Center for Constitutional Rights

853 Broadway, New York N. Y. 10003. 212/674-3303

Spring 1974

Dear Friend:

Since its inception in 1966, the Center For Constitutional Rights has defended many people, from the Chicago 7 to the Berrigans to the Gainesville 8. We have just taken a case we consider to be among the most important we have ever entered into.

It is the case of Carol Red Star. Carol Red Star is an American Indian. She is not a celebrity. Her case will not make the headlines. Yet, by every social, political and legal criteria Carol Red Star's case is of immense symbolic importance. You see, she is accused of stealing a box of groceries and a couple of gallons of gas (needed to drive her critically ill child to the hospital) from the trading post at Wounded Knee during the occupation.

This American Indian woman, whose land was stolen, whose cultural heritage was almost obliterated, whose ancestors were systematically deceived, deprived and slaughtered by the United States Government, now stands accused by that government of stealing a box of groceries! And a few gallons of gasoline!

The Center is determined to provide a massive and comprehensive defense to this charge. We will seek to present the question in open court of precisely who the real criminal is - the woman so poor she cannot buy groceries, or the government that is fundamentally responsible for her poverty?

To provide a truly comprehensive defense will be costly. Carol Red Star has no money. Nor do we. So we look to you for support. Please help us to defend Carol Red Star by contributing as much as you can today.

For Justice,

The Center Staff

The Center Staff

P.S. Please read the enclosed brochure for more information about the Center's work.

ALL CONTRIBUTIONS TO C.C.R. ARE TAX DEDUCTIBLE

This Report is dedicated to our brother,
DAVID SCRIBNER, whose career epitomizes
the protracted struggle for justice, and whose
example inspires us to continue fighting.

Center for Constitutional Rights
853 BROADWAY (14th Floor)
NEW YORK, NEW YORK 10003
(212) 674-3303

Contributions are tax-deductible and within the provisions of the new Tax Reform Act.

INTRODUCTION

The past year has been, for the nation and for the Center, one of intense struggle—struggle to halt the erosion of civil liberties and constitutional rights, struggle to protect the freedom of political dissent, struggle to expose the gross abuse of government power, and, finally, struggle to stay alive economically.

In many ways the Center's history has prepared it for such struggles, for its roots are firmly planted in the civil rights movement in the South; an era when the local institutions of government viewed justice as an enemy and the Constitution as an obstacle to the maintenance of the status quo.

During this period, lawyers who had aligned themselves with the civil rights movement created, out of necessity, a variety of innovative legal techniques designed to force compliance by Southern officialdom with the Constitution, and protect those struggling for their rights from official retribution.

Four of the attorneys who were most active during this period, Benjamin Smith, Arthur Kinoy, William M. Kunstler and Morton Stavis, realized then that there was an acute need for a legal center dedicated to the creative use of law as a positive force for social change. In November, 1966 they founded the Center For Constitutional Rights.

For the past seven years, the Center has repeatedly found itself in the eye of the whirlwind, whether leading the affirmative legal struggle for school de-centralization or against the witch-hunting congressional committees, for the rights of women, prisoners, and G.I.s or against the unconstitutional war in Indochina.

In every case, the government has opposed that which is progressive or enlightened or humane. It has responded to cries of both political outrage and social agony with increasing "legal" aggression, not only against individuals and organizations, but against the Bill of Rights itself. It has been, and remains today, the role of the Center For Constitutional Rights to resist that aggression and to fight back.

THE "GAINESVILLE 8" — WHAT PRICE VICTORY?

1973 was, in many ways, the year of Gainesville at the Center. Our time, energy and resources were largely mobilized around this major conspiracy case in an effort not only to win an acquittal for the defendants, but to expose before the nation the blatantly political motivations of the Administration in manufacturing this prosecution.

It was obvious to us from the outset that the Administration, in the midst of a presidential election year, would have much to gain by characterizing the Vietnam Veterans Against the War, perhaps the most effective anti-war organization in the country, as a "violent extremist group" bent on disrupting the Republican National Convention in August, 1972. What better way to accomplish this than by charging 7 members of VVAW's leadership and one supporter with conspiracy to cross state lines with intent to incite a riot? Yet, it was not until May, 1973 and the Watergate Hearings that we learned of a far more sophisticated dimension behind the prosecution.

During the testimony of Watergate burglar James McCord and his former attorney, Gerald Alsch, it emerged that one of the defenses for the Watergate burglars was to be the need for security at the Republican National Convention from groups like VVAW, and if illegal methods were employed to insure security, the need for them justified their use. Of course, VVAW had absolutely no previous history of organizational violence, so it would have been difficult to make this defense convincing unless VVAW were actually implicated in a violent plot against the Republican Party.

The chronology of events strongly supports this view. In less than one month after the arrest of the Watergate burglars on June 17, 1972, VVAW members from all over the country had been subpoenaed to appear before a hastily convened federal grand jury in Tallahassee, had had their appearances crammed into a four day period of time, and six (later eight) of those subpoenaed had been indicted. Considering the fact that grand juries normally sit for up to eighteen months, the extraordinary speed of this process is a strong indicator of the urgency the Justice Department felt to provide a *different* set of defendants with a justification for *their* acts.

Center attorneys, working in cooperation with lawyers from Texas and Florida, filed dozens of pre-trial motions. Among the more unusual of them were: Motion to Dismiss and for Hearing With Respect to Bad Faith Prosecution, aimed at zeroing in on the connections between the Gainesville 8 case and the Watergate situation; Motion for Hearing With Respect to Governmental Misconduct, designed to expose the Watergate-type methods the government used against the defendants and their lawyers; Motion for Disclosure of Agents and Informers in the Defense Camp, a motion which proved prophetic when the prosecution introduced at trial an informer/witness who had previously

been represented by Center lawyers after he was subpoenaed to appear before the grand jury; and many others.

At the trial itself, the government distinguished itself and its case by relying on a parade of agents, informers and provacateurs. For almost a month, defense lawyers blew gaping holes in the stories and credibility of the government witnesses, many of whom were possessed of uncanny memories for details relating to the charges, but were subject to inexplicable lapses of memory regarding such matters as how long they had been employed by the F.B.I. and how much money they had been paid to inform.

None of this, apparently, was lost on the jury (which had been selected with the help of Dr. Jay Shulman, a sociologist and jury expert). On August 31, 1973 the jury acquitted all of the defendants on all of the charges.

As great a victory as this was, it came at a tremendous personal, emotional and financial cost to both the defendants and their lawyers. In terms of the Center's resources, the Gainesville 8 case represented an enormous expenditure of time, energy and money—all of which were spent to free people who should never have been arrested, and to defeat a prosecution that should never have been brought. It is in precisely this way that the government ends up the victor, though its case is repudiated and its victims set free.

CRIMINAL CASES – WHO ARE THE *REAL* CRIMINALS?

Center attorneys are deeply involved, at present, in the prosecutions arising out of the occupation of Wounded Knee. Specifically, this involves providing the legal defense in the following three cases:

United States v. *Russell Means*—Russell Means is one of the national leaders of the American Indian Movement (AIM), which spearheaded the historic occupation of Wounded Knee for seventy-one days. The occupation, an event of immense symbolic importance for the Indian People, was designed to call attention to the plight of American Indians who are forced to live in poverty, squalor and hopelessness while the great natural riches of their stolen land are denied to them.

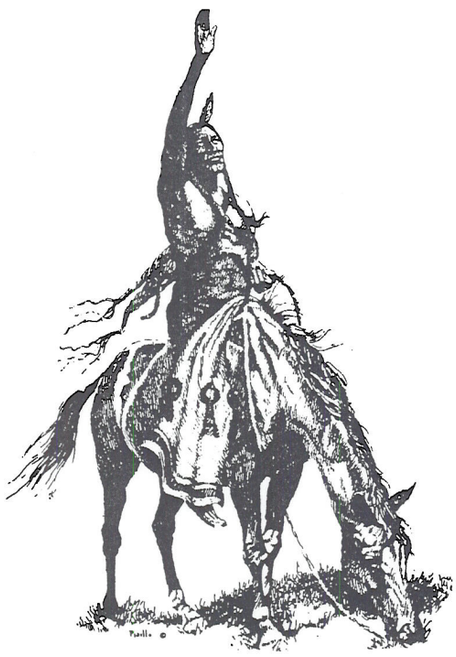
Means originally had been charged with eleven criminal counts ranging from arson to assault. Center lawyers responded with numerous pre-trial motions to dismiss based on a variety of grounds including the constitutionality of the statutes involved, bad faith prosecution, prejudicial pre-trial publicity and failure to charge anything which states an offense. Evidentiary hearings on the motions to dismiss were held in November, 1973 before Judge Nichol in South Dakota. As a result of these hearings, the arson counts against Means were dropped and, at this writing, his trial is proceeding on the remaining counts.

United States v. *Zimmerman*—Dr. William Zimmerman, a young anti-war activist from Boston, has been charged with crossing state lines with intent to incite a riot (the notorious "Rap Brown Act") and conspiracy to interfere with federal officers as the result of his alleged participation in an airlift of food and medical supplies to the occupiers of Wounded Knee. The government does not allege that anything other than food and medical supplies were parachuted into Wounded Knee, so that the only crime charged amounts to providing food and medicine to sick and starving people.

More than a dozen pre-trial motions have been filed thus far, including motions to change the venue (location) of the case from South Dakota to Boston, to dismiss on the grounds that the prosecution is being brought in bad faith and that the anti-riot or "Rap Brown Act" is unconstitutional, as well as motions relating to the motives of the government in prosecuting those who would materially support the civil rights struggles of American Indians. The Judge has not yet ruled on any of these motions, and the case is not expected to reach the trial stage for several months.

United States v. *Carol Red Star*—Carol Red Star is an Oglala Sioux woman who is charged with stealing a box of groceries, a few gallons of gasoline and a picture frame from the Trading Post at Wounded Knee during the occupation. The government would like to present this case, which has not yet been scheduled for trial, as a simple larceny. Center lawyers are determined to present the real issue in the case to both the Court and the American people—whether or not a government which, having already robbed the Indian Nation of its land, its cultural heritage and its dignity, has systematically deprived that Nation of education, employment and opportunity, can then turn around and prosecute that people for not having the means to buy those things that are necessary for their survival. Indeed, the question of who the real criminal is becomes fundamental when one makes the inevitable comparison between the crimes committed against the Indians and the crimes committed by them.

The Center has been involved in a number of other criminal cases in which the rights of defendants are under attack. These include two inmates of Attica charged with murder as a result of the



They made us many promises,
More than I can remember,
But they never kept but one.

They promised to take our land
And they took it.

——Chief Red Cloud

prison uprising of September, 1971; H. Rap Brown, convicted of first degree robbery and now appealing that conviction; and Pepe Torres and Ruben Vega, Puerto Rican migrant workers convicted of possessing explosive devices, who are also appealing their convictions.

ELECTRONIC SURVEILLANCE — THE WASHINGTON TAP DANCE

It has become almost a matter of personal prestige among such anti-Administration elements as the liberal journalist community to have been wiretapped by the Nixon Justice Department. Unfortunately, the small social status to be derived from this dubious distinction hardly balances the deadly threat to constitutional liberties that government wiretapping constitutes.

The case of *Kinoy* v. *Mitchell*, which has become a model for similar litigation, is a damage action brought by Center attorney Arthur Kinoy against former Attorney General John Mitchell for having been, by the government's admission, illegally wiretapped on at least twenty-three separate occasions.

There is little doubt that the government, despite the unanimous ruling by the Supreme Court in *United States* v. *United States District Court* (see Center Report—1972) has continued to engage in warrantless electronic surveillance. It is one of the purposes of this litigation to make the government liable for its crimes, just as it seeks to make the people liable for theirs.

The Justice Department, as the defendant in this action, is arguing that the electronic surveillance of Kinoy occurred before the Supreme Court outlawed domestic security wiretapping, and that the Court's decision is not retroactive. Consequently, they have asked the Court to dismiss the case. Center attorneys are demanding broad discovery, including the right to look at any tapes that still exist, any logs or memoranda with respect to overheard conversations, and the names of any parties, in addition to Kinoy, who were overheard. The Justice Department, without the slightest hint of embarrassment, has invoked "executive privilege" as its reason for refusing to provide plaintiffs with this information.

The fact that the Justice Department is forced to rely on the thoroughly discredited claim of "executive privilege" is further evidence of the legally bankrupt and morally untenable position it is in. No ruling as to the motion to dismiss or our demand for discovery has been made as yet.

THE WAR AND IMPEACHMENT

Up until the last merciless moment of the "official" U.S. bombing of Cambodia, Center lawyers were working feverishly to force the Courts to recognize their responsibility to strip any legal validity from what can only be described as mass murder.

In a federal suit, *Drinan*, et al. v. *Nixon*, et al., brought on behalf of four Massachusetts Congressmen, Center lawyers sought to enjoin the bombing of Cambodia as lacking Congress' authorization and being in violation of the Paris Accords and International Law.

On August 8, 1973 Federal District Court Judge Tauro dismissed the suit on the ground that the so-called "August 15th Compromise" constituted congressional approval for the bombing until that date. The opinion, however, implied that, had a decision been rendered prior to the adoption of the compromise on July 30th, it might have been in favor of the plaintiffs.

An emergency appeal was taken to the First Circuit Court of Appeals which convened an extraordinary sitting in Portland, Maine on August 10th, and, on the same day, rendered an opinion affirming Judge Tauro. The Circuit's opinion reaffirmed the doctrine that where there is a clear conflict between Congress and the President as to whether a given war should or should not be fought, the courts have a duty to intervene. In addition, the Circuit did not agree with the District Court's finding that the August 15th Compromise constituted congressional approval of the bombing. However, the Circuit held that it could not read Congress' mind and that, therefore, there was no way to tell whether the continued bombing was or was not a violation of the compromise.

Two emergency appeals to the Supreme Court were rejected by Chief Justice Warren Burger on August 13th and 14th.

In the *Drinan* case, the appellate courts left unresolved the novel and highly important constitutional question of whether the veto power of the President properly applies to a piece of legislation which merely reminds the President that he is acting in excess of his constitutional power. The courts also evaded the question of whether or not they have jurisdiction over the Chief Executive.

The Center, while unable to stop the terror bombing of the Cambodian people, has not abandoned the notion that war criminals, even if they occupy the highest office in the land, are subject to punishment for their crimes. Recently, Center attorneys prepared a legal memorandum on the

question of whether or not the bombing of Cambodia constituted an impeachable offense.

Using as precedent the surprisingly little known case of Warren Hastings, the British Governor-General of India in the late 18th Century, Center lawyers have established a powerful case for the proposition that the barbarous treatment of a foreign people, whether in India in the 1780s or in Cambodia in the 1970s, is an impeachable offense.

The Hastings case, wherein the Governor-General was impeached by the House of Commons for what amounted to war crimes against the Indian people, brings into sharp focus the duty of our own House of Representatives with respect to the President's crimes in Southeast Asia.

The Center has also undertaken responsibility for other legal memoranda with respect to impeachment, particularly in the areas of impoundment of funds by the President, invasion of privacy and misappropriation of funds.

ATTACKS ON LAWYERS

At the conclusion of the Chicago Conspiracy trial in 1970, Judge Julius Hoffman issued 173 contempt citations against both the defendants and their lawyers. Though the contempts were equally undeserved by lawyers and clients alike, the contempts issued against the lawyers have a special and separate significance. Throughout the trial, the Judge's strong bias toward the prosecution and against the defense was obvious. Repeatedly, the Judge would sustain prosecution objections while overruling defense objections on identical grounds. Time and time again, the Judge would rule legal arguments out of order, would obstruct cross-examination of prosecution witnesses, and would prevent the defense from fully examining (or even putting on) its own witnesses. The attorneys, William Kunstler and Leonard Weinglass, responded by tenaciously and persistently demanding that they be allowed to defend their clients. They could have quietly submitted to each outrage, as the prosecution and Judge no doubt hoped they would, but they did not. They fought back.

The result, of course, was multiple contempt citations for each attorney.

In November, 1973, after many of the contempt citations had been dismissed by the Seventh Circuit Court of Appeals, the defendant lawyers and clients went on trial for criminal contempt in Chicago. The result of that trial was a victory, though an incomplete one. Of the original 173 contempts cited by Judge Hoffman, convictions were obtained on only 13, two against Kunstler, two against Hoffman, two against Rubin and seven against Dellinger. After these decisions were rendered, Judge Edward Gignoux, the trial Judge in the case, declined to impose any sentence whatsoever on any of the defendants. Yet, despite the fact that 160 of the charges were thrown out and no sentences were imposed for the charges that stood, the mere fact that any convictions were obtained, particularly against one of the defense counsel, has serious implications. For, if defense lawyers are made to fear that providing a vigorous and tenacious defense in controversial cases will result in charges of contempt, the government will have won a great victory in its campaign to use the law as a weapon of political aggression. It goes without saying that the Center will appeal the conviction.

During the past year, Center attorney William Kunstler has been the victim of another government attack on progressive lawyers, not to mention the right to counsel itself. Ever since Andrew Hamilton journeyed to New York to defend John Peter Zenger, the concept of the traveling lawyer criss-crossing the nation to defend cases shunned by the local bar has gone virtually unchallenged in American jurisprudence. Indeed, every court in the land has traditionally accepted the notion of *pro hac vice* (for purposes of a case) admissions to local bars. Until the case of Arthur Banks.

Banks, a black actor and playright, sought the assistance of William Kunstler in an assault case that developed while Banks was serving a draft refusal sentence in the United States Penitentiary in Terre Haute, Indiana. When Kunstler appeared in Federal District Court in Indiana prepared to defend Banks, the District Judge refused to permit Kunstler to represent Banks because the former's political notoriety might prejudice his client. Even after Banks reiterated his desire to be represented by Kunstler the Judge maintained this position. A Writ of Mandamus (compelling an official to perform a lawful duty) was sought to compel the Judge to allow Kunstler to appear, and was unanimously granted by the Seventh Circuit Court of Appeals. On a petition for a rehearing before the full Circuit brought by the government, the A.B.A. and 21 so-called prestigious Indiana attorneys, the Circuit affirmed its earlier granting of the Mandamus. Supreme Court Justice Rehnquist, however, granted a stay of the Mandamus to allow for a further appeal to the Supreme Court. That appeal was recently accepted, and Center attorneys are now mapping out a strategy for response.

The outcome of this case will, of course, have a fundamental effect on the progressive bar,

many of whose members travel around the nation providing legal counsel in controversial cases. Should the Supreme Court limit, in any way, the right of these lawyers to obtain *pro hac vice* admission in other bars, a tragic blow will have been struck, not merely at lawyers' right to practice their profession, but at the people's right to counsel of their choice.

Center attorneys are also deeply involved in defending against an attack on yet another lawyer. 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 disbarrment actions, and on March 23, 1973 the Kentucky Court of Appeals set aside the disbarrment 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 involved a reduction in 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 United States Supreme Court. A 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* raises the fundamental issues of due process, right to jury trial in contempt proceedings, judicial disqualification in contempt proceedings, and what may constitutionally constitute a contempt.

WOMEN'S RIGHTS – ALL *PEOPLE* ARE CREATED EQUAL

"In entering upon the great work before us, we anticipate no small amount of misconception, misrepresentation and ridicule; but we shall use every instrumentality within our power to effect our object."

Seneca Falls Convention, The First
Women's Rights Convention, 1848

Discrimination and oppression have traditionally been thought of as attitudes related to ethnic or religious groups, usually constituting national minorities. It is ironic, therefore, that the oldest form of discrimination and oppression has been practiced against a *majority* which transcends ethnic, religious and class lines. The victims are women, and it is only recently that they have begun, on a massive national and international scale, to organize against it.

Attorneys at the Center For Constitutional Rights have played a leading role in attacking sex discrimination as it exists in state and federal law, as well as in major corporate and public institutions.

At present, the Center is engaged in representing the National Organization of Women before the Federal Communications Commission in NOW's petition to deny the license renewal of WABC-TV. The petition is based on WABC-TV's discrimination against women in hiring and promotion as well as its consistently distorted and degrading portrayal of women in society.

In this first major challenge to the treatment of women by the media, Center attorneys are alleging that the role of women in our culture is a controversial issue and therefore WABC-TV may not legally, under the Fairness Doctrine of the F.C.C., present only one side of that issue (i.e. that a woman's place is in the home, and any other role she might have is clearly secondary).

In what will perhaps be the next major area of the struggle to gain for women a meaningful right to abortion, Center lawyers have successfully challenged New York State's administrative decision to limit Medicaid reimbursement to "medically indicated" abortions. *Klein* v. *Nassau County Medical Center.* The *Klein* case is now on appeal

to the United States Supreme Court where the Solicitor General's Office has been "invited" to present its views as to whether the Federal Medicaid statutes require states to reimburse for abortions.

Although many people will believe that a woman's right to an abortion has been secured with the Supreme Court's decision regarding the laws of Texas and Georgia, the Center recognizes that the implementation of the rights enunciated by the Court in those cases will present the real battle. Center attorneys are prepared to continue their work to insure poor women abortions under Medicaid and will continue to develop new legal theories as additional roadblocks are erected to prevent women from exercizing their hard won rights.

Center lawyers, more than a year ago, challenged the constitutionality of the compulsory maternity leave policies of the New York City Board of Education. Under this policy women had been forced to stop work (and stop receiving pay) at their seventh month of pregnancy, regardless of whether or not they felt physically able to continue and without concern for the financial impact of the forced work stoppage on the woman and her family.

Though the Board maintained that no such policy existed (and since this litigation was started, has adopted a policy of leaving the maternity question entirely up to the woman) more than one hundred women have contacted the Center with complaints of having been forced to take leave earlier than they had wished and had lost their salaries during that period of time. The suit, consequently, is now aimed primarily at recovering the back salaries of women who were victimized by compulsory maternity leave when the "non-policy" was in effect.

The case of *Andrews* v. *Drew Municipal School District* (in Mississippi) arose when a Black teacher and teacher's aide were fired because of their status as unwed mothers. The Center was asked to file a brief *Amicus Curiae* (friend of the court) on behalf of the women who had been fired. The brief was filed, attacking the rule under which the women had been dismissed as being an invasion of their privacy, as having the effect of forcing them to choose between their jobs and having children, and of being discriminatorily applied to women, though the unwed father obviously shares equal responsibility for creating the situation. Though the two women were reinstated by the Federal District Court, and enforcement of the rule enjoined, the injunction has been stayed pending the State's appeal to the Fifth Circuit Court of Appeals.

LABOR

In 1973, the National Union of Workers in Puerto Rico struck the construction site of the Werl Construction Company. An injunction was issued, under the Taft-Hartley law, against the Union and its officers by the Federal District Court in Puerto Rico. The injunction had been requested by the National Labor Relations Board (NLRB).

When the strike continued after the injunction had been issued, the NLRB sought to have the Union and its officers held in civil contempt. Four days later the NLRB added a request to have the Union and its officers held in criminal contempt. Three days after the workers returned to their jobs, and on the same day that the strike was officially ended, the Federal District Court signed an order to show cause why the Union and its officers should not be held in criminal contempt.

Center attorneys have agreed to represent the defendants at their criminal contempt trial in what is considered to be the most important labor case in Puerto Rico's history. Some of the major issues being raised include: whether or not the jurisdiction of Taft-Hartley, and of the NLRB itself, extends to Puerto Rico, in light of the findings of the United Nations Committee on De-Colonization that Puerto Rico is a colony of the United States; the selective use of the criminal contempt proceedings against this Union and its leaders to punish them for their leadership in the struggle against the application of Taft-Hartley to Puerto Rico and for their association with the Puerto Rican Independence Movement; the constitutionality of Federal Court rules requiring the use of English in proceedings before that Court, despite the clear fact that the parties, including judges, lawyers and defendants, are considerably more comfortable and articulate in their native Spanish. The trial Judge recently denied a pre-trial motion asking that the proceedings be held in Spanish, and Center lawyers are seeking a reversal of that denial in the United States Court of Appeals for the First Circuit.

INTERNATIONAL RACISM

Throughout the world, the nation of South Africa is infamous for its official white supremacist policies and its vicious repression of the overwhelming Black majority. While these policies have been earning universal condemnation, one of the

most respected newspapers in the country, The New York Times, has been printing advertisements for job opportunities in South Africa.

Center lawyers, in cooperation with the Lawyers Committee for Civil Rights Under Law, are representing the American Committee on Africa and three other plaintiffs in a suit filed before the New York City Human Rights Commission. The suit seeks to enjoin the *Times* from carrying employment ads for South Africa. The complaint is based on the fact that it is the official (as opposed to *de facto*) policy of the South African government to discriminate against people of color, and that because the name South Africa has become virtually synonymous with racism, people of color automatically exclude themselves just as if the ad actually said "colored people need not apply."

The New York Times challenged the jurisdiction of the Commission on First Amendment grounds and on the grounds of "interference with the foreign policy of the United States." Following rejection of this challenge by the New York State Supreme Court and by the commission itself, hearings were held on the merits of the case. Though a decision has not yet been rendered by the Human Rights Commission, it is expected that the case will go to the courts regardless of the outcome.

FIRST AMENDMENT — FIGHTING BACK

In 1973, the tax-exempt status of the United States Servicemen's Fund was revoked by the Internal Revenue Service. The USSF had been actively engaged in providing to G.I.'s an anti-war alternative to the jingoistic activities sponsored by such groups as the USO and the Bob Hope tours.

During the course of the Watergate Hearings, testimony was given with respect to Administration pressure on the IRS to use its powers against "political enemies." Clearly, USSF had been a major victim of such unconstitutional White House pressure. At the request of USSF, the Center began litigation to have the organization's tax-exempt status restored.

A complaint was filed in Federal District Court in Washington, D.C. asking for an injunction against enforcement of the revocation, and alleging that the revocation was the result of political manipulation by the White House of the IRS. Center lawyers were busy preparing to try this case, and to expose the White House complicity in this conspiracy to get political enemies of the Administration, when the IRS abruptly did an about face and restored USSF's tax-exemption.

PRISONERS' RIGHTS

The involvement of Center lawyers in *Wallace* v. *Kern* had a somewhat unusual beginning. In July 1972, seven indigent inmates awaiting trial in the Brooklyn House of Detention began a class action suit in Federal District Court which alleged systematic and widespread constitutional deprivations in the Brooklyn criminal courts.

The prisoners dramatized their grievances by instituting a peaceful boycott of the Brooklyn Supreme Court and shortly thereafter lawyers from the Center, and the National Lawyers Guild were appointed by the Federal Court as counsel for the inmates on their suit.

The lawsuit, brought pursuant to the Civil Rights Act, challenged the unjust and inhumane treatment of poor people awaiting trial in the Brooklyn House of Detention. At issue were illegal practices that affected indigents from arrest through disposition of their criminal charges, including setting of excessive bail, lack of adequate counsel, denial of speedy trial rights, coercion in plea bargaining and lack of due process and equal protection as a result of economic status. It was the first time that a class action was initiated to challenge the administration of justice by detainees in a major urban area and has integrated the talents of lawyers, prisoners, law students and lay people in its development.

In early 1973 hearings were held inquiring into the adequacy of counsel assigned to protect the rights of indigent accused. In May, 1973, Federal District Court Judge Orrin G. Judd (E.D.N.Y.) wrote a 57-page decision that promises to have wide-spread and significant effects on the legal rights of indigents throughout the country. The Court found that the criminal parts of the Brooklyn Supreme Court "are in a state of deep crisis" and that conditions under which assigned counsel must work were "shocking." He concluded that the representation provided by Legal Aid attorneys, who represent 75% of all felony defendants in Brooklyn, did not measure up to the Sixth Amendment standard. In addition he found that the practice of not calendaring *pro se* (filed by the defendants themselves) motions denied detainees access to the courts. To remedy these violations he enjoined the Legal Aid Society from taking new assignments until the caseload fell below 40 felony cases per attorney and ordered the clerk to calendar and hear all *pro se* motions.

In June 1973, this decision was reversed by the Court of Appeals for the Second Circuit on a procedural technicality. It did not disturb the findings of the court below. Plaintiffs filed a peti-

tion for *certiorari* to the Supreme Court, which was recently denied.

In July 1973, plaintiffs had additional hearings before the court on the issue of whether speedy trials were available to indigent defendants in Brooklyn. A decision is expected shortly.

Meanwhile the suit goes on. All practices of the Supreme Court will be scrutinized by the legal team and a full trial on the merits is expected in the spring of 1974. This lawsuit will have a profound effect on all judicial systems in urban areas and is being used as a model for similar suits in California and Indiana.

CENTER TRAINING PROGRAM

A major function of the Center has been to train young lawyers, providing them with both experience in litigation and an atmosphere in which to develop a creative outlook on the use of law as a vehicle for social change.

Presently, former Center staff attorneys are spread throughout the United States, working in legal collectives, in private practice and in teaching positions. Since the last Report, Jim Reif has left the Center's legal staff to work in the national office of the National Lawyers Guild.

Very much a part of the Center's training program is its work with law students. Recently, Peggy Ann Wiesenberg of Northeastern Law School spent her three month work semester at the Center deeply involved in several major pieces of ongoing litigation. In addition, for the past year, New York University law students Michael Bell and John Boston have volunteered much of their time working on the Center's litigation around the Brooklyn House of Detention for Men.

Each Summer, of course, the Center works with a number of law students, many of whom are sponsored by the Law Students Civil Rights Research Council. This has been an experience of mutual benefit, offering law students considerable exposure to the actual practice of law and providing the Center with valuable contributions to its work.

EDUCATIONAL PROGRAM

It is not the purpose of the Center to win abstract legal victories, isolated in an intellectual vacuum from the daily lives of the American people. On the contrary, the Center seeks to make people aware that they *have* rights, and to make those rights a reality.

This is accomplished in a variety of ways. The distribution of briefs, such as the substantive and contempt appeals of the Chicago Conspiracy Case, to hundreds of lawyers has undoubtedly benefitted countless defendants whose rights were being similarly violated. Though it is not financially feasible to print, as with the *Chicago* appeals, the dozens of briefs produced at the center each year, we have attempted to keep interested people informed of our work through the annual distribution of the Center Docket Report. This results in scores of requests for briefs, motions, complaints and legal memoranda with which we comply as rapidly as possible. In this way, attorneys around the country are kept informed of new legal techniques and novel uses of established law that are developed at the Center. The ripple effect that is created can and often does reach to even the most remote community via the civil liberties-oriented attorneys in the area.

A crucial part of the Center's educational program is making its staff available for speaking engagements at law schools, lawyers' organizations, citizens' groups, public meetings and radio and television programs. In the past year, for example, Center staff members have travelled to more than twenty states to fulfill more than one hundred and fifty speaking engagements on such topics as prisoners' rights, women's rights, wiretapping, and the political use of the conspiracy charge, to name a few.

Currently, four of the Center's staff attorneys, Nancy Stearns, Rhonda Copelon Schoenbrod, Elizabeth Schneider and J. Otis Cochran are teaching courses in their "spare time" at Rutgers Law School (Nancy), Brooklyn Law School (Rhonda and Liz) and Vassar College (Otis). In addition, Morton Stavis, one of the Center's senior volunteer attorneys has begun teaching a course at Seton Hall Law School.

Also during 1973, the Center sponsored and provided lecturers for a fourteen week adult education course given at the College of New Rochelle. The course, Contemporary Issues of Law and Social Policy, included discussions in such areas as impeachment, executive privilege, wiretapping and electronic surveillance, women's and prisoners' rights, and military law. The Center has been invited to sponsor a similar course for the school's coming Spring Semester.

Finally, Center lawyers are called upon, on a daily basis, to act as consultants to other lawyers in cases containing issues in which the Center has acquired expertise.

ADMINISTRATION AND STAFF

Since the last Report, the Center has settled into its new office at 853 Broadway in New York City. The physical layout of the new office has been a major contributing factor to our increased productivity, as the noise and other distractions created by all working in one large room are considerably diminished now that we have individual rooms. Also, now that we have heat in the Winter and air conditioning in the Summer, instead of the other way around, morale has risen dramatically.

Currently, the full-time staff attorneys of the Center are Nancy Stearns, Rhonda Copelon Schoenbrod, Mark Amsterdam, Doris Peterson, J. Otis Cochran and Elizabeth Schneider. Esther Boyd, Georgina Cestero, Dorothy Thorne, Rick Wagner, Gregory H. Finger, Elizabeth Bochnak and Jeffrey Segal share responsibility for all aspects of administrative, educational and fund-raising work at the Center.

Arthur Kinoy, William M. Kunstler, Morton Stavis, Peter Weiss and Robert Boehm continue to devote large amounts of their time to the Center's legal work. They not only play an intimate role in a major portion of our litigation, but also contribute their vast legal experience in the form of advice and counsel to the younger staff lawyers.

A special note of thanks is extended to attorneys Daniel Alterman and Steve Lattimer and legal workers Michael McLaughlin and David Minnis for their leadership of and input into the massive litigation around the Brooklyn House of Detention for Men.

MARCH 25, 1974

Center for Constitutional Rights
853 Broadway
New York, New York

Gentlemen:

We have examined the balance sheet of

CENTER FOR CONSTITUTIONAL RIGHTS

as of December 31, 1973, and the related statement of income, expenditures and changes in fund balance for the year then ended.

Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the accompanying statements present fairly the financial position of Center for Constitutional Rights at December 31, 1973 and the results of their operations for the year then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

ZISMAN, TRAURIG & ELBLONK

CENTER FOR CONSTITUTIONAL RIGHTS
BALANCE SHEET
DECEMBER 31, 1973

ASSETS

Cash	$49,439	
Marketable securities (Note 1)	11,717	
Loans receivable — employee	500	
Other receivables — expense reimbursement	3,554	
Prepaid expenses	1,093	
Security deposits	6,743	
Furniture and equipment — nominal value	1	
		$73,047

LIABILITIES AND FUND BALANCE

Liabilities		
Notes payable — bank	$10,000	
Accounts payable	30,571	
Payroll taxes payable	2,702	
Accrued expenses	349	
Total Liabilities		$43,622
Commitments and Contingencies (Note 2)		
Fund Balance		29,425
		$73,047

NOTE 1. Marketable Securities:

Commercial paper at cost	9,957
Marketable securities at donated value	1,760
	11,717

NOTE 2. Commitments and Contingencies:

The Center leases office space at 853 Broadway, New York. The lease expires on May 31, 1981. The annual rental is $18,996. and also provides for increases if local property taxes are increased.

The Center is leasing a telephone communications system for an annual rental of $1,971. The lease expires June 8, 1978 and provides for purchase of the equipment for one dollar.

NOTE 3. The Center owns 121 sets of a twelve print art portfolio. The portfolios were donated to the center by the artists. The value of the portfolios is undetermined until sold.

Subject to the comments contained in the accompanying letter.

CENTER FOR CONSTITUTIONAL RIGHTS
STATEMENT OF INCOME, EXPENDITURES AND CHANGES IN FUND BALANCE
FOR THE YEAR ENDED DECEMBER 31, 1973

Income		
Contributions	$303,890	
Honorariums	5,938	
Art Portfolio project (net of expenditures)	4,500	
Miscellaneous	3,492	
Interest	661	
Total Income		$318,481
Expenditures		
Salaries	108,049	
Travel expenses	20,760	
Attorneys' expenses	7,099	
Court costs, transcripts and briefs	8,654	
Rent	16,299	
Telephone	25,143	
Postage, stationery, office and copying	24,698	
Insurance	666	
Utilities	2,639	
Payroll taxes	8,938	
Employee welfare	3,939	
Special project attorney costs	7,510	
Bookkeeping	5,200	
Mailing	44,669	
Fund raising	6,913	
Moving and renovating	5,250	
Office cleaning and maintenance	1,120	
Interest	1,422	
Books, subscriptions and publications	1,883	
Total Expenditures	300,851	
Less: Reimbursements	25,412	
Net Expenditures		275,439
Excess of Income over Expenditures		43,042
Fund Balance (Deficit) January 1, 1973		(13,617)
Fund Balance – December 31, 1973		$ 29,425

Subject to the comments contained in the accompanying letter.