nam, parents are placing missing person ads in Saigon papers looking for lost children.

In mid-February, the Court seemed to take several steps backward, ruling the case would no longer be considered a class action (it had been designated a class action for the purposes of discovery, both by the District Court and the Court of Appeals), despite the fact that the discovery has not been completed.

In addition, for two months the Court has put off considering the case of a 5-year-old child whose mother has been found here in the U.S. His mother never legally released him for adoption, but the Court intimated that it might try to force the case into state adoption court.

It seems clear that we will be forced back to the Court of Appeals if any relief is to be obtained for individual children. Meanwhile, CCR lawyers, California co-counsel, and others working on the case are trying to reach out to American adoptive parents, and urge them to come forward with kindness and speed, when and if the natural parents are found, just as they came forward and opened their homes when the Babylift children first arrived.

(Nancy Stearns, with Mort Cohen, Thomas Miller, Neil Gotanda, Dennis Roberts and Michael Davis)

24. State of New York *v.* Danny White, *et al.*

In May, 1974, a group of Mohawk Indians established a settlement (Ganienkeh, or Land of the Flint) in upstate New York on land that belonged to them under the Treaty of 1784 between the United States and the Six Nations Confederacy, of which the Mohawks are one. New York had recently purchased the land to make a State park.

In October 1974, the State filed an action in federal district court to resolve the question of the conflicting ownership claims to the land. In the papers, the State recognized that the Treaty of 1784 gave the land to the Six Nations, but claimed the Mohawks relinquished the land in a subsequent 1797 treaty. The Mohawks vigorously contest the validity of that treaty, as well as the right of one nation to settle a land dispute with another nation in the domestic courts of one of the disputing parties.

On October 28, two whites were injured by gunfire returned from the Mohawk camp after the campsite was fired upon. State police have since demanded to question witnesses and alleged participants in the shootings. The residents of Ganienkeh take the position that the proper way to resolve the matter is under the Canandagua Treaty of 1794, which establishes the procedure to be followed when an Indian is injured by a non-Indian, or vice versa.

The Grand Council of the Six Nations has also sent a formal complaint to the President of the United States regarding the violence directed at the residents of Ganienkeh by U.S. citizens, asking the government to take steps to stop it. It has asked the government to terminate the federal lawsuit regarding the land dispute, based on the fact that the suit is actually against the Six Nations, which as a sovereign nation is immune from suit and does not consent to be sued; and finally, that a land dispute between nations must be settled in an international forum or through diplomatic negotiations.

In March, 1975, the United States District Court for the Northern District of New York dismissed the State's case, although not on the grounds we had argued. Rather, the Court ruled that the case should be brought in State court. The State appealed the decision, and argument was heard in November. The issues raised, aside from the jurisdictional questions, include whether Mohawks may reclaim and resettle unoccupied land, theirs by aboriginal and treaty rights; whether the validity of Indian treaties being a political question may be decided by the judiciary; and the considerations raised in the complaint to the President. In early January, the Court of Appeals affirmed the ruling of the district court that as currently drawn, the State's complaint does not pose a federal question distinguishing between actions to evict Indians from land and actions to remove a cloud from the title where Indians claim title to land presently held by non-Indians. The Court of Appeals agreed to permit the State to amend their complaint in order to come within federal jurisdiction.

Meanwhile, additional actions have been taken by local white citizens and the local District Attorney in the State courts. In one case, residents of the Big Moose area, who had unsuccessfully sought to intervene in the federal action, sued New York State officials to force them to evict the Indians. That case was dismissed by the Court as being inappropriate.

In a second action, brought by the Herkimer County District Attorney, residents of Ganienkeh have been sued for trespass. The Grand Council of the Six Nations directed the Indians not to take part in any litigation which seeks to determine the ownership of land, and therefore the validity of Indian treaties. However, a group of local white citizens, who support the Indians, Rights For American Indians Now (RAIN) have appeared as *amicus curiae* to present arguments to the Court as to why the case should be dismissed. That case, *Blumberg v. Kakwirakeron*, is still pending.

Meanwhile, the citizens of Ganienkeh have been farming (assisted by a grant for farm machinery) and continuing to develop their community. Babies have been born, and the community is growing in strength and purpose.

(Nancy Stearns with Tim Coulter)

25. American Committee on Africa, *et al. v.* New York Times

In October, 1972, the American Committee on Africa and a number of other organizations and individuals filed a complaint with the New York City Commission on Human Rights, charging that the publication by the *New York Times* of employment advertisements for executive and academic positions in South Africa were racially discriminatory on their face. The *Times* challenged the complaint on the ground that the proposed hearing by the Commission would constitute an unconstitutional interference in the foreign affairs power of the federal government, and an abridgement of the *Times'* First Amendment rights.

Both the Commission and the New York County Supreme Court rejected this jurisdictional challenge preliminarily, and following extensive hearings in January, 1974, on July 19th, the Commission handed down a landmark decision holding that, although the advertisements were for employment in a foreign country, the *Times*, in publishing them, was "aiding or abetting discrimination" in New York City. The *Times* appealed to the Supreme Court of New York County and Justice Helman reversed the Commission, adopting the *Times'* foreign affairs argument but rejecting its First Amendment argument. The Appellate Division affirmed, but a petition for leave to appeal to the New York Court of Appeals was granted.

(Peter Weiss and Michael Davis, with Douglas Wacholz and Michael Paye of the Lawyers Committee for Civil Rights

Under Law, with Ramsey Clark participating in the Court of Appeals proceedings).

26. South African Naturalization Case

CCR lawyers have assisted a South African couple in obtaining United States citizenship after many years of delay and obstruction, due to the couple's anti-apartheid activities prior to their departure from South Africa.

At the naturalization hearing, which was finally held by the Immigration Service, CCR lawyers may have set a precedent by insisting it be opened to the public (required by law, but never, or rarely, done in practice). When the prompt decision promised by the Hearing officer was not forthcoming, CCR lawyers filed a motion to calendar the case in Federal Court. This resulted in the rapid, and favorable, conclusion of the proceedings.

(Peter Weiss with Goler Teal Butcher)

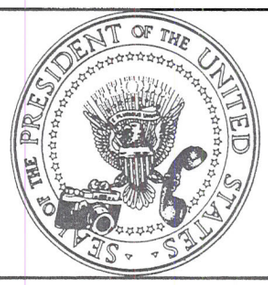
27. Baader-Meinhof

During the political turmoil of the 1970's, a group in the Federal Republic of Germany, known as the Red Army Faction (RAF) or the Baader-Meinhof "gang" (after two of the group's leaders) was charged with several anti-war bombings. They have been defended by a small group of courageous, outspoken and agressive lawyers, who have become the objects of attack by the German government.

As a result of the RAF trials, the government has enacted a frightening number of repressive laws, expressly designed to hamper the defense. An attorney is prohibited from representing more than one co-defendant; a judge may rule anything he considers to be a political statement inadmissible; an attorney may be disbarred on "suspicion" of misconduct, and required to wait a year or more for a hearing to vindicate him/herself. Three of Baader's defense attorneys were disbarred in this way; a fourth was arrested for "conspiracy," although no evidence has been presented against any of them. Another law has been proposed, which could allow a judge to be present at all attorney-client conferences if the case is ruled "political."

CCR attorneys were asked to join an international group of lawyers, representing 10 countries, in submitting legal briefs to the German courts, concerning the defendants' rights to counsel of choice and an adequate defense. After most of the RAF defendants' lawyers were removed by the court, CCR attorneys joined with several European lawyers, at the defendants' request, and asked the court to be allowed to represent them. This was denied.

(William M. Kunstler, William H. Schaap, Peter Weiss, with Ramsey Clark)



Government Misconduct

28. Kinoy *v.* Mitchell, and Dellinger *v.* Mitchell

The widespread use of illegal electronic surveillance in the name of "national security" was (and is) one of the central forms of government misconduct. Two affirmative suits were begun while John Mitchell ruled the Justice Department. Both Arthur Kinoy, a founder of the CCR, and David Dellinger, a defendant in the Chicago Conspiracy trial, alleged that they had been illegally wiretapped over the years and asked for extensive damages. The government at first denied that it had tapped Kinoy and Dellinger, but, after being pressured by our discovery efforts, repudiated its denials. Since that time, the government has been slowly forced to turn over to the plaintiffs significant portions of the surveillance records being kept on them.

However, disclosure of the records has been seriously impeded by the government's claims of executive or national security privilege. In a landmark decision in the *Kinoy* case, the District Court declared former Attorney General Richardson's claims to be facially inadequate, and ordered reconsideration by Levi. Unfortunately, Levi did not repudiate the cover-up posture of privilege which CCR attorneys are presently challenging. While the records received to date cannot be made public at this time due to strict protective orders from the courts, they reveal a massive program of surveillance and deliberate government misconduct, and completely explode the mystique of "national security." If the claims of the plaintiffs are ultimately sustained by the courts, it will serve notice on the Justice Department that it cannot flaunt the law and the Constitution with impunity.

(Rhonda Copelon, with Jeremiah S. Gutman, Michael Ratner and Lou Raveson (Rutgers law student))

29. McSurely *v.* McClellan

Since 1967, the McSurelys have been in litigation with officials of the Commonwealth of Kentucky and Senator McClellan's Committee on Government Operations. Their long travail, in which they have been represented by CCR attorneys, was recently the subject of a series of articles by Richard Harris in the *New Yorker* magazine (Nov. 3, 10, 17, 1975), focusing on the importance of their case in the area of the Fourth Amendment.

Their original prosecution in 1967 by the State of Kentucky, under the Sedition Act, was stopped by a declaration of unconstitutionality of the statute, but Alan and Margaret McSurely were convicted of contempt of Congress in June, 1970, after refusing to comply with a subpoena for all their papers from the McClellan Committee. Prior to all of this, the McSurelys had been engaged in organizing workers in the coal mines of Kentucky.

The appeal of the contempt conviction was argued in the

U.S. Court of Appeals (Washington, D.C.) in January, 1972, and emphasized the issue of the validity of a Senate subpoena, which was based on the prior illegal seizure of documents by state officials and Senate Committee staff. On Dec. 20, 1972, the Court of Appeals reversed the contempt convictions on the grounds mentioned. In a concurring opinion, Judge Wilkey held that the convictions must also be reversed on the ground that the Committee had failed to establish the relevance of the subject of its investigation.

Since 1968, the McSurelys have been seeking damages against Senator McClellan and some members of his staff, and against Kentucky state officials, because of the illegal search and seizure and because Senate committee officials received and disseminated illegally seized documents, some of which were private and personal papers which were concededly outside the business of the committee.

On October 28, 1975, the Court of Appeals for the District of Columbia, in a 2-to-1 decision, held that the Senator and some of his staff were entitled to immunity, even if their actions were outside the scope of their duties, as long as they appeared to be "facially legislative." CCR attorneys filed a petition for rehearing *en banc*. In February, 1976, the Court of Appeals granted the petition for rehearing and vacated its prior decision. It has set the case down for reargument *en banc* on April 19.

The case may prove to be an important precedent in cases of legislators harassing private citizens for personal or political purposes of their own, having nothing to do with legislative business.
(Morton Stavis, Nancy Stearns)

30. Clavir *et al. v.* Levi, *et al.*

This case concerns the finding of an illegal tracking bug on a car owned by Judy Clavir and Stew Albert, friends of Center attorneys Bill Kunstler and Margaret Ratner. Clavir and Albert came from upstate New York to visit the attorneys in December of last year and soon after, a small electronic device called a beacon or "beeper," which emits periodic signals that can be picked up on radio frequency, was discovered under the rear bumper of the car. Clavir and Albert noticed a three-car tail which followed them as they were leaving the city. They decided to remain in the city, and while all four were having dinner at a local restaurant, two young women entered, took a flash picture of the four and left. There was also evidence of a live tap on the telephone where they were staying. The beeping device, it was later discovered, was number 107 of an apparently large number of such devices used by the police and the FBI.

On the basis of these facts and other instances of surveillance on Clavir and Albert, a federal civil rights action was filed on March 5, 1976.
(Michael Ratner, Paul Chevigny)

31. Briggs *et al. v.* Goodwin, *et al.*

CCR lawyers are representing the VVAW "Gainesville 8" defendants who were acquitted of conspiring to disrupt the Republican National Convention in 1972, in a suit against Guy L. Goodwin of the Internal Security Division of the Justice Department, as well as two United States Attorneys and one FBI agent.

We charge Goodwin, who was widely condemned as the man who travelled the country running political grand juries, with having committed perjury by swearing under oath that there were no agents or informers represented by attorneys for the VVAW subpoenees. Subsequently, it was revealed that one of the individuals who Goodwin specifically swore was not an agent or informer turned out to have been a paid FBI informer for months before the veterans were even indicted, and was a CCR client.

Our suit charges that Goodwin lied as to this fact in order to insure a steady flow of "inside" information regarding defense strategy right up to the time of trial, and demands that a special prosecutor be appointed to secure indictments against Goodwin, and any other involved parties, for every violation of law committed in connection with the prosecution of this case. In addition, the suit demands that the veterans be reimbursed for the cost of their legal defense and compensated for the fourteen months of hell that they were maliciously and intentionally put through by the government.

In June, 1974, plaintiffs sought to take Goodwin's deposition. The government moved to stay the deposition and have the case moved to Florida so that Judge Arnow, who presided over the criminal trial, would have jurisdiction, particularly over the motion to dismiss. Judge Aubrey Robinson of the District Court in Washington, D.C. who now has the case before him, granted the stay, but ordered the government to file its motion to dismiss before him, prior to his ruling on the transfer motion. The government's motion to dismiss, based on a claim of prosecutorial immunity, and its motion to transfer were denied by Judge Robinson in November, 1974. Subsequently, however, Robinson dismissed the two U.S. Attorneys and the FBI agent as defendants, leaving Goodwin as the only remaining defendant. CCR lawyers are appealing this dismissal to the Circuit Court. In addition, Goodwin is appealing Judge Robinson's rejection of his claim of prosecutorial immunity and refusal to dismiss him as a defendant. Pending that decision, the taking of Goodwin's deposition has been stayed.

Appeal briefs have been filed, and oral argument on the two appeals has been scheduled by the United States Court of Appeals for the District of Columbia for April 13.

The underlying reason for this suit is the need to establish as a principle that prosecutors cannot go about violating the rights of defendants, secure in the knowledge that they are immune from both civil and criminal penalties. The Justice Department controls prosecution of federal cases, and obviously is unwilling to move against members of its own department. Furthermore, it is the body that *defends* U.S. attorneys and FBI agents charged with violating the law, thus making it doubly difficult to obtain results.
(Nancy Stearns, Doris Peterson, Morton Stavis, with Jack Levine, Cameron Cunningham and Brady Coleman)

32. Southern Africa Committee *v.* Clarence M. Kelley

The Southern Africa Committee is one of several citizens' groups opposed to racism and colonialism in Southern Africa which have lately been subjected to various forms of harrassment by the FBI and the Department of Justice. A request, under the Freedom of Information Act, for the FBI's file on SAC was denied by Director Kelley on the ground that the Committee was, indeed, under active investigation by the FBI. Suit has been filed in the Southern District of New York demanding production of the files and an end to the harrassment.
(Michael Davis and Peter Weiss)

33. Speller *v.* Wagner

On March 16, 1972, after ten years of incarceration at State hospitals and prisons, Richard Speller, an inmate at the Trenton State Hospital, was found dead, an alleged suicide. The circumstances of his death were highly questionable: He supposedly drew socks around his neck (strangulation by ligature is the technical term) — practically an impossible way of effecting a suicide. Moreover, an autopsy ordered by the family revealed a fact not mentioned in the State autopsy, namely, a fractured larynx, making the alleged suicide even more unlikely. Investigation revealed that there had been a struggle with guards several hours before his death, during which Speller was subdued and moved to an isolation cell. The family has instituted suit against the medical directors of the hospital and some of the guards, claiming that Speller died as a result of deliberate or negligent action on the part of the directors of the hospital and some of the guards.
(Morton Stavis)

34. Hampton, *et al. v.* City of Chicago

This suit is the consolidation of four separate lawsuits (*Hampton, Johnson, Brewer* and *Clark* against the City of Chicago) filed on behalf of those injured in the police raid on the Black Panthers in Chicago in December, 1969, and on behalf of the survivors of Fred Hampton and Mark Clark, who were murdered in the raid. All four suits are for damages and consolidated for trial. After years of legal wrangling and months of pretrial motions, the 47.5 million dollar suit opened the first week in February.

The six-person jury (and four alternates) took more than two weeks to select, due to the extremely low representation of black people (only 15 out of almost 200) in the jury pool. To add injury to insult, the government defense team challenged every black person, and almost every person under 50 until the first five jurors (four white women and one white man) were selected. The sixth juror is a Black woman.

United States District Judge Sam Perry expects the trial to last three to five months. Judge Perry has consistently sought to limit plaintiffs' discovery of COINTELPRO and other government involvement in the raid.

Plaintiffs will show that COINTELPRO and FBI infiltration and disruption of the Black Panther Party and black community organizations were part of a concerted effort to "prevent the rise of a 'messiah' who could unify, and electrify the militant black nationalist movement" (quoted from FBI memo targeting several Black leaders).
(James Montgomery, Herbert Reed, Jeffrey Haas, Flint Taylor, Hollis Hill, Peter Schmeidel, with Bill Bender and Morton Stavis)

Attacks on Lawyers

35. In the Matter of David Dellinger, *et al.* (Chicago Contempt Case)

The remand contempt trial of the seven "Chicago Conspiracy" defendants and two of their attorneys, William M. Kunstler and Leonard Weinglass, on the remaining 52 specifications of contempt, ran from October 29, 1973 until December 6, 1973. The trial took place before Federal Judge Edward Gignoux and resulted in either dismissal or acquittal on all but 13 contempt specifications. Weinglass, John Froines, Rennie Davis, Tom Hayden and Lee Weiner were discharged completely, while Kunstler, Abbie Hoffman and Jerry Rubin were convicted of two counts of contempt each and David Dellinger was convicted of seven. Yet, even while finding the latter four defendants guilty, Judge Gignoux concluded that in view of judicial and prosecutorial misconduct during the original trial he would impose no sentences whatsoever. Hence, the celebrated and often tumultuous Chicago Conspiracy Case, which yielded 175 contempt citations against 10 defendants, resulted in 13 contempt convictions against four defendants and the refusal to impose any sentences.

Nevertheless, CCR attorneys appealed the 13 contempt convictions to the U.S. Court of Appeals for the Seventh Circuit, which, on September 6, 1974, affirmed them. On October 2, 1974, CCR attorneys petitioned for a rehearing before the full Circuit, or, in the alternative, before the same panel, but the Court denied that petition. A petition for a writ of *certiorari* to the U.S. Supreme Court was filed on March 24, 1975, the Supreme Court refused to review the case.
(Morton Stavis and Doris Peterson)

36. Effort of the Grievance Committee of the New York City Bar Association Against William M. Kunstler Because of His Conviction in the Chicago Contempt Case

Following the conviction of William M. Kunstler in the Chicago contempt case on two citations for contempt, the Grievance Committee of the Association of the Bar of the City of New York initiated disciplinary proceedings before the Appellate Division of the State of New York. As a result of a protest made to the President of the Association of the Bar and its Executive Committee, the proceedings were withdrawn when it was pointed out that the conviction was pending on appeal.

After denial of the petition for writ of *certiorari* by the Supreme Court, CCR attorneys communicated with the Executive Committee asking that it take action to prevent the Grievance Committee from acting without the Executive Committee's approval. That Committee then so directed the Grievance Committee, and no action has been brought against Kunstler in this matter to date.
(Morton Stavis, Doris Peterson, Peter Weiss)

37. Turco *v.* Monroe County Bar Association

In the case of *Arthur F. Turco, Jr. v. The Monroe County Bar Association, et al.,* CCR attorneys brought an action to prevent the disbarment of attorney Arthur Turco and to get a declaration from the federal courts that the procedure followed in New York State denying attorneys a right to appeal from disciplinary judgments against them is unconstitutional. Attorneys are the only litigants in New York courts who do not have that right.

Arthur Turco had been charged with murder while he was an attorney for the Baltimore Black Panthers. After eleven months in pretrial confinement in Maryland, Turco finally went to trial. The jury was hung in his case, and the State threatened to try him again. Rather than go through many more months of pre-trial confinement, Turco pleaded guilty to a misdemeanor, all the while stating his innocence.

After Turco returned to New York to resume the practice of law, he was disbarred by the New York Appellate Division which took as fact all the unproven allegations of the Maryland prosecutor. His disbarment was stayed by a United States District Court judge after the CCR challenged the constitutionality of the procedure by which Mr. Turco was disbarred. Mr. Turco is continuing to practice law, although the Bar Association has made a motion to dismiss his complaint. Briefs were filed and the motion argued. We are now awaiting a decision.

Simultaneously with the above proceeding, CCR attorneys attempted to get the U.S. Supreme Court to review Mr. Turco's disbarment, but on October 6, 1975, they denied a petition for a writ of *certiorari*. The case will continue to be litigated in the U.S. District Court for the Western District of New York.

(Morton Stavis and Doris Peterson)

38. Taylor *v.* Hayes

Dan Taylor, an attorney in Louisville, Kentucky, represented Narvel Tinsley, Jr., one of two Black men accused of killing two white police officers. On October 29, 1970, after the jury returned its verdict, Judge John P. Hayes, without notice, without specification of charges, and without permitting Taylor to either speak in his own behalf or be represented by counsel, sentenced Taylor to four and one half years in jail for contempt of court which allegedly took place during Tinsley's trial.

Judge Hayes refused bail (refusing even to make himself available to Taylor's counsel to hear a bail application). When the Kentucky Court of Appeals ordered a bail hearing, Hayes not only denied bail but denied Taylor permission to be present at the hearing. Bail finally was set by the Kentucky Court of Appeals and Taylor was released from jail.

On November 4, 1971, Judge Hayes entered an order disbarring Taylor from further practice in his court. Appeals were filed in both the contempt and disbarment actions, and on March 23, 1973, the Kentucky Court of Appeals set aside the disbarment order, but held that the contempt sentences should be served. The Court further ordered that the contempt sentences should be served concurrently, rather than consecutively, which, because it reduced the sentence to six months, denied Taylor the right to a jury trial.

On June 15, 1973, the Kentucky Court of Appeals denied a petition for rehearing, but stayed the contempt sentence for 90 days to allow for the filing of a petition for *certiorari* to the U.S. Supreme Court. The petition was filed in the Kentucky Court of Appeals asking for a further stay of the contempt sentence.

On the morning of September 17, 1973, while Taylor was in the Jefferson Circuit Court in connection with a criminal case on which he was counsel, he was, without prior notice, arrested pursuant to an order from Judge Hayes. Later that day the Kentucky Court of Appeals refused a further stay of the contempt sentence. An application to Supreme Court Justice Potter Stewart was made immediately and on September 19, 1973, he signed an order releasing Taylor on bail pending final disposition of the case by the Supreme Court. The petition for *certiorari* was granted by the Court and argued on March 18, 1974. The petition raised such fundamental issues of due process as the right to a jury trial in contempt cases, judicial disqualification in contempt proceedings, and what constitutes a contempt under the Constitution. On June 26, 1974, the Supreme Court reversed Taylor's contempt conviction, ruling that Taylor had been denied due process when the judge summarily sentenced him for contempt of court without giving him notice of the charges against him or a reasonable opportunity to be heard. The case was returned to the State Court for a new trial before a different judge.

At the remand hearing, Judge Robert H. Spraggens dismissed five of the eight contempt charges. Taylor was convicted on the remaining three, but as no sentence was imposed, no appeal was taken.

(Doris Peterson with Robert Sedler)

Grand Juries

39. In re Martha Copleman

Martha Copleman, an attorney who worked with the Wounded Knee Legal Offense/Defense Committee, was subpoenaed to testify before a federal grand jury in Des Moines, Iowa, about her client, Frank Black Horse's failure to appear for trial in May of last year. A Motion to Quash has been prepared. The grounds of the motion are: (1) The subpoena threatens the right to effective assistance of counsel, not only for Black Horse, but for all Native American defendants that WKLO/DC represents; (2) requiring Copleman to testify would violate the attorney/client privilege; (3) the subpoena threatens the independence of the bar and discourages lawyers from representing political or unpopular clients. Copleman received an adjournment on her subpoena and no new date has been set. This matter is another example of the Justice Department's new boldness in attacking lawyers who represent political defendants. Copleman is one of 3 WKLO/DC lawyers recently subpoenaed to federal grand juries.

(Margaret Ratner)

40. In re Stolar (*Amicus*)

The case of Martin Stolar was an attempt by the Justice Department to use the grand jury to invade the confidential nature of a lawyer-client relationship. Attorney Stolar was subpoenaed by a grand jury for the purpose of forcing him to disclose confidential information provided to him by a client. Supporting Stolar's motion to quash the subpoenas, CCR lawyers filed an *amicus curiae* brief, which stressed the importance of an independent bar and the dangers posed by such subpoenas, i.e. the harassment and intimidation of the bar from vigorous and effective representation.

On May 22, 1975, Judge Pierce quashed the subpoena as violating the lawyer-client privilege and constituting an abuse of the grand jury, in that the grand jury should not be used as the investigative arm of the FBI.

(Rhonda Copelon, Liz Schneider and Doris Peterson)

41. In re Raymond

The women's and gay movements in Lexington, Kentucky became the first targets of the new wave of grand jury abuse. After extensive F.B.I. harassment, purportedly to investigate the presence of fugitives in that community, six people were subpoenaed to a grand jury because they exercised their right not to speak to F.B.I. agents. After a near-successful legal battle, they were incarcerated for contempt as recalcitrant witnesses. Jill Raymond, an active socialist-feminist, has been held in county jails since March, 1975.

CCR attorneys provided intensive consultation to local attorneys challenging the grand jury. Motions to quash the subpoenas charged that the grand jury was being unlawfully used, not only as an instrument of political harassment, but also as an arm of the F.B.I. to investigate the whereabouts of fugitives. By so doing, the grand jury transcends its proper judicial function — to determine whether indictments should be issued on crimes committed in its jurisdiction.

Although the record of abuse was well-substantiated, the District Court denied the motions and cited the witnesses for contempt. On appeal, however, the Sixth Circuit remanded the case for hearing on the question of whether the grand jury was being used to apprehend fugitives. The U.S. Attorney then filed a secret, *in camera* affidavit, claiming for the first time, that the grand jury was investigating the harboring of fugitives. This claim directly contradicted statements of the foreman of the grand jury and the informal admissions of the investigating F.B.I. agents that no one in Lexington knew the identities of the suspected fugitives.

An application to the United States Supreme Court for a stay of sentence, on the issues of grand jury abuse and the unconstitutionality of the *in camera* proceedings, was filed by CCR attorneys. The stay was denied. CCR attorneys are now assisting local attorneys in efforts to terminate Ms. Raymond's incarceration as punitive, rather than coercive, and to have her transferred from the cruel and dangerous conditions of the county jails.

(Rhonda Copelon, Doris Peterson, with Mary Emma Hixson, Bill Allison, Robert I. Sedler and Judith Peterson.)

42. In re Jack and Micki Scott

After lengthy proceedings in the United States District Court for the Middle District of Pennsylvania, Jack and Micki Scott have still not testified before a federal grand jury seeking to investigate the alleged harboring of Patricia Hearst and William and Emily Harris. Jack Scott has now been designated a target of the inquiry, and his subpoena has been dropped, but his wife's testimony is still being sought. The issue of one spouse being forced to testify against another raises spectres of Nazi Germany, where family members were urged to spy on each other and report to the authorities.

(William M. Kunstler, Margaret Ratner and Holly Maguigan)

43. In re Burns, *et al.*

On May 12, 1975, in a crowded courtroom in New York County Supreme Court, three alleged members of the Black Liberation Army (BLA) were sentenced to life imprisonment. After sentencing, correction guards claim to have discovered escape tools on these prisoners. Newspaper reports issued soon after, suggested that the targets of the police investigation were their four attorneys, three of whom are members of the National Lawyers Guild.

Shortly thereafter, twelve political activists (including 3 spectator lawyers) were subpoenaed to a New York grand jury

investigating the incident. The District Attorney's office claims they were subpoenaed because they were in the courtroom, although not all of them were actually there. Moreover, since spectators were not required to identify themselves to gain admission to the trial, the D.A.'s office could not have acquired that information without illegal surveillance. In fact, a detective with the New York "Red Squad" whose primary work has been gathering intelligence about political activists in New York, appeared at the grand jury.

CCR attorneys filed a motion to quash the subpoenas, claiming they were issued on the basis of illegal surveillance, and that their actual purpose is to gather intelligence and intimidate spectators from attending political trials, and lawyers from representing political activists. Substantial legal papers were filed, including forty-seven affidavits from journalists, teachers, lawyers, law students and political activists, who testified to the "chilling" impact of these subpoenas on their constitutional rights to freedom of association, public trial and effective assistance of counsel. State Supreme Court Judge Culkin denied the motion and ordered the subpoenees into the grand jury, but CCR attorneys successfully obtained a stay of enforcement, pending appeal to the Appellate Division. The appeal was denied in November 1975, and CCR attorneys then went to the Court of Appeals which denied the stay pending appeal. Finally, on November 21, the subpoenees went before Judge Culkin and demanded that the grand jury be polled as to whether it wanted to hear their testimony. When Judge Culkin refused to have the grand jury polled, the subpoenees refused to testify, and made a statement to the Court as to the reasons for their refusal. The District Attorney's office has not yet acted on this.

(Liz Schneider, Rhonda Copelon, William H. Schaap with Paul Chevigny)

Labor

44. United States *v.* Union Nacional de Trabajadores, *et al.* (UNT)

This case arose out of a labor dispute between the UNT and WERL Construction Company, a North American-owned enterprise operating in Puerto Rico. The UNT, which is an important pro-independence force in Puerto Rico, had struck a construction site in the San Juan area. WERL complained to the National Labor Relations Board that the strike was an unfair labor practice, and the NRLB obtained an anti-strike injunction in federal court against the Union. Several weeks later, after the strike had been settled, the NLRB sought criminal contempt charges against the Union and two of its officers for allegedly violating the anti-strike injunction. CCR lawyers agreed to represent the defendants on the criminal contempt charges, as the case went to the heart of the colonial relationship between the United States and Puerto Rico.

CCR attorneys have raised a wide variety of issues in pretrial motions, including the defendants' right to be tried by a jury; the right to conduct proceedings in Spanish (English is the official language in federal court in Puerto Rico); the composition of the jury; and the use of electronic surveillance against the defendants and their attorneys.

We have twice gone to the United States Court of Appeals for the First Circuit on this case, once on the jury trial question (*In re Union Nacional de Trabajadores*, #74-1073), in which the Circuit granted the petition for *mandamus* and ordered a jury trial; and again on the question of disclosure of surveillance.

The Circuit ruled that the District Judge must order the government to respond to defendants' and counsels' claims of electronic surveillance. The government denied everything, including surveillance of Juan Mari Bras, Secretary General of the Puerto Rican Socialist Party (PSP). CCR attorneys see this response as inadequate. The District Court has not yet ruled on the issue of inadequacy, but the Center is prepared to go to the First Circuit again, if necessary.

CCR attorneys have been working with sociologists in Puerto Rico on a massive challenge to the composition of the federal jury, particularly the impact which the English language requirement has on jury composition. A second part of the challenge deals with whether jurors actually understand English well enough to comprehend the proceedings on which they sit.

During the work on the jury challenge, the United States Supreme Court ruled in another case, *Muniz v. Hoffman* (in which the CCR filed an *amicus* brief on behalf of the UNT) that the statute we relied upon to gain a jury trial did not apply to the Taft-Hartley Act, under which UNT was charged with contempt. As a result, the government has sought to eliminate the jury trial in this case. CCR attorneys successfully blocked the government's efforts in the District Court, but on appeal from the District Court's ruling, the Court of Appeals agreed to revoke its earlier mandate despite the fact that the government could have appealed the ruling to the Supreme Court earlier and neglected to do so. More important, the challenge of the jury composition was brought as a result of assurances from an attorney at the National Labor Relations Board that the decision in the *Muniz* case would have no bearing on the Circuit's order for a jury trial. The withdrawal of the jury guarantee at this point has effectively punished UNT for seeking not only a trial by jury, but a legally constituted one.

CCR attorneys are now seeking to incorporate the work

done on the jury challenge into the case of *United States v. Delfin Ramos Colon*, discussed earlier.
(Liz Schneider, Nancy Stearns, Rhonda Copelon, William Schaap, with Mark Amsterdam)

45. N.L.R.B. *v.* Union Nacional de Trabajadores (Unfair Labor Practices)

These four unfair labor practices cases brought against the Union Nacional de Trabajadores by the National Labor Relations Board, involve charges of NLRB violations. The Board has held that the Union should be subject to a broad cease and desist order, aimed at prohibiting them from organizing. CCR attorneys, together with other North American lawyers, are assisting lawyers in Puerto Rico to fight the order, on the grounds that the unfair labor practices charges and the order itself, have been sought by the Board to destroy the independent labor movement in Puerto Rico. We further charge that the order is unconstitutional in that it violates the First and Fifth Amendments, by its breadth; by its failure to give notice to what is prohibited, and that it punishes the Union for First Amendment protected activity. Enforcement proceedings are currently pending in the First Circuit Court of Appeals on the issue of whether the broad order should be upheld, and argument was heard in February.
(Liz Schneider, with David Scribner, Ralph Shapiro and Paul Schachter)

46. Local 920

For more than five years, members of the International Longshoremen's Association, Local 920, in Staten Island, have been trying to bring union democracy to their local. Although the rank and file group has the support of a large percentage of the membership, they were prevented from getting the changes they were seeking. For several years, the local has operated without by-laws, in violation of the International's Constitution. Meetings were scheduled at times most inconvenient to the membership, and, for two years there had not been a quorum at a regularly scheduled meeting. The leaders of this struggle for democracy, the Committee for a Democratic Local 920, and their spokesperson, Frank DeMayo, continued to call for reforms. Finally, after DeMayo had spoken out against the leadership, and brought two related complaints to the NLRB, the union leaders met one evening, and "expelled" him—after more than thirty years in the union. DeMayo and the members of the Committee, with the legal support of CCR and the National Lawyers Guild Labor Law Project, brought two federal suits against the union leadership, and an NLRB complaint over the expulsion. The union has already been forced to reinstate DeMayo, and a long dormant By-Laws Committee is now drafting by-laws which the group will review, with the assistance of their lawyers. Although the time of the meetings has been changed, and numerous reforms are under way, the lawsuits are continuing, and will proceed until the various reforms requested by the Committee are voted upon by the membership.
(William H. Schaap, Liz Schneider, with Jerome Tauber, Vickie Ehrenstein)

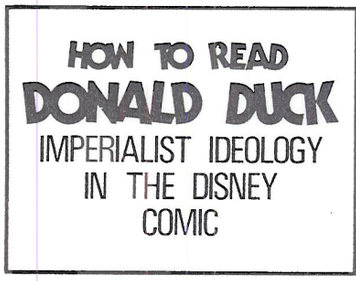
47. United States *v.* Allegheny-Ludlum Industries

After successfully challenging on behalf of rank and file steelworkers the constitutionality of the United Steelworkers of America's "No-Strike" agreement (also called the Experimental Negotiating Agreement or ENA), with the "Big Ten" steel companies, CCR lawyers became involved in a rank and file steelworkers' fight against an inequitable consent decree.

At the same time the ENA was upheld, the USWA leadership, steel companies, Department of Labor, and Equal Employment Opportunities Commission signed a consent decree to allegedly remedy race and sex discrimination in the industry. Rank and file steelworkers saw this decree as similar to the ENA in that it was agreed upon by the Union leadership without consultation with the membership, waived the workers' rights under Title VII of the 1966 Civil Rights Act, and offered inadequate remedies to race and sex discrimination.

A variety of individual steelworkers and interested organizations intervened in the case in opposition to the consent decree. CCR attorneys filed an *amicus curiae* brief, which argued that the decree should be set aside as it was the product of an abuse of Union democracy, once again constituting a conspiracy between the USWA leadership and the steel companies.

The Fifth Circuit has since upheld the consent decrees.
(Liz Schneider, Doris Peterson with David Scribner and James Logan)



First Amendment Rights

48. Donald Duck *v.* Commissioner of Customs

During the short-lived reign of the Popular Unity Government in Chile, two professors at the University of Chile produced a serious work of scholarship entitled *How to Read Donald Duck: Imperialist Ideology in the Disney Comic.* Their book became a minor classic, going through one Italian and fifteen Spanish editions since 1971. This year, it was translated into English, but the first shipment to the United States from Europe was detained by the Commissioner of Customs on the ground that the illustrations appearing in the book may constitute infringements of copyrights owned by Walt Disney Productions.

CCR lawyers, believing that the illustrations (which acknowledge Walt Disney's copyright) are a classic case of "fair use" of copyrightable material, while the seizure of the books is a classic case of abuse of the laws to suppress political dissent and unpopular opinions, have filed extensive arguments in favor of the admissibility of the books with the Commissioner of Customs. If his decision is unfavorable, they are prepared to take the matter to Court.
(Peter Weiss, William H. Schaap, Rhonda Copelon)

49. Domestic Satellite Cases

The Network Project, a research collective working in the area of communications policy, has been challenging the FCC's decision to approve a number of petitions from such corporate giants as Western Union, A.T. & T., RCA and Hughes Aircraft, for the construction of domestic satellite communications facilities, without any provisions for public access or "public dividends." CCR lawyers, believing that this policy raises important First Amendment problems, have assisted the Network Project in preparing petitions to deny some half dozen domestic satellite licenses. The dismissal of some of these petitions has been upheld by the U.S. Court of Appeals for the District of Columbia. However, the Court stated, in its opinion, that it expected the Federal Communications Commission to be responsive to the "public access" arguments of the petitioners. The litigation has also sensitized the FCC and the domestic satellite operators to the First Amendment arguments raised by the petitioners and has led to the formation of a new organization PISA (Public Interest Satellite Association), concerned with representing the interests of educational, minority and dissident groups in the new field of domestic satellite communications.
(Peter Weiss with Andrew Horowitz and Morton Hamburg)

50. Moroze *v.* Board of Education of the Essex County Vocational School District

Lewis Moroze, a non-tenured teacher at the Newark Vocational School, was denied renewal of his contract after three years of satisfactory service. He appealed to the Commissioner of Education, and finally to the State Board of Education, claiming that the real reason for the failure to renew his contract was his successful program of teaching Black experience and history to a student body which was 95% Black and Puerto Rican, and to the use of the well known book, *From Slavery to Freedom*, by John Hope Franklin, a noted Black historian.

After four years of litigation, in September, 1975, the State Board of Education ordered his reinstatement with back pay. In an opinion which has been widely noted, particularly in educational circles, the Board said:

> "In light of all that had transpired in the Newark urban area, it seems reasonable to conclude that school personnel would seek opportunities to provide relevant instructional materials. Lewis Moroze tried to do just that. He utilized and provided instructional materials with a relevancy and a purpose befitting the educational system of which he was a part . . . [He] introduced relevant and excellent instructional aids in his classroom in an effort to provide an understanding of the contributions of Black persons to the American social order. He came afoul of the school's administrator, who wanted him to hew to rigid, narrowly defined methods of teaching, even though those methods were failing on every hand . . ."

Moroze is at present back on his job, teaching at the Newark Vocational School and continuing his use of innovative educational techniques.
(Morton Stavis)