is attorney for plaintiff Shulman.)

(41) WHEELER v. FLORIDA

This is an appeal from the conviction of a 23 year old woman for the "crime" of abortion/manslaughter. The defendant was convicted on July 13, 1971 for having had an abortion. In October, 1971 she was sentenced to two years probation provided she marry the man with whom she was living or leave the state to live with her family.

In February, 1972 the Florida Supreme Court held the State's abortion law unconstitutional. Following this ruling, the case was remanded to the felony court of records and the conviction was vacated on October 4, 1972.

(Nancy Stearns)