UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

RICHARD B. SOBOL, et al. Plaintiffs, UNITED STATES OF AMERICA, Plaintiff-Intervenor, v. LEANDER H. PEREZ, SR., et al. Defendants, STATE OF LOUISIANA, Defendant-Intervenor, JOHN P. DOWLING, et al. Defendant-Intervenors, LOUISIANA STATE BAR ASSOCIATION, Defendant-Intervenor	)	CIVIL ACTION NO. 67-243 SECTION "E"

BRIEF OF THE UNITED STATES

LOUIS C. LA COUR
United States Attorney

STEPHEN J. POLLAK
Assistant Attorney General

OWEN M. FISS
HUGH W. FLEISCHER
LESTER N. SCALL
ALLEN D. BLACK
Attorneys,
Department of Justice
Washington, D. C.

TABLE OF CONTENTS

CASES

Cases Continued — Page

Cases Continued — Page

Cases Continued — Page

Cases Continued — Page

Cases Continued Page

STATUTES AND RULES

Statutes and Rules, Continued — Page

Other Materials

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

RICHARD B. SOBOL, et al. Plaintiffs, UNITED STATES OF AMERICA, Plaintiff-Intervenor, v. LEANDER H. PEREZ, SR., et al. Defendants, STATE OF LOUISIANA, Defendant-Intervenor, JOHN P. DOWLING, et al. Defendant-Intervenors, LOUISIANA STATE BAR ASSOCIATION, Defendant-Intervenor.	)	CIVIL ACTION NO. 67-243 SECTION "E"

BRIEF OF THE UNITED STATES

I. Introduction

This case essentially involves a challenge to two national concerns of the highest importance -- that of obtaining equal opportunity and equal treatment for Negroes,[1/] and that of insuring that all persons receive

---

1/ See, e.g., Brown v. Board of Education; 347 U.S. 483 (1954); the Civil Rights Act of 1964, 42, U.S.C. §2000; the Voting Rights Act of 1965, 42, U.S.C. §1973.

adequate representation in legal proceedings.[2/] More specifically, the interest involved in this case is that of assuring adequate legal representation in civil rights cases. The challenge to that interest before this court is the arrest and prosectuion of Richard Sobol for representing a Negro in a civil rights case in Plaquemines Parish, Louisiana, and it is the position of the United States that that challenge violates the Equal Protection Clause of the Fourteenth Amendment.

This position of the United States is based on two alternative legal theories: (1) that the arrest and prosecution of Richard Sobol was a form of harassment, undertaken without basis in law or fact, for the purpose of deterring him and other lawyers similarly situated from helping to provide legal representation in civil rights cases; and (2) that without regard to the purpose of the arrest and prosecution, it represents an unconstitutional application and construction of a State statute, section 214 of Title 37 of the Louisiana Revised Statutes, because such an application and construction of the State statute deprives persons of a much needed source of representation in civil rights cases without serving any legitimate State purposes.

We believe the proof supports both legal

2/ See, e.g., Gideon v. Wainwright, 372 U.S. 335 (1963); the Criminal Justice Act of 1964, 18 U.S.C. 3006; the Economic Opportunity Act, 42 U.S.C. 2701. See Section IV, infra.

theories. However, the United States urges the Court to decide the case on the basis of the second legal theory. Such a holding will provide greater guidance and direction to the parties looking to this case -- the local officials throughout the State, the civil rights lawyers and organizations in Louisiana, the out-of-state lawyers who would come to the State to help provide representation in civil rights cases, and the persons in need of such legal representation. We recognize that the second legal theory requires this Court, without much assistance of any prior decisions,[3/] to deal with a difficult and basically unstructured legal concept -- the availability of full and fair representation in civil rights cases. It also requires this Court to determine what role the out-of-state lawyer, particularly Richard Sobol, plays in providing representation in civil rights cases, whether any legitimate state interests are threatened by the out-of-state lawyer providing such representation, and the effect of the prosecution of Richard Sobol on the supplementary source of representation for civil rights cases provided by out-of-state lawyers. This brief primarily seeks to assist the Court in making these determinations.

In the first section, Section II, we analyze the nature of civil rights cases and isolate the

---

3/ See Lefton v. City of Hattiesburg, 333 F.2d 280, 285-286, (5th Cir. 1964); NAACP v. Button, 371 U.S. 415, 443, (1963).

reasons why lawyers licensed to practice law in Louisiana are generally unwilling to handle such cases and why there is only a limited category of lawyers to whom Negroes and civil rights workers are willing to entrust civil rights cases. Section III identifies the Negro lawyers as the class of Louisiana lawyers who are relied on primarily by the potential civil rights client and the ones most likely to provide representation in civil rights cases. We also show that the number of such lawyers is totally inadequate, and how that came about. Section IV explores what supplementary sources of representation are available to provide representation in civil rights cases -- court appointments, legal assistance programs, and most importantly, out-of-state lawyers. The particular role of the Lawyers Constitutional Defense Committee (LCDC) and Richard Sobol in providing representation in civil rights cases in Louisiana is discussed in Section V. That section also analyzes all the facts and circumstances surrounding the arrest and prosectution of Richard Sobol in Plaquemines Parish for his representation of Gary Duncan. The final section, Section VI, focuses on the relief we request -- an injunction stopping the prosecution and establishing a constitutional safety zone so as to enable out-of-state lawyers to provide much needed representation in other civil rights cases -- and the parties against whom we seek relief.

II. The Nature of Civil Rights Cases

A. The Definition of Civil Rights Cases

Civil rights cases are, for the purpose of this suit, to be understood as legal proceedings distinguished or identified by their connection with or relationship to the effort to obtain equal treatment and equal opportunity for Negroes. Embraced within this general term "civil rights cases," three general types of cases can be isolated.[4/]

Affirmative Suits. One type of civil rights case is the affirmative civil suit seeking to obtain equal treatment or equal opportunity for Negroes. Included in this category might be the suits brought under the Equal Protection Clause of the Fourteenth Amendment, the Fifteenth Amendment, the Civil Rights Act of 1964, and the Voting Rights Act of 1965, which seek the desegregation of the public schools and other state facilities, equal access to places of public accommodations, equal voting rights, equal treatment by public officials, and equal employment opportunities. In Louisiana these suits are now generally brought in the federal courts, although such suits can be brought and had in the past[5/] been brought in the state courts.

4/ Vol. 4, pp. 180-181, Sobol; Vol. 2, pp. 72-73, 79-85, Collins; see also U.S. Ex. 14, p. 21, Millspaugh.

5/ U.S. Ex. 8, p. 69, Tureaud; Vol. 5, p. 130, Amedee; U.S. Ex. 15, pp. 13, 21, Berry.

Civil-Rights-Context Cases. Another type of civil rights case is that identified by the context of an individual's conduct, by the fact that the individual's conduct, as judged in its context, is related to the achievement of racial equality. This category would include a great variety of cases -- a defense to a criminal charge where the defendant was engaged in a protest or demonstration to achieve racial equality; a defense to a criminal prosecution that is allegedly brought to discourage Negroes from asserting their rights; a civil suit to declare a state law invalid as unconstitutionally vague or overbroad so as to enable individuals to demonstrate freely on behalf of the cause of racial equality; or a suit designed to protect the rights of individuals who engaged in conduct that would further the cause of racial equality. The defense of the criminal charges usually takes place in state courts, and while the civil suits can be brought in either federal or state courts, in Louisiana they usually are in the federal courts. Of course, many ancillary proceedings, such as those stemming from a removal petition or habeas corpus petition might be involved in this category of cases.

Civil-Rights-Issue Cases. A third category of civil rights cases is that identified by the nature of the substantive issue that is raised in defense to a legal proceeding brought by the state. The substantive issue relates to claims of racial equality. The

most common example is the defense to a criminal prosecution based on a claim that Negroes are systematically excluded from the jury because of their race. Such a defense not only goes to insuring an impartial trial by one's peers but also has the effect of challenging racial practices that exclude Negroes from participation in the governmental processes. These cases are usually brought in the state courts, often where there is a constitutional right to court appointment and are distinguished from the affirmative suits by their defensive nature. Some cases might be classified as both a civil-rights-issue and civil-rights-context case (e.g., a defense to a state criminal prosecution for protesting that is based on the claim that the prosecution was a form of racial harassment). However, there are also cases that fall into one category and not into the other. A case may be considered civil-rights-context case without regard to the substantive issue raised (e.g., the defense may be based solely on the Sixth Amendment claim to trial by jury) and conversely the civil-rights-issue case may involve conduct unrelated to the promotion of racial equality (e.g., a burglary).

The rough, approximate character of these three categories of civil rights cases should be clearly understood. The categories overlap at points, and there even may be civil rights cases that do not

fit into any of these categories. Moreover, we do not believe it would be useful to attempt to determine which category is entitled -- to the exculsion of the other categories -- to be considered "civil rights cases." All three types of cases are embraced within the common understanding of the term, even though it might be easier to obtain Louisiana lawyers to handle one category of cases rather than another, and even though the LCDC and Richard Sobol might be engaged in providing representation in certain of the categories of cases and not in the others. The substantive issues cannot be resolved by definition. These categories are intended only as tools to clarify the ensuing discussion and analysis.

B. The Special Problems -- The Factors Limiting the Availability of Lawyers to Handle Civil Rights Cases

We believe that in Louisiana there are problems posed in providing representation in civil rights cases that make lawyers licensed to practice in Louisiana generally reluctant to handle civil rights cases -- perhaps more so than with other types of cases -- and that limit the category of lawyers to whom Negroes and civil rights workers generally would be willing to entrust a civil rights case. It is our contention that the existence of such problems is part of the reason that Negroes and civil rights workers cannot obtain fair and adequate representation in such cases.

1. Harassment

Representing a Negro in a civil rights case, particularly one that could be classified as an affirmative suit or a civil-rights-context case, subjects attorneys to harassment and intimidation. This is because a civil rights case represents, almost by definition, a challenge to the established social structure and because the lawyer is particularly identified with his client's cause. The usual reasons for identifying a lawyer with his client's cause, such as the voluntariness of the decision to handle the case,[6] are present here, and in addition there is the fact that a willingness to handle the case cannot be explained in terms of financial remuneration,[7] that the lawyer is usually, as a precondition to the client entrusting him with the representation, personally and professionally identified with the cause of racial equality,[8] and that the lawyer is as actively involved in the decision to bring the suit or engage in the civil rights demonstration which results in the litigation. As John Dowling testified, and as the community knows, "You don't have individual

---

6/ As is often true with civil-rights-issue cases, the appointment by the court of an attorney to represent the client somewhat lessens the identification of the lawyer with the client's cause. See Vol. 7, pp. 73-74, Petrovich; Vol. 6, pp. 151-157, Defley. That is perhaps the reason why representing Negroes in those types of cases subjects the attorney to less harassment.

7/ See, e.g., Vol. 1, pp. 132-133, Elie; see also pp. 19-25, infra.

8/ See, e.g., Vol. 2, pp. 198-199, Nelson. See also pp. 26-30, infra.

Negroes walk into your office and [say to] you, I want you to desegregate school X." Vol. 9, pp 58-59, Dowling.

The record amply reflects the full spectrum of the resulting harassment. For some lawyers, handling civil rights cases has meant crank telephone calls, hate mail and verbal abuse.[9/] For others the form of expression was more striking -- the burning of crosses on lawns, bottles being thrown through windows,[10/] a "toy bomb" in a car,[11/] and gun shots intended as a warning.[12/] The hostility of local officials, including those law enforcement officials upon whom the lawyers would have to depend for their

---

9/ See, e.g., Vol. 1, p. 110, Elie; Vol. 1, p. 227, Collins; U.S. Ex. 14, pp. 27-28, 39, 46, 47, 14, Millspaugh; U.S. Ex. 13, pp. 50-51, White; U.S. Ex. 16, p. 23, Sharp; Vol. 2, pp. 137, Smith; Vol. 2, pp. 195-197, Nelson.

10/ See, e.g., U.S. Ex. 14, pp. 27-28, Millspaugh, Cf. also Vol. 8, pp. 50-51, Talley.

11/ See, e.g., Vol. 1, pp. 107, Elie.

12/ See, e.g., U.S. Ex. 13, p. 50, White.

safety, was often expressed without restraint.[13] And these statements and threats have often materialized into violence against the attorney handling civil rights cases -- one civil rights attorney testified to being tear-gassed by state troopers while taking statements from his clients in a local church.[14]

The family of the civil rights attorney has also had to suffer. Mr. Paul Kidd, a young white civil rights lawyer in Lincoln Parish, testified, for example, that when he attempted to enroll his son at the laboratory school in the Parish, the Superintendent, a relative of one of Mr. Kidd's frequent adversaries, the Jonesboro City attorney, denied him permission to

---

13/ Mr. Lolis Elie testified that a local judge before whom he was appearing referred to him as a "coon," allowed police officers in court to refer to Negroes as "niggers" and pointed out to him a tree where a former Negro sheriff had been hung, and that the judge kept in his office a KKK cross that had been burnt. Vol. 1, pp. 106-107, Elie. Mr. Marion White recalls being harassed by a state policeman immediately following a civil rights trial. U.S. Ex. 13, pp. 49-50, White. Mr. James Sharp testified that the Sheriff of Madison Parish said that if Sharp persisted in pressing a voting matter he would probably be taken for a ride and that he would receive no protection from his office. U.S. Ex. 16, pp. 25-26, Sharp. Mr. Paul Kidd testified that the sheriff of Lincoln Parish said in connection with his investigation of a police brutality matter that if he "continued to defend niggers" and "if he didn't stop drumming up nigger business" "some dark night on the highway [he] would meet his equalizer." U.S. Ex. 17, pp. 9-12, Kidd. And plaintiff Sobol testified to similar incidents of harassment aside from his experience in Plaquemines Parish. These included being shoved by police officers in the hallway of the Bogalusa Courthouse. On two occasions he was followed out of Bogalusa by the city police, and the attorney representing Madison Parish in a voting case said that he would take Sobol outside if his questioning of a witness did not change. Vol. 4, p. 173, Sobol.

14/ Vol. 1, p. 107, Elie.

do so and "in so many words" told him why. Mr. Kidd also testified on deposition that his 12 year old son has been badgered, chased and beaten by his classmates, and called "nigger lover" and "Martin Luther Kidd," all as a result of his actively handling civil rights cases. U.S. Ex. 17, pp. 40-42, 59, Kidd.

On occasion, the harassment took more sophisticated forms. Attorneys testified how they were prosecuted and sued in retaliation for representing Negroes in civil rights cases.[15/] Counsel for the defendants even sought to "confront" Mr. Kidd with the District Attorney and officials of the local bar association by bringing these persons to the deposition being taken in this case; and, even after the deponent said their presence was intimidating, he refused to ask them to leave until requested to do so

---

15/ See, e.g., Vol. 9, pp. 9-10, Jones (sued for damages of $15,000, in retaliation for representing Negroes in suit against white persons who beat him up for registering to vote in St. Francisville); U.S. Ex. 13, p. 51, White (paternity suit in retaliation for filing suit against practically all of the places of public accommodation in St. Landry Parish); Vol. 2, p. 137, Smith (his arrest in Dombrowski v. Pfister, 380 U.S. 479 (1965), was said to be an immediate outgrowth of his activities in the civil rights field).

by this Court.[16] One civil rights attorney in New Orleans was dropped from membership in a local bar association because he attempted to get the members of the association interested in handling civil rights cases. Vol. 3, pp. 7-8, Nelson. And several civil rights attorneys testified as to their fear of being subjected to disciplinary proceedings by the State Bar Association as a form of harassment, Vol. 1, p. 120, Elie; Vol. 2, pp. 58-59, R. Collins; Vol. 9, p. 100, Douglas. The experience of Mr. Johnnie Jones, a witness called by the defendant-intervenor State Bar Association, and thus presumably for whose credibility the defendant-intervenor will vouch, provided a concrete basis for those fears.

Mr. Jones graduated from law school in 1953, and immediately became active in civil rights matters in Baton Rouge. In September 1954, shortly after the decision in Brown v. Board of Education, he and another attorney, Mr. Alex Pitcher, accompanied a group of Negro school children in the attempt to gain admission to a white school in the area. The local school board

---

16/ U.S. Ex. 17, pp. 19-32, 68, Kidd. Mr. Provensal had invited to the deposition of Mr. Kidd, Mr. Ragan Madden, President of the Lincoln Bar Association and District Attorney of the Parish; Mr. O. L. Waltman, immediate Past President of the Lincoln Parish Bar Association; and Mr. A. K. Goff, Jr., Past President of the Lincoln Parish Bar Association and past member of the Board of Governors of the Louisiana State Bar Association. Mr. Goff was the only one who refused to leave after Mr. Kidd said he was being intimidated by the presence of these persons; and left only after being asked to do so by this Court. Later in the deposition Mr. Kidd stated he asked Mr. Goff for advice about four or five times in the past and was refused in each instance.

then filed a formal complaint against Messrs. Jones and Pitcher with the Committee on Professional Ethics and Grievances of the Louisiana State Bar Association, and the Committee decided to pursue the matter and to hold a hearing. The attorneys were charged not simply with fomenting litigation, and acting without the authority of the children's parents, but also, more significantly, with creating "a situation which could have easily caused public strife, commotion, and unrest." U.S. Ex. 34. Before the Committee rendered its decision, individuals who were connected with the filing of the charges with the Committee asked Mr. Jones and Mr. Pitcher to confess, in return for which only a reprimand would be issued. Mr. Jones refused this offer, contested the charges, and was for that reason -- according to Mr. Jones -- exonerated by the Committee. Apparently, Mr. Pitcher accepted the offer and was reprimanded. The proceedings received widespread publicity in the community; in fact Mr. Jones recalls hearing about the matter on the radio before he received any official notification from the Committee. Vol. 9, p. 18, Jones. The proceeding had a serious impact on Mr. Jones' practice, and such charges were viewed by Mr. Jones and other civil rights attorneys[17/] as a form of harassment, one of the risks of handling civil rights cases. See Vol. 9, pp. 17-24, 25-30, Jones; U.S. Ex. 33, 34.

17/ See, e.g., U.S. Ex. 15, p. 46, Berry.

This pattern of harassment exists throughout the State, and, to be sure, is no less present in Plaquemines Parish. Initially, it should be noted that the general reputation of the Parish is such as to deter civil rights lawyers from even venturing there. See pp.140-4, infra (discussion of certain public statements by defendant Leander Perez, Sr.). For example, Mr. Johnnie Jones said that he would have no hesitancy in taking a civil rights case in any parish in the State -- except Plaquemines Parish. With respect to Plaquemines Parish, he continued, he would be reluctant to go there and would try to find a way out of going, but he would go there for a civil rights case if he had to. After all, he said, "I went in the Normandy Invasion on the third day. [Dying in] Plaquemines Parish wouldn't be any different than dying in Normandy, on Normandy Hill for a cause." Vol. 9, p. 8, Jones. Similarly, Mr. A. P. Tureaud, who has civil rights cases pending in more than twenty parishes throughout the State, but none in Plaquemines Parish,[18] testified to his reluctance to go to the Parish. In fact, in September 1965, and again in 1966, Mr. Tureaud was asked by Negroes living in the Parish to represent them in cases with civil rights overtones; he declined to do so. Vol. 6, pp. 10-13, Tureaud; U.S. Ex. 8, p. 81, Tureaud. For the civil rights lawyers there was a certain "bugaboo" about going to the Parish.

18/ U.S. Ex. 8, p. 67, Tureaud.

See also Vol. 1, p. 102, Elie; Vol. 2, pp. 14-15, Collins; Vol. 9, p. 103, Douglas; and Vol. 3, pp. 31-32, 80-81, Nelson. On occasion the civil rights lawyer went to the Parish; and when he did, he was met with harassment. In fact, we have been able to discover only two instances in the 1960's[19/] when private lawyers identified as civil rights lawyers went to the Parish to represent Negroes in civil rights cases -- one instance was when Richard Sobol and Robert Collins went there to represent Gary Duncan, and the other was when Earl Amedee and A. M. Trudeau went there in connection with an incident known as the Chicken Shack incident.

The importance of the Chicken Shack incident stems from the fact that prior to it Mr. Amedee, perhaps more than any other attorney in the State, was extensively involved in representing Negroes in the Parish in civil rights cases. He testified that prior to 1958 he had been going down to Plaquemines 2 or 3 times a week for 7 or 8 years, often handling civil rights matters. Vol. 5, pp. 129, 141, Amedee. He served as an Assistant District Attorney from 1958 to 1960, and his request for representation with respect to the Chicken Shack incident was his first contact with the Parish following his service in the District

---

19/ The record also describes an incident in the 1950's, where Louis Berry and Earl Amedee, counsel in a civil rights voting suit in the Parish, held a public meeting in a church to explain how they were going to proceed with the litigation and left the Parish immediately when they heard "state troopers" were on their way to break up the meeting. U.S. 15, pp. 29-31, Berry.

Attorney's office. Vol. 5, pp. 130-131, Amedee. The request for representation arose out of a Saturday night raid on a bar in the Parish known as the Chicken Shack in which over 100 Negroes were arrested. A few days after the defendants had been released on bail, Mr. Amedee and Mr. Trudeau were asked to go to the Parish to represent some of the defendants. They arrived at the courthouse on the day of the hearing at about 10:30 or 11:00 a.m. and were met by some of the wives of the men who were arrested. The lawyers were told that the men had been picked up at about 5:00 or 6:00 a.m. that day and brought by bus to the courthouse. The lawyers were then confronted by Leander Perez, Sr., nominally an assistant to his son the District Attorney. He was with 8 to 12 other white men; and in the course of the confrontation with Mr. Amedee and Mr. Trudeau, he used intemperate, insulting, and profane language. He demanded to know what the lawyers were doing in the Parish; he accused them of being troublemakers, of being sent by the NAACP, and threatened to put them in jail if he found out they were "hustling" cases. Mr. Perez then said he knew why the lawyers were in the Parish and advised them that their clients had all plead guilty, paid their fines and received suspended sentences. Finally, Mr. Perez referred to the violence that befell the Freedom Riders in Alabama and said "that's just like comparing a mountain to a molehill about what's going to happen to you two if you cause us any trouble." Mr. Amedee asked whether Mr. Perez was telling him to leave the

Parish. Mr. Perez responded: "You are a damn lawyer, well, use your damn head." Vol. 5, pp. 131-143.

This incident cut off the principal source of representation for Negroes in civil rights cases in the Parish.[20] Mr. Amedee never went to the Parish again, even though specific requests were made for him to go there by the civil rights leader who was his principal contact in the Parish. Vol. 5, pp. 140-141, Amedee. This Court asked whether he was now afraid to go there, and he answered in the affirmative. Vol. 5, pp. 162-163, Amedee. This is clearly attributable to this incident of harassment. It was a widely publicized incident[21] and other civil rights lawyers testified that this incident also made them fearful of going there.[22] The Chicken Shack incident occurred in 1961. The next time a private civil rights lawyer overcame this fear, and ventured into the Parish to represent a Negro in a civil rights matter, was in 1966, when Rochard Sobol and Robert Collins went there to represent Gary Duncan; the harassment

---

20/ That is the only significance of the Chicken Shack incident to this case. This significance depends only in part on the participants or the community viewing the case as involving civil rights issues, such as claims of police brutality. See U.S. Ex. 3. It should be noted in this regard, however, that on direct examination counsel for the defendants asked the defendant District Attorney whether the Chicken Shack incident was a civil rights case and the witness' only response was: "It depends on whose civil rights were involved." Vol. 7, p. 183, Perez, Jr.

21/ See U.S. Ex. 3.

22/ See Vol. 2, pp. 95-97, R. Collins. See also U.S. Ex. 8, pp. 55-56, Tureaud.

they subsequently encountered -- as part of this same pattern -- is discussed in detail below.

2. The Financial Burdens

The capacity and willingness of Louisiana lawyers to handle civil rights cases are limited, not only by the harassment to which they and their families are likely to be subjected, but also by the financial burden involved in handling such cases. For some lawyers who had handled civil rights cases in the past, the financial burden has been such that it has caused the dissolution of law firms and decisions not to handle such cases in the future. See Vol. 2, p. 200, Smith; Vol. 5, p. 205, Peebles. For other lawyers, it may have been one among many factors contributing to the decision not to get involved at all in civil rights matters. See Vol. 3, p. 36-37, Nelson. In fact, one Louisiana lawyer who turned down a civil-rights-context case in Plaquemines Parish at about the same time Duncan sought representation from Richard Sobol, unconvincingly sought to

justify his decision on financial grounds.[23/]

These financial burdens of civil rights cases are due to several factors. The first is the fact that civil rights cases are generally not income-producing. This is in part attributable to the general economic level of the primary potential civil rights client, the Negro, who is often unable to pay the fees and expenses. The average income of the Negro family in 1960 in Louisiana was approximately

---

23/ Vol. 6, pp. 153-154, Defley. The unconvincing quality to his explanation stems from four facts: (a) Mr. Defley referred the case to a Negro civil rights lawyer in New Orleans, rather than another attorney in Plaquemines Parish, who might have been able to hear handle the financial burden - if that were all that was involved (Id., at 153-156); (b) Mr. Defley himself admitted on the stand that a person would be a "darn fool" if he or any other lawyer in the Parish handled a civil rights case such as an affirmative suit (Id., at 157); (c) Mr. Tureaud testified that the Plaquemines Parish attorney who called him (Mr. Defley) asked him to handle the case because it "was not a very popular case, not an issue which he would want to handle either." (Vol. 6, pp. 13-15, Tureaud); and (d) the attorney whom the defendant finally found to handle the case was paid a fee (Vol. 7, pp. 161-162, S. Perez).

$2,238.00; this is approximately the level used to determine eligibility for free legal services under programs designed to provide such service to the indigent. See generally U.S. Ex. 11; section IV B, infra. Moreover, with the possible exception of cases brought under 42 U.S.C. 1983 and under Title VII of the Civil Rights Act of 1964 to obtain equal employment opportunities, the benefit of the lawsuit is not reflected in any financial terms, and thus the contingent fee is unable to produce relief in this category of cases in contrast to cases such as personal injury cases.[24/] Some civil rights lawyers obtain some of the expenses, but very few obtain a fee, compensation for their time and services. For example, Lolis Elie testified that his firm has never received a fee from either an individual or an organization in payment for representation in civil rights cases, although the Congress of Racial Equality owes the firm $3500 as a retainer for legal services dating back to 1960. Vol. 1, pp. 61-62, 69, Elie. See also U.S. Ex. 14, pp. 21-23, 27, Millspaugh; U.S. Ex. 15, pp. 28-29, Berry; Vol. 3, p. 197, Wyche.

The financial burden also stems from the fact that civil rights litigation is often quite expensive. This is because traveling to distant parishes is involved, because settlement usually is so unavailable,

---

24/ But see 42 U.S.C. 2000a-3(b) and 2000e-5(k) providing for the payment of attorney fees to the prevailing party in suits under certain titles of the Civil Rights Act of 1964. The full import of those provisions was just made clear in Newman v. Piggie Park Enterprises, 36 U.S. Law Week 4243 (March 18, 1968).

and because the chance of relief at the initial court level in civil-rights-context cases is so slim. Mr. Sobol testified that the litigation handled by LCDC is more expensive than even his non-indigent clients could afford. Vol. 4, pp. 138, 140, Sobol. A striking example of the expense involved is found in the Duncan case itself. There were not only numerous trips to Plaquemines Parish[25/] by three different attorneys and many hours spent on preparation, but time and money also were consumed in applying for a writ of certiorari in the Louisiana Supreme Court and litigating in the United States Supreme Court. See Section V(B), infra. When he first sought Sobol's representation, Gary Duncan was 20 years old, married with one child and earning approximately $3,000 a year (about $65 a week). Vol. 3, pp. 198, 202, Duncan.

The financial burden is also due to the fact that civil rights cases tend to identify the lawyer with the lower economic classes, those not likely to bring the lawyer any significant income -- producing practice, and keep away clients who are economically more able to engage the lawyers more experienced in, and identified with, a commercial practice. U.S. Ex. 15, pp. 26-28, Berry. The civil rights lawyers are likely to have their office in the ghetto area, where poverty and race converge. U.S. Ex. 13, p. 6, White; U.S. Ex. 15, pp. 19-20, Berry. Specializing in civil rights cases keeps what one

---

25/ See infra, pp.40-41.

toward efforts to realize equal treatment for Negroes living there. See generally Section VI(B)(1) infra.

terribly, forcing him to dissolve his then existing law partnership. His business dropped by about 80 percent. Mr. Martin would anticipate a similar impact on his law practice if he handled a civil rights case, such as an affirmative suit, at this time. Vol. 6, p. 180, Martin. Joseph Defley, who also practices in Plaquemines Parish and was called by the defendants as a witness, said he would not accept an affirmative civil rights suit essentially for the same reason, the loss of his law practice. He said a lawyer in the Parish agreeing to handle such a case would be a "darn fool." Vol. 6, pp. 156-157, Defley.

Thus, the lawyers who represent civil rights cases, particularly affirmative suits and civil-rights-context cases, must fear not only physical harassment, but also must be willing to incur great financial sacrifices. The lawyer who handles a civil-rights-issue case under court appointment fares little better. He might not suffer retaliation and his income -- producing clients might not be driven away; but he generally will receive no compensation or reimbursement for expenses, (see infra, Section IV A) and he will probably already have a heavy share of court appointments since the practice is usually to confine appointments to a small group of lawyers -- those actively participating in the practice of criminal law. As an example Judge Bagert estimated that about 100 lawyers of the more than 2,000 in the city assume the bulk of court appointments in the

criminal district court system in Orleans Parish. Vol. 8, pp. 33-34, Bagert; Vol. 7, pp. 28, 36-37, Gill; Vol. 9, pp. 32-33, Cummings; Vol. 9, p. 47, Kiefer; Vol. 9, p. 55, Dowling; U.S. Ex. 15, p. 66, Berry. See also section IV A, infra. This case load of appointed cases, which are handled without compensation, limits the capacity of lawyers to handle civil rights cases such as affirmative suits and civil-rights-context cases. This case load of appointed cases absorbs a great deal of the professional time of the lawyer and it generally consumes whatever financial capacity he has to handle free cases. The free cases that are likely to be eliminated first are those over which the lawyer continues to have a choice, such as the affirmative suits and civil-rights-context cases.

3. Identification with the Cause of Racial Equality

The risk of harassment and the financial burdens are relevant from the lawyer's point of view; as a general matter they limit his willingness to handle civil rights cases. However, the problem can also be analyzed from the viewpoint of the potential client, and once again these factors which particularly limit the availability of Louisiana lawyers to handle civil rights cases.

Any person seeking legal representation is confronted with a set of limiting factors -- for example, geography, ability to pay the anticipated fee, his previous contacts with lawyers, what lawyers, if any, are known to his family or friends or by reputation, and his general mobility. In a practical sense, these factors limit the class or pool of lawyers from whom this person can choose. All these factors are applicable to a person seeking legal representation in a civil rights case. Indeed, some of these factors have a particularly limiting impact on the primary potential civil rights client, the Negro, because of his general level of income and education.[26/] However, the factor that most severely restricts the group of lawyers to whom the potential civil rights client can turn for legal assistance is the requirement that the lawyer somehow be identified

---

26/ The 1960 Census figures show that the median income of a Negro family in Louisiana is $2,238.00; and that Negroes in Louisiana have completed a median number of 6 years of education. (U.S. Ex. 20, pp. 121, 136).

with the cause of racial equality.

This requirement stems from the traditional and understandable concern of the client that the lawyer representing him be one in whom he can have trust and confidence.[27/] The client-lawyer relationship is a confidential one. This trust and confidence will not be placed in a lawyer simply because of his technical or analytic proficiency. There must be a basis for the civil rights client, particularly one seeking to institute an affirmative suit, to believe that he could confide in his lawyer -- to disclose his goal for the achievement of racial equality -- and have the lawyer press his claim vigorously and participate in the formulation of a strategy for the swift achievement of that goal. (See Vol. 9, p. 60, Dowling). This usually requires that the lawyer to whom he is going to turn have some identification with the cause of racial equality.

The full limiting effect of this requirement reflects the fact that the cause of racial equality runs counter to the established social structure in Louisiana. Therefore, it is necessary to develop a means of singling out or identifying the lawyers who are not committed to the social structure. This identification may be based on the fact that the lawyer is Negro, that the lawyer is associated with or a member of an organization which is committed to the cause of racial equality, or that the lawyer has

---

27/ See generally Countryman and Finman, The Lawyer in Modern Society at 184-320 (1966).

generally handled such cases himself.[28/] Some lawyers are willing to take overt steps to achieve that identification. For example, one of the few white civil rights lawyers in the State was the President of the Louis Martinette Society in New Orleans, a predominantly Negro professional association.

Other white lawyers are unprepared and unwilling to take the necessary steps to establish identification with the cause of racial equality. This is partly the meaning we attribute to the total failure of the Louisiana branch of the American Civil Liberties Union in trying to obtain volunteer lawyers, to be identified as cooperating lawyers to handle civil liberties and civil rights cases. In October, 1967, Mr. Jack Peebles, as Chairman of the Louisiana

---

28/ This is why it is significant that virtually none of the lawyers called by the defendants or defendant intervenors ever handled civil rights cases in the form of civil-rights-context cases or affirmative suits. Some handle civil rights issue cases, often under court appointment; but for reasons discussed above, see footnote 5 supra, this is not wholly sufficient to create an identification with the cause of racial equality. See, e.g., John Slavich, Vol. 6, p. 138. William Morgan, Vol. 6, pp. 197-199. Ralph Barnett, Vol. 6, pp. 165-168. Thomas McBride, Vol. 6, pp. 186-190. Joseph Defley, Vol. 6, pp. 149-150. Emile Martin, Vol. 6, pp. 173-176. Edward Baldwin, Vol. 7, pp. 5, 10-11. Nathan Greenberg, Vol. 7, pp. 47, 53-55. G. Wray Gill, Vol. 7, p. 33. Bernard Horton, Vol. 7, pp. 63, 66-67. Edward Wallace, Vol. 7, pp. 99-100. Gilbert Andry, Vol. 7, p. 107. George Leppert, Vol. 7, pp. 201-202, 207. Luke A. Petrovich, Vol. 7, pp. 81-83. William Wessel, Vol. 8, p. 115. Floyd Reed, Vol. 8, pp. 138, 140-141, 144. John Cummings, Vol. 9, p. 33. I. G. Kiefer, Vol. 9, p. 49. Under these circumstances, and also in light of the fact that many never represented Negroes in the Parish in criminal matters and few are located in the Parish, it was meaningless to think of these lawyers identified by the defendants as constituting a pool of lawyers upon whom Negroes in the Parish could call to handle civil rights cases such as an affirmative suit.

ACLU Legal Committee, sent out letters to the first 500 New Orleans attorneys listed in the telephone directory, soliciting their assistance for ACLU cases.[29/] The recipients were invited to check off the area or areas in which they would be willing to serve. One area listed was racial equality under the law. The letter stated that attorneys who do participate would be completely free to decide which cases they would take and how they should be handled. In spite of the fact that reply envelopes were included, no replies were received, and part of the explanation for the total failure of this recruitment program lies in the unwillingness to become "identified" with an organization such as the ACLU -- one means of becomming part of the pool to who Negroes can and will turn for civil rights cases. See Vol. 5, pp. 181-188, 191, Peebles.

In Plaquemines Parish the members of the bar, all of whom are white, not only fail to identify adequately with the cause of racial equality but also, to the contrary, overwhelmingly identify with the Parish administration which is openly hostile to the cause of racial equality. See infra, pp.140-141. Of the thirteen lawyers who either reside in Plaquemines Parish or have their office there, eleven are either officials of the Parish administration or are otherwise ~~closely associated with that administration. Of~~

29/ The ACLU requested and was refused the use of the Louisiana State Bar Association addressograph plates of New Orleans lawyers. Vol. 5, pp. 185, 187, Peebles.

closely associated with that administration.[30] Of the two remaining attorneys who reside in Plaquemines, John A. Slavich, who maintains his law office in New Orleans, testified that his practice is primarily commercial law and that the only civil rights case in which he was involved was an unsuccessful motion to intervene in Poindexter v. Louisiana Financial Assistance Commission,[31] on behalf of white parents seeking to continue a State tuition grant system for private, segregated schools. Vol. 6, pp. 138-139, Slavich. The other attorney is Emile Martin who, as is discussed in section IIB(2) supra, is reluctant to handle civil rights cases such as affirmative suits because of his previous experience in opposing the Parish administration. Vol. 6, pp. 179-180, Martin.

30/

Darryl W. Bubrig, Sr.	Plaquemines Parish Assistant District Attorney.
Wayne C. Giordano	Nephew of Leander H. Perez, Sr.
E. W. Gravolet, Jr.	State Senator.
Joseph E. Defley, Jr.	Son-in-law of Plaquemines Parish Sheriff.
Chalin O. Perez	Son of Leander H. Perez, Sr., and President of the Commission Council.
Leander H. Perez, Jr.	Son of Leander H. Perez, Sr., and Plaquemines Parish District Attorney.
Leander H. Perez	Past president of the Plaquemines Parish Commission Council and present Chairman of Plaquemines Parish Democratic Executive Committee.
Luke A. Petrovich	Member of the Plaquemines Parish Commission Council.
Dominick Scandurro, Jr.	Partner of Assistant District Attorney Darryl W. Bubrig, Sr.
H. B. Schoenberger	Plaquemines Parish Assessor
Charles A. Arceneaux	Law partner or associate of H. B. Schoenberger.

U.S. Ex. 31; Pl. Ex. 3, pp. 64-72, Perez, Sr.; Vol. 7, pp. 87-90, Petrovich.

31/ 275 F. Supp. 833 (E.D.La. 1967), aff'd, 389 U.S. 571 (1968).

III. The Primary Source of Representation in Civil Rights Cases: The Negro Lawyer

The United States maintains that Negroes in Plaquemines Parish cannot obtain adequate representation in civil rights cases by lawyers licensed to practice in Louisiana. In part this inability to obtain such representation stems from two facts: first, the group of Louisiana lawyers who are most likely to provide such representation are the Negro lawyers, and second, the reservoir of such lawyers is inadequate.

A. The Importance of Negro Lawyers for Providing Representation in Civil Rights Cases

The record in this case amply reflects the special role Negro attorneys in Louisiana play in handling civil rights cases. Of the few Negro attorneys in the State who are in the private practice of the law on a full time basis, most have handled such cases. See generally, e.g., U.S. Ex. 8, Tureaud; U.S. Ex. 13, White; U.S. Ex. 14, Millspaugh; U.S. Ex. 15, Berry; U.S. Ex. 16, Sharp; Vol. 1, p. 58, Elie; Vol. 1, p. 266, R. Collins; Vol. 5, p. 129, Amedee; and Vol. 6, pp. 9-10, Tureaud. The Negro lawyers are the ones generally identified as the "civil rights lawyers." U.S. Ex. 8, pp. 40-42, Tureaud; see also U.S. Ex. 14, pp. 16-17, Millspaugh.

In contrast, of the more than 5,000 white lawyers in the State,[32/] less than a dozen have been identified in this voluminous record as ever having handled civil rights cases such as affirmative suits to obtain equal

---

32/ Vol. 8, p. 85, T. Collins.

treatment for Negroes or defensive actions in a civil rights context.[33] To be sure, the defendants and defendant State Bar Association called more than twenty white lawyers as witnesses for the purpose of testifying that they would handle civil rights cases.[34] Most testified to this effect, subject to some equivocation couched in terms of financial considerations and time. But the proof was surely in their performance. Virtually all of these lawyers testified they had not handled a civil rights case such as an affirmative suit or a defensive action in a civil rights context. Most were reluctant to

---

33/ Those so identified in New Orleans are John P. Nelson, Vol. 2, p. 194, Nelson; Vol. 2, p. 145, Smith: Vol. 4, p. 195, Sobol; Vol. 7, p. 207, Leppert; Vol. 8, p. 141, Reed; Vol. 1, pp. 79-80, Elie; Benjamin Smith, Vol. 2, p. 134, Smith; Vol. 4, p. 195, Sobol; U.S. Ex. 17, p. 71, Kidd; Bruce Waltzer, Vol. 2, p. 134, Smith; Vol. 8, p. 118, Wessel; U.S. Ex. 17, p. 71, Kidd; Jack Peebles, Vol. 5, p. 205, Peebles; John Dowling, Vol. 9, pp. 56-57, Dowling; see Peyton v. Washington - St. Tammany Charity Hospital of Bogalusa, (E.D. La., C.A. 15658, 1965); Vol. 2, pp. 69-70, 87, R. Collins; Pls. Exs. 23, 24, 25; and Walter Kelly, Vol. 9, pp. 81-82, Kelly; Vol. 8, pp. 122-23, Wessel. Outside of New Orleans there is Paul Kidd in Ruston, U.S. Ex. 17, p. 96, Kidd; Vol. 4, p. 196, Sobol; Dan Spencer of Shreveport, Vol. 2, pp. 170-180, Smith; Vol. 8, p. 117, Wessel, and possibly Camille Gravel of Alexandria, cf. Vol. 8, p. 56, Talley; U.S. Ex. 15, pp. 38-39, Berry.

34/ Vol. 6, pp. 190-200, Morgan; Vol. 6, pp. 162-171, Barnett; Vol. 6, pp. 183-190, McBride; Vol. 6, pp. 144-162, Defley; Vol. 6, pp. 171-183, Martin; Vol. 7, pp. 4-16, Baldwin; Vol. 7, pp. 46-57, Greenberg; Vol. 7, pp. 20-38, Gill; Vol. 7, pp. 57-73, Horton; Vol. 7, pp. 95-101, Wallace; Vol. 7, pp. 101-109, G. Andry; Vol. 7, p. 110, J. Andry (by stipulation); Vol. 7, pp. 111-112, Becker (by stipulation); Vol. 7, pp. 138-155, Ehmig; Vol. 7, pp. 196-208, Leppert; Vol. 7, pp. 73-95, Petrovich; Vol. 8, pp. 135-145, Reed; Vol. 8, pp. 103-135, Wessel; Vol. 9, pp. 44-53, Kiefer; Vol. 9, pp. 30-44, Cummings.

handle such matters. When one was asked in the fall of 1966 to handle such a matter, which, like the Duncan case, arose from an incident relating to the desegregation of the Plaquemines Parish Public Schools, he referred the person to a Negro civil rights lawyer in New Orleans. Vol. 6, pp. 151-155, Defley; Vol. 6, pp. 13-15, Tureaud. And when another white lawyer called by the defendants was pressed to speculate as to whether he would represent out-of-state Negroes who were arrested for protesting the maintenance of segregated water fountains at the Plaquemines Parish Court House in Pointe-a-la-Hache, he said: "I would not; I am a white man first and foremost." Vol. 6, p. 188, McBride.

T he reasons for the special role of the Negro attorney in civil rights litigation are clear. First, the potential civil rights client is more likely to approach the Negro lawyer for representation. He is likely to have greater trust and confidence in the Negro lawyer than in the white lawyer. It is not, as John Nelson testified,[35] that the potential civil rights client has greater confidence in the technical proficiency of the Negro lawyer. Instead, it is that the civil rights client is not likely to believe or have confidence that the white lawyer would accept such a case and handle the case as vigorously as would a Negro lawyer.[36] White lawyers can become so identified

---

35/ Vol. 2, pp. 198-199, Nelson.

36/ See U.S. Ex. 8, pp. 85-87, where Mr. Tureaud described certain experiences that might be a basis upon which such beliefs might be formulated.

with civil rights cases or with civil rights organizations that they lead potential civil rights clients to have a feeling of trust and confidence in their commitment to the cause of civil rights; and conversely, certain Negro lawyers can take steps and actions to alienate themselves from the Negro community and to create a lack of confidence. But what is important is the normal presumptions based on race in Louisiana society -- to have confidence in the Negro lawyers in the civil rights matters and to lack that confidence with respect to white lawyers. See, e.g., Vol. 3, pp. 102-103, 97-98, 108-110, Young.

The second but interrelated reason for this special role of the Negro attorney in handling civil rights cases is that the Negro attorneys, as a class, are more likely to accept the civil rights cases and to be involved in their planning. Cf. Vol. 9, pp. 58-61, Dowling. As members of the class whose cause is being pressed, the Negro lawyers have a uniquely personal stake in the cause of racial equality, and thus are more likely to be involved in the planning of such cases and to overcome the usual obstacles to handling such cases -- the harassment, the lack of fees, the risks to their physical well-being, and the damage to their commercial practice. True, there are individual Negro lawyers who are unwilling to get involved and

to make these sacrifices;[37] and there are some white lawyers who do have the necessary commitment.[38] But, once again, what is important is the norm -- the fact that as members of the class seeking equal treatment, Negro lawyers are more likely to handle the civil rights cases and to be involved in their planning.

B. The Inadequacy of the Reservoir of Negro Lawyers

1. The Numbers

There are approximately 5,000 attorneys who are licensed to practice law in Louisiana. Only 58 of these attorneys, or 1.2 percent of the total, are Negro. Vol. 8, p. 85, T. Collins. This stands in sharp contrast to the fact that, as of 1960, there were more than a million Negroes in the State, representing 31.9 percent of the total population. U.S. Ex. 20, p. 27. Moreover, not all of the 58 Negro members of the state bar are available for civil rights cases, or even live or practice in the State. Some have left the State, are engaged exclusively in other professions, work for the government in Louisiana or elswhere, or are engaged exclusively in the private commercial

---

37/ A young Negro attorney, Louis Guidry, wanted to handle civil rights cases; but after hearing about various incidents of harassment decided not to "become involved in civil rights until he got his feet on the ground." U.S. Ex. 13, pp. 81, 115-116, White. Johnnie Jones also testified that he has cut back on civil rights because he wants to earn a living and feels that he is getting too old for such work. Vol. 9, p. 13, Jones. See also U.S. Ex. 14, p. 47, Millspaugh, where Richard Millspaugh says he has not been as involved in civil rights litigation for the past three or four years.

38/ See footnote 33 supra.

practice of law. U.S. Ex. 8, p. 89, Tureaud. In addition, the great majority of the Negro lawyers have been concentrated in New Orleans.

This has meant that in all the northern parishes of the state there is one Negro lawyer who is available to handle civil rights matters - Mr. James Sharp, Jr., who is in Monroe. U.S. Ex. 16, p. 5, Sharp. Although, in the past Mr. Jesse Stone had practiced law in Shreveport and had handled civil rights cases, for the last two years he has been working for the State Government in Baton Rouge and is not available for civil rights cases.[39/] U.S. Ex. 15, p. 33, Berry. In the central part of the State there are only six Negro lawyers available to handle civil rights cases -- Mr. James Hines and Mr. Louis Berry in Alexandria (Rapides Parish), Mr. Richard Millspaugh and Mr. Marion White in Opelousas (St. Landry Parish), Mr. Louis Guidry in Church Point (Acadia Parish) and Mr. Charles Finley, Jr. in Lafayette Parish. U.S. Ex. 15, p. 2, Berry; U.S. Ex. 13, pp. 2, 81, 114-116, White; U.S. Ex. 14, p. 2, Millspaugh. Mr. Hines has not, according to the

---

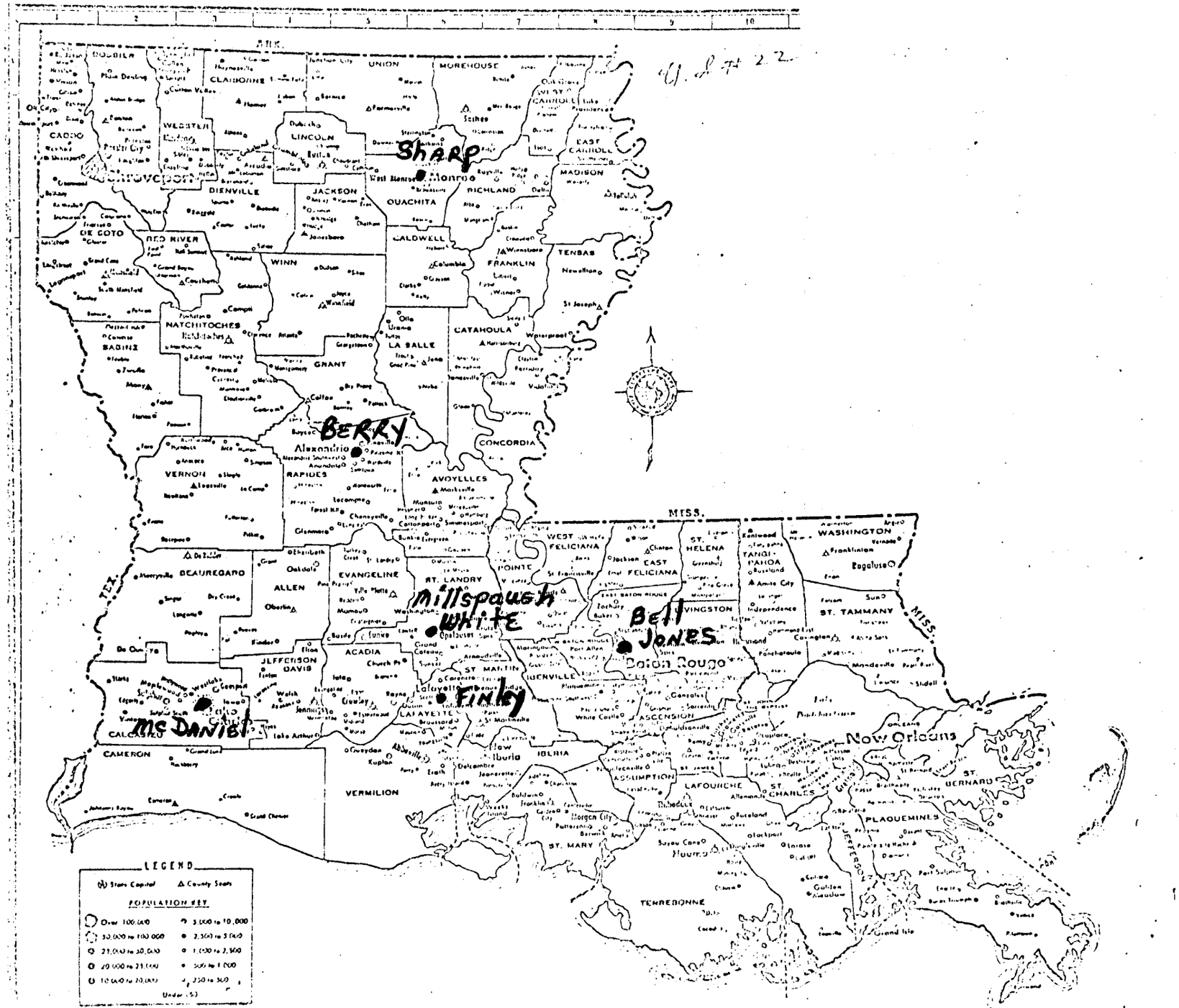
39/ Mr. Jerome Powell was identified as a Negro attorney in Shreveport, but the nature or extent of his practice was unknown. U.S. Ex. 16, p. 29, Sharp; see Louisiana State Bar Association v. Powell, 248 La. 237, 178 S. 2d 235 (1965), which resulted in Mr. Powell's being suspended. The record also indicates that a Mr. Forest Foppe is a Negro attorney in Shreveport, but he does not handle civil rights matters. U.S. Ex. 15, pp. 32, 34, Berry. St. Elmore Johnson was practicing in Monroe, but suffered a stroke and is now in A. P. Tureaud's office, in New Orleans. U.S. Ex. 15, p. 32, Berry; U.S. Ex. 8, p. 43-44, Tureaud.

evidence before this Court, handled civil rights cases U.S. Ex. 15, p. 32, Berry; and Mr. Guidry, a young lawyer, has decided not to handle civil rights cases "until he gets his feet on the ground." U.S. Ex. 13, pp. 81, 114-116, White.[40/] In the Southwestern corner of the State there is only one Negro practitioner, Mr. Leo McDaniel, who is in Lake Charles, and the record reflects that his practice had been seriously limited by age and illness. U.S. Ex. 15, p. 35, Berry; U.S. Ex. 14, p. 29, Millspaugh. In the Eastern part of the State, Baton Rouge is the only city outside of the New Orleans area with Negro practitioners, and the record reflects that there are only two, Mr. Murphy Bell and Mr. Johnnie Jones. U.S. Ex. 13, p. 67, White; Vol. 9, p. 5, Jones.[41/] The latter testified that he has had to restrict his civil rights practice severely in recent years, Vol. 9, p. 13, Jones.

The scarcity of the number of Negro lawyers outside New Orleans who are available to handle civil rights cases and who have handled any such cases and the serious limitation on the opportunity of Negroes to obtain representation is revealed in the following map:

40/ Edward Larvadain is a Negro attorney who has only been out of law school for a year and is now in Alexandria working for the OEO Legal Assistance Program. U.S. Ex. 8, pp. 8, 12, Tureaud; U.S. Ex. 11.

41/ The record reflects that there are six faculty members and one librarian at the Southern University Law School in Baton Rouge; while it is fair to presume all are Negro, it is not clear how many are licensed to practice law in Louisiana, nor how many practice at all. U.S. Ex. 24(b); Vol. 1, p. 249, R. Collins. Leonard Avery is a Negro attorney, but he has left Baton Rouge and gone to Slidell in St. Tammany Parish (U.S. Ex. 13, p. 95, White), and is not practicing law but working for the Poverty Program. Vol. 2, p. 22, Collins.


U. S. Pt 22
Sharp
Monroe
Berry
Alexandria
Millspaugh
White
Bell
Jones
Baton Rouge
Finley
McDaniel
New Orleans
ARK.
MISS.
TEX.
BOSSIER
CLAIBORNE
UNION
MOREHOUSE
WEST CARROLL
EAST CARROLL
MADISON
WEBSTER
LINCOLN
CADDO
DESOTO
RED RIVER
BIENVILLE
JACKSON
OUACHITA
RICHLAND
CALDWELL
FRANKLIN
TENSAS
WINN
CATAHOULA
LA SALLE
GRANT
NATCHITOCHES
SABINE
VERNON
RAPIDES
AVOYELLES
CONCORDIA
BEAUREGARD
ALLEN
EVANGELINE
ST. LANDRY
POINTE COUPEE
WEST FELICIANA
EAST FELICIANA
ST. HELENA
TANGIPAHOA
WASHINGTON
ST. TAMMANY
LIVINGSTON
JEFFERSON DAVIS
ACADIA
ST. MARTIN
IBERVILLE
ASCENSION
CALCASIEU
CAMERON
LAFAYETTE
VERMILION
IBERIA
ASSUMPTION
LAFOURCHE
ST. CHARLES
ST. BERNARD
PLAQUEMINES
ST. MARY
TERREBONNE
LEGEND
State Capital
County Seats
POPULATION KEY
Over 100,000
50,000 to 100,000
25,000 to 50,000
10,000 to 25,000
5,000 to 10,000
2,500 to 5,000
1,000 to 2,500
500 to 1,000
250 to 500
Under 250

The majority of all the practicing Negro lawyers in the State are located in New Orleans. There are twenty-one Negro lawyers in the New Orleans area, including Mr. Lionel Collins who has his office in Gretna. U.S. Ex. 8, pp. 5-13, 38, 43, Tureaud; Vol. 1, p. 151, Elie. However, this represents only about 1 percent of the lawyers in the city since there are approximately 2,000 members of the Louisiana bar in the city. Vol. 8, p. 34, Judge Bagert. This percentage stands in sharp contrast to the fact that, as of 1960, there were more then 250,000 Negroes in the city, representing 30.8 percent of the total population. U.S. Ex. 20(a), p. 50. Moreover, less than half of the number of Negro lawyers in the city are engaged in the full-time practice of the law. Nine hold full-time or part-time governmental positions.[42/] One is an officer of a Negro University,[43/] one is involved almost full-time with a commercial enterprise,[44/] and one is recuperating from an illness.[45/]

42/ In his deposition (U.S. Ex. 8), Mr. Tureaud indicated Mrs. Armstrong is a school teacher (p. 38); Mr. Louis Alfred works for the United States Post Office (p. 11); Mr. James Smith works for the United States Equal Employment Opportunity Commission (p. 12); Mr. Freddie Warren and Mr. Benjamin Johnson are Assistant District Attorneys (p. 12); Mr. James E. Young works for the Veterans' Administration (p. 10); Mr. Ernest Morial is a State Legislator (p. 5); and Mr. Antoine Trudeau and Mr. Robert Collins are assistant City Attorneys (pp. 5, 10, 11, 13).

43/ Mr. Norman Francis is the Vice President of Xavier University. U.S. Ex. 8, p. 10, Tureaud.

44/ Mr. Israel Augustine is associated with a savings and loan association. U.S. Ex. 8, p. 10, Tureaud.

45/ St. Elmore Johnson suffered a stroke and is practicing in a limited way, working in Mr. Tureaud's office. U.S. Ex. 8, pp. 43-44, Tureaud.

In essence, in the City of New Orleans there are two law firms to which Negroes are likely to turn for civil rights cases, that of Mr. Tureaud, who works in association with Mr. Trudeau, Mr. Morial, and Mr. Amedee, and that of Messrs. Collins, Douglas and Elie. See Vol. 1, pp. 194, 198, Elie; U.S. Ex., 13, p. 89, White; U.S. Ex., 15, p. 36, Berry.

In Plaquemines Parish there are no Negro lawyers at all, although, as of 1960, 28.1 percent of the population in the Parish was Negro and as of today, there are 13 white lawyers who either live in the Parish or have their office there. U.S. Ex. 20, p. 93; U.S. Ex. 31. In fact, there are no Negro attorneys at all in the Twenty-fifth Judicial District. Pl. Ex. 4, p. 11, Judge Leon. And the difficulties that the Negro lawyers in New Orleans have in serving Plaquemines Parish should not be ignored. If the fears of harassment are not sufficient to deter the few Negro lawyers in New Orleans from taking civil rights cases in Plaquemines Parish, the length of the trip to the courthouse might well do so. The 50 or 60 mile trip along winding roads from the city to the courthouse also involves a ferry trip, which often times includes a lengthy wait. Vol. 9, pp. 59-60, Dowling; Vol. 2, pp. 173-174, Smith; Vol. 3, p. 26, Nelson; Vol. 7, pp. 171-172, Leon; U.S. Ex. 21. Those who make the trip said that an appearance in the courthouse at Pointe-a-La-Hache consumes the better part of a day (Vol. 3, p. 191, Smith) and the situation is not much better for a lawyer from Gretna in Jefferson Parish Vol. 7, p. 49, Greenberg. The significance of such distances for these lawyers in part

stems from the fact that civil rights cases are usually taken without a fee. As Robert Collins put it, from the standpoint of economics one does not represent a client free in a place some 50 miles away, particularly in Plaquemines Parish. See supra, pp.19-25 (discussion on financial problems in civil rights cases). The geography also poses a problem from the point of view of the client's access to the Negro lawyers in New Orleans. Some points of the parish such as Tidewater, are 80 miles away from New Orleans. A trip into New Orleans to find a lawyer might mean the loss of a day's pay and subject the client to considerable expense, not to mention inconvenience.[46/] These factors are particularly important given the fact that, according to the 1960 census, the median annual income of non-white families in Plaquemines Parish is $2,467 (U.S. Ex. 20, p. 224), an amount below the income level generally used by legal assistance programs financed by the federal government as a means of determining indigency, or eligibility for free legal services. U.S. Ex. 11; Vol. 6, p. 60, Buckley. And the experience under those programs, favoring the establishment of neighborhood legal centers, underscores the importance of close geographic vicinity of the poor community to their lawyers, something the Negroes in Plaquemines Parish surely lack with respect to the few Negro lawyers in New Orleans. See generally infra Section IVB.

46/ The public transportation system, upon which much of the Negro community must depend in gaining access to the Negro lawyers in New Orleans, consists of four buses each way. That trip from Venice, for example includes 14 stops on its way to New Orleans and takes about 2-1/4 hours. U.S. Ex. 23.

These geographic facts are part of the explanation why so few Negro lawyers have ever appeared in the court at Pointe-a-la-Hache in recent years. In fact, Judge Leon stated that Robert Collins was the only Negro attorney who had ever appeared before him. Pl. Ex. 4, p. 14, Leon. Mr. Tureaud, who has been practicing law in Louisiana for forty years, testified that he had only a few legal matters in the Parish, all uncontested and involving property matters. U.S. Ex. 8, pp. 67-68, Tureaud. This is probably also part of the explanation why only one New Orleans lawyer, Mr. John Dowling, represented a Negro in a criminal matter in the two years covered by the defendants' own study. Def. Ex. 5, p. 2.[47/]

2. The Exclusionary Practices

Our contention that there is an inadequate reservoir of Negro lawyers in the State to handle civil rights matters is in part demonstrated by the bare numbers -- by anticipated demand and supply. This "inadequacy" may be understood in large part by inquiring as to whether there were any artificial limitations on the opportunity of Negroes to become members of the Bar.

(a) The Law Schools

Our inquiry into the artificial limitations imposed on the Negro to become members of the Louisiana bar need not include an analysis of the gen-

---

47/ Two other attorneys Gilbert and Jerald Andry who have their offices in New Orleans appeared in Plaquemines Parish, but this was by court appointment. Vol. 7, pp. 101-102, Andry; Def. Ex. 5, p. 2.

eral socio-economic status of the Negro in Louisiana society, nor of the impact of racially segregated public school education. Our inquiry need not be so broadened because these general racial policies have expressed themselves in an acutely relevant form -- up until very recently Negroes were totally excluded because of their race from the legal educational institutions of the State, those institutions charged with the special responsibility of preparing persons to enter the Louisiana bar and those institutions that were the most accessible to those living in the State and likely to practice there.[48/]

During the 1880's in Louisiana, Straight Law School admitted Negro students. However, the Law School lasted for only 6 or 7 years and closed about 1887. U.S. Ex. 8, pp. 61-62, Tureaud. For the next sixty years, spanning more than a half century, and covering the period of time when most of the present members of the Louisiana bar attended law school, there was no legal educational institution in the State that would admit Negroes. These racial policies were widely known in the community and many Negroes did not even apply. U.S. 18, p. 12, LeCesne; U.S. Ex. 15,

---

48/ Almost all the white lawyers called by the defendants and defendant-intervenors, when asked what law schools they attended, said one of the Louisiana law schools. See Vol. 7, p. 102, Andry; Vol 7, p. 4, Baldwin; Vol. 6, p. 132, Barnett; Vol. 7, p. 113, Bubrig; Vol. 7, p. 58, Horton; Vol. 9, p. 45, Kiefer; Vol 7, p. 197, Leppert; Vol. 8, p. 158, Little; Vol. 6, p. 184, McBride; Vol. 8, p. 146, McLaughlin; Vol. 6, pp. 171-172, Martin; Vol. 6, p. 190, Morgan; Vol. 7, p. 73, Petrovich; Vol. 8, p. 135, Reed; Vol. 8, p. 43, Talley; Vol. 7, p. 95, Wallace; Vol. 8, p. 103, Wessel; Vol. 4, pp. 3-4, Zelden.

p. 13, Berry; U.S. Ex. 16, p. 5, Sharp.[49] Negroes applied for admission to the Law School of Louisiana State University and were explicity rejected because of their race. For example, this record contains a letter dated January 24, 1946, by the Dean of the L.S.U. Law School, Paul M. Hebert, denying admission to a Negro because "Louisiana State University does not admit colored students", and recommending the application to Southern University even though it did not have a law school at that time. U.S. Ex. 9; See also Vol. 5, p. 165, Amedee; U.S. Ex. 4; Missouri ex rel Gaines v. Canada, Registrar of the University of Missouri, 305 U.S. 337 (1938). The racial exclusionary policy was brought to an end only upon an order of the federal district court in October 1950. Wilson v. Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, 92 F. Supp. 986 (E.D. La., 1950); rehearing denied, 340 U.S. 909 (1951). It was two more years before any of the law schools in New Orleans opened their doors to Negroes. The law school of Loyola University, founded in 1914, continued to exclude

---

[49] See also Cypress v. Newport News General and Non-sectarian Hospital Association, 375 F. 2d 648, 653 (4th Cir. 1967), where few Negro doctors had applied to join the staff of the defendant hospital and the Court noted: "That so few Negro physicians have applied is no indication of a lack of interest, but indicates, we think, a sense of futility of such an effort in the face of the notorious discriminatory policy of the hospital . . . ."

Negroes until 1952, Vol. 1, 1, p. 247, T. Collins; vol. 8, p. 69, Papale; U.S. Ex 24(d), p. 9; see also Vol. 1, p. 129, Elie; and it was at least another ten years from that date before the Law School at Tulane University, founded in 1847, opened its doors to Negroes. See Guillory v. Administrators of Tulane University of Louisiana, 203 F. Supp. 855 (E.D. La. 1962); Vol. 3, pp. 48-51, Nelson. In light of the long history of the racial exclusionary policies and the fact that litigation was necessary to get Negroes admitted to the Law School at Louisiana State University and Tulane, it was fair to expect these law schools to undertake a program to dispel the notion in the Negro community that they were unwelcome -- to indicate that they were no longer "white" law schools. This would be one of the conditions of making the opportunity to attend those law schools meaningful. But this record reflects that even the Law School at Loyola University, the one law school that "voluntarily" admitted Negroes, did not undertake such a program. Vol. 8, pp. 75-76, Papale.[50/]

There were, of course, some out-of-state law schools, U.S. Ex. 5, p. 125, Amedee; U.S. Ex. 8, p. 63, Tureaud; U.S. Ex. 15, p. 3, Berry; U.S. Ex. 16, p. 5, Sharp; U.S. Ex. 18, pp. 5, 12-13, LeCesne. Such

---

50/ See generally Bar Ex. 14, pp. 166-167, describing certain types of programs at law schools in the South designed to meet the special needs of Negro students who were a product of the dual school system based on race. This material does not mention any such program at LSU, Tulane or Loyola.

law schools obviously were not particularly addressed to preparing students to practice in Louisiana; attending them might have the effect of leading a young lawyer away from practice in Louisiana; and they were accessible to only those Negroes who were financially well-off or were able to gain scholarships. See U.S. Ex. 8, pp. 60-61, Tureaud; U.S. Ex. 15, p. 6, Berry; U.S. Ex. 18, pp. 12-13, LeCesne; Vol. 5, p. 168, Amedee. The State, in response to efforts of Negroes to obtain admission to the professional schools in Louisiana and as an attempt to perpetuate those exclusionary policies, enacted legislation in 1946 to provide a scholarship fund for Negroes to obtain professional education out of the state. U.S. Ex. 10; see also U.S. Ex. 9(b) and 9(c). This was, of course, no substitute for the opportunity to attend Louisiana law schools, as the Supreme Court held in Missouri ex rel Gaines v. Canada, Registrar of the University of Missouri, supra, especially considering the limited amount of money to be applied to all the graduate field of studies.

Nor was the establishment of Southern University Law School adequate to compensate for the absence of the opportunity to attend the established law schools of the State. The Law School at Southern University was opened in

1947-1948 in response to a Negro, Mr. Charles Hatfield,[51] who attempted to gain admission to the Law School at Louisiana State University. It was created at the Negro university and was designed to preserve racial segregation in legal education.[52] Negroes finally did obtain admission to the traditionally white law schools but, as brought out on cross examination by defendant-intervenors, the Law School at Southern University has been continually maintained as the Negro Law School, "intended as a sort of silent method of discouraging masses of Negroes from going to white professional schools." Vol. 5, p. 173, Amedee. It is difficult to conceive of any other purpose for its continued separate existence: it is located only 9 miles from the Law School at Louisiana State University, (Vol. 2, pp. 50-51, Collins,) and it has never had enough

---

51/ This resulted in state court proceedings to desegregate the law school in which relief was denied the petitioner. Hartfield v. Louisiana State University. (La Sup. Ct. No. 38610, 1947) see U.S. Ex. 8, p. 62, Tureaud; U.S. Ex. 15, p. 58, Berry.

52/ See U.S. Ex. 9(c), a letter from the attorney for Louisiana State University to the attorney for Mr. Hatfield, Mr. A. P. Tureaud, stating that on September 5, 1946, the Special Committee on Higher Education for Negroes in Louisiana voted to establish a law school for Negroes at Southern University. See also U.S. Ex. 5, containing one letter dated September 16, 1949, from the Dean of L.S.U. Law School stating; "As you know the Southern University School of Law was established in furtherance of the State's policy of segregation in educational institutions...," and another letter from a member of Bar Admissions Committee of the defendant-intervenor describing the opening of the Law School as an attempt "to give them a legal education which will eliminate the necessity of their pressing L.S.U." U.S. Ex. 5-II-N.

contacts with the class that dominates the profession. See generally McLaurin v. Oklahoma State Regents for

academic year, the Southern University Law School offered 33 courses taught by six instructors, while the Law School at L.S.U. offered 71 courses taught by thirty instructors and that at Loyola, offered 50 courses taught by 18 instructors. During the 1966-67 academic year the Law School at Tulane University offered 54 courses taught by 24 instructors.[53/] The limited number of students at Southern University makes it impossible to conduct certain student programs, such as publishing a law review, that are traditional parts of any legal insitution and offered at Tulane, Loyola, and L.S.U. U.S. Ex. 24(a), p. 8, (b), p. 9 (c), pp. 13-14, (d), p. 12, 32-36. Although Southern University Law School has been in existence for twenty years, it is the only law school in Louisiana which is not a member of the Association of American Law Schools (AALS). Vol. 8, p. 191, Berry.

(b) Admissions to the Bar

The racial exlusionary policies and practices respecting legal education in Louisiana had an obvious and direct impact upon admissions to the Louisiana bar. Those few Negroes that were not discouraged from pursuing

---

54/ This comparison is based on information contained in the catalogues, U.S. Ex. 24(a), (b), (c), and (d). The figures for the number of instructors does not include librarians, faculty members at Loyola who are indicated to be on leave of absence, a lecturer at Loyola who is indicated to be teaching during the fall of 1966, and six emeritus professors at Tulane.

a legal career, had the finanacial resources to attend an out-of-state law school, and had a desire to return to Louisiana to practice, encountered special disabilities upon seeking admission to the Louisiana bar even assuming arguendo that racial discrimination was not directly practiced in this admission process as well.[54/] For example, A. P. Tureaud, who was required to attend an out-of-state law school, Howard University Law School in Washington, D. C., passed the District of Columbia bar examination on his first try. See generally U.S. Ex. 8, p. 63-64. But on returning to Louisiana he had to take the bar examination three times before he passed, and if one wishes to assume that the difficulties he encountered were not attributable to racial discrimination in the bar admission process, the only other reasonable hypothesis -- for those who know Mr. Tureaud's respected stature at the bar -- is that he faced special disabilities

---

54/ The United States did not undertake to prove that such direct discrimination existed in the bar admission process; however, the potential for that discrimination should not be ignored. The bar examination essentially consists of essay examinations. Mr. Tureaud testified on deposition that when he took the bar examination, race was to be indicated on the application, and Mr. LeCesne testified to the same effect. U.S. Ex. 8, p. 65; U.S. Ex. 18, pp. 94-95. In addition, some of the applicants believed there were circumstances that could be interpreted as a pattern of racial discrimination. For example, Mr. LeCesne testified that he took the bar examination three times. The first and second times he passed the Louisiana civil law part but failed the general law portion; the third time he was informed that he had not passed "'any section of the examination.'" (Id., at 16-18).

because he was not schooled in Louisiana law -- as were the white students for whom the doors of Tulane, L.S.U. and Loyola were open. He was admitted in 1927. For approximately the next twenty years all Negro applicants to the Louisiana bar were rejected. U.S. Ex. 8, pp. 64-65, Tureaud; U.S. Ex. 15, p. 43, Berry.[55] Presumably, their lack of success was, from the viewpoint most favorable to the defendant-intervenor Bar Association, in part explicable in terms of their inability to attend a Louisiana law school. For some time this lack of educational opportunity was compounded by the fact that Negroes were even excluded from the special courses or "cram courses" given in New Orleans in preparation for the bar examination. U.S. Ex. 18, p. 19, LeCesne.

This interrelationship between exclusionary policies at the law schools and admission to the bar is most dramatically illustrated by the creation of the privilege known as the "veterans' privilege" or "diploma privilege". On May 6, 1942, the State Supreme Court amended the rules for admission to the state bar by permitting admission without examination for certain applicants in the military.[56] This privilege was

---

55/ The next Negro to be admitted to the Louisiana bar was Mr. Louis Berry in 1945, who at the time of taking the bar had been a member of the Missouri bar and a professor of law at Howard. (U.S. Ex. 8, p. 65, Tureaud; U.S. Ex. 15, pp. 8-10, Berry.)

56/ For some years the privilege was confined to those who had served in the armed forces or would shortly be entering the armed forces. U.S. Ex. 26, amendments to Section 7 of Bar Admissions Rule, dated May 6, 1942, May 8, 1947, February 5, 1951, March 10, 1952. However, in June 1953 this limitation to those serving in the armed forces was eliminated and the privilege was extended to any law school graduate who otherwise qualified. U.S. Ex. 26, amendment to Section 7 of Bar Admissions Rule, dated June 2, 1953.

unavailable to Negroes until the 1950's, because of the racial exclusionary policies of the Louisiana legal education institutions. The new rule provided for admission without examination for graduates of Louisiana law schools that were approved by the Association of American Law Schools; but until the 1950's there were no such law schools available to Negroes. See supra, pp.42-48. The new rule alse made provision for graduates of out-of-state law schools that were members of the Association of American Law Schools; they were required to present a certificate from the dean of an Association of American Law Schools approved Louisiana law school stating that they had earned 16 credits in Louisiana law at such a local institution. But the Louisiana law schools even refused to accept Negroes on those limited terms and for such purposes. U.S. Ex. 18, p. 21. LeCesne, and Gov't Ex. 1 of that deposition. Faced with such a discriminatory impasse, certain Negro applicants sought to improvise on the rule. One sought to substitute for the certificate of a Dean of a Louisiana Law School a corresponding certificate from a Louisiana lawyer for whom he worked, attesting to the applicant's knowledge of Louisiana law; this attempt was based on the fact that such a similar certificate could be a substitute for a degree from a law school in order to qualify to take the bar examination. The Supreme Court refused to make an accommodation.

In 1949 the State Supreme Court did make an accommodation in the veterans privilege but then not so much to equalize the opportunity of Negroes to become members of the bar as to preserve segregation of the races in legal education. By that time Southern University Law School existed, see supra pp. 46-47. But even at that time attendance at that law school, either as a regular student or as a special student seeking the 16 hours of Louisiana law, would not qualify for the diploma privilege since the law school was not a member of the AALS. The State Bar Association was confronted with this challenge in June 1949 by Earl Amedee and Jerome T. Powell, veterans and graduates of Howard University Law School. U.S. Ex. 5(B). The basis for concern of the State Bar Association was transparent. One member of the Bar Admission Advisory Committee wrote:

> It is very important, if the principle of segregation is to be maintained in law training, that the diploma from the Negro law school should be afforded full and favorable recognition. U.S. Ex. 5 (II), letter from Dale E. Bennett to Harry McCall, dated September 14, 1949.57/

57/ One week later Professor Bennett wrote in a similar vein: "I feel that the handling of this particular amendment is very important to the future of Southern University Law School as a means of maintaining segregation of the two races in legal training." U.S. Ex. 5 (NN), letter from Dale E. Bennett to Stephen A. Mascaro, September 21, 1949.

and another wrote:

> As you know the Southern University School of Law was established in furtherance of the state's policy of segregation in educational insitutions. ... we feel that the policy of segregation might be endangered if World War II veteran graduates of Southern University School of Law were not granted, during the period of final accrediting, the same diploma privileges as accorded this class of graduates from the other three law schools. U.S. Ex. 5 (KK), letter from Henry G. McMahon to Harry McCall, dated September 16, 1949.

The response was that in December, 1949, a special provision was written into the diploma privilege to account for the fact that Southern University Law School was not a member of the AALS.[58/] This special provision nevertheless required Earl Amedee to attend an additional year of law school (at Southern), imposing burdens on him that would not have existed if his earlier application

---

58/ When that special provision was first promulgated, Southern was given until December 31, 1952, to become a member of AALS or else the diploma privilege would cease to apply to its graduates. On October 7, 1952, this deadline was extended to December 31, 1956; on June 29, 1956, the deadline was extended to December 31, 1958; and on October 10, 1958, the deadline was extended to December 31, 1960. On May 19, 1959, Article XII, section 7 was again amended to phase out the diploma privilege. U.S. Ex. 26.

to the L.S.U. Law School had not been denied on the grounds of race. Vol. 5, p. 125, 167, Amedee; U.S. Ex. 5(A).[59/]

(c). The Professional Associations

Once a Negro has completed law school and has been admitted to the bar in Louisiana, his acceptance by his white colleagues and the white-dominated professional organizations in the State has been far from assured. The importance of such an acceptance to professional success is clear, and a continuing awareness of this lack of acceptance inevitably has had some impact -- however unmeasurable it might be -- upon the interest of Negroes in entering the legal profession in Louisiana.

59/ Negro attorney James Sharp, Jr., also took advantage of the diploma privilege after he graduated from Lincoln University Law School in Missouri in 1951 and completed 16 credits of Louisiana Code subjects at Southern University in 1952. Although Mr. Sharp said he was admitted to the Bar without delay, he said Asst. Bar Admission Comm. Sec. Stephen A. Mascaro was of the opinion that he could not qualify under the diploma privilege. Mr. Mascaro based this opinion on the statement in the diploma privilege, as amended on Feb. 5, 1951, which allowed the privilege to be exercised by a student who had completed all the work for the LL.B. degree at a Louisiana AALS-member law school or at Southern Law School. Although Mr. Sharp had completed 16 credits and an additional year of schooling at Southern, he had completed the requirements for his LL.B. degree out-of-state. Mr. Sharp said an exchange of letters ensued and he was admitted to the Bar under the diploma privilege on February 2, 1952. U.S. Ex. 16, pp. 6-10, (Sharp); U.S. Ex. 26, (S. Ct. order of 2/5/51).

The record indicates some of the scope of the exclusionary practices of the professional associations. In some of the rural parishes it has been total exclusion. For example, Richard Millspaugh of Opelousas has not been accepted in, or invited to join, the St. Landry Parish Bar Association even though he has been in practice there for 17 years. About five years ago he had submitted an application to the association with the $2.00 fee, and he has heard nothing more about it. U.S. Ex. 14, pp. 8-9, Millspaugh. See also U.S. Ex. 13, p. 23, White; U.S. Ex. 16, p. 12, Sharp. These discriminatory practices are not confined to the rural parishes and seem to exist even in New Orleans. There is uncontradicted testimony that the New Orleans Bar Association does not have any Negro members, and Mr. John Nelson testified that it was his impression that the Association had a racial exclusionary provision in its constitution until a year ago. Vol. 1, p. 58, Elie; Vol. 3, pp. 47-48, Nelson. Mr. Lolis Elie testified that the organization still has an exclusionary policy, and quite understandably, he did not know of any Negroes who applied. See footnote 49 supra, See. Also Vol. 5, p. 176, Amedee (exclusionary policies of the Criminal Courts Bar Association).

Even if the Negroes are admitted to membership in the professional association, it is not clear that they can participate on an equal basis with members of the association. For example, membership in the

Louisiana State Bar Association is required of those admitted to the bar of the state, and presumably Negro lawyers encountered no difficulty in getting admitted there. However, it is not at all clear how welcome Negroes are in the activities of the Association. The annual convention of the Bar Association on frequent occasions has been, for instance, held in a Mississippi Gulf Coast hotel, and in the past this has had the effect of excluding Negroes. A past president of the Association, Bascomb Talley, testified that prior to the Civil Rights Act of 1964, the owner of the hotel was opposed to the presence and participation of Negro members. During the 1963-64 convention, however, the Negro participants were allowed to attend the luncheon -- in a separate dining room. Vol. 8, pp. 66-68, Talley. See also Vol 1, pp. 163-64, Elie. In addition, the Negro law school of the state, Southern University Law School, unlike the traditionally white law schools of the State, is not represented on the Board of Governors of the Louisiana State Bar Association[60] or on the Bar

---

60/ Article VII, §1 of the Articles of Incorporation of the Louisiana State Bar Association provides that the Board of Governors is to consist of, among others, three faculty members to be elected by the membership of the Association at large from the faculties of the Louisiana Law Schools that belong to the Association of American Law Schools. State Bar Ex. 1. The Board of Governors has complete control of the Association's fiscal affairs and, when the Association's House of Delegates is not in session, the Board may make policy decisions. Vol. 7, pp. 239-40, T. Collins. It was this Board -- without a representative from Southern Law School -- which on December 9, 1967, approved the Bar Association's intervention in this case on the side of the defendants. Bar Ex. 10.

Admissions Advisory Committee[61]; and any of its faculty members who are not licensed to practice law in Louisiana may not participate in the activities of the State Bar Association on the same basis as Tulane, Loyola, or L.S.U. law school faculty members.[62] This is purportedly due to the fact that Southern University is not a member of the AALS. But the President and Executive Secretary of the Bar Association were unable to explain satisfactorily why the non-membership in a private organization, such as the Association of American Law Schools, would preclude Southern University Law School, a law school maintained by the State itself, from representation on these Committees of the professional bar of the State. Vol. 8, pp. 190-191, Little; Vol. 8, pp. 91-92, T. Collins.

61/ Article XII, §4, of the Articles of Incorporation provides for the appointment by the president of the Association, with the approval of the Board of Governors, of a Bar Admissions Advisory Committee to counsel and assist the Committee on Bar Admissions. State Bar Ex. 1. Bar examinations are based, in part, on the critiques delivered by this Committee to the Committee on Bar Admissions. Vol. 8, p. 147, McLaughlin. This Committee is to be composed of one full-time faculty member from each Louisiana law school that is a member of the Association of American Law Schools.

62/ Article IV, §2 of the Articles of Incorporation provides that full-time faculty members of the Louisiana law schools that are members of the Association of American Law Schools may become members of the Association even if they are not licensed to practice law in Louisiana.

IV. Supplementary Sources of Representation in Civil Rights Cases

In Section II of this brief we isolated the special problems connected with handling civil rights cases, special problems that would ordinarily limit the availability of lawyers to handle such cases. In Section III we identified the class of lawyers in the State most likely to handle civil rights cases notwithstanding such problems, the Negro lawyers, and demonstrated the inadequacy of the supply of such lawyers. The inquiry now is to determine what programs have been used and are available as supplementary sources of representation in civil rights cases.

A. Court Appointments

Under Gideon v. Wainwright, 372 U.S. 335 (1963), the state courts are constitutionally obliged to appoint lawyers to represent indigent defendants in criminal matters. This principle of law creates a potential source of representation in civil rights cases, because a large proportion of the indigent criminal defendants in Louisiana are Negroes. Most of the Negroes in the State and, in particular, in Plaquemines Parish are indigent according to generally recognized standards. See, e.g., U.S. Ex. 11. The 1960 census shows that the median income of a Negro family in Louisiana is $2,238.00 and that of a Negro family in Plaquemines Parish is $2,467.00. U.S. Ex. 20, pp. 136, 224. That is why, for example, lawyers who do not require indigency as a condition of their

handling a civil rights case generally find that, as a matter of fact, all their civil rights clients are indigent. Vol. 4, p. 140, Sobol. The Gideon principle also becomes relevant because civil rights cases are often cast in the form of defending criminal charges in state court. That is true in large measure for two of the general types of civil rights cases - the civil-rights-context cases and for the civil-rights-issue cases. Admittedly, the Gideon principle and the resulting system of appointments in state courts have no relevance for the third general type of civil rights cases, the affirmative civil suit.[63/]

There are, however, three reasons why this potential for a supplementary source of representation in civil rights cases -- even in the limited criminal context -- has not been realized.

63/ In the Civil Rights Act of 1964, Congress recognized both the need for supplementary sources of representation in civil rights matters and the appropriateness of a system of court appointments to serve as such a source of representation. In Title II (public accommodations) and Title VII (equal employment) of the Act, for example, Congress empowered the federal courts to appoint attorneys to represent private parties seeking relief under these Titles. 42 U.S.C. 2000a-3(b) and 2000e-5(e). In addition, Congress provided for the payment of counsel fees to the party's attorneys if he prevails, Newman v. Piggie Park Enterprises, 36 U.S. Law Week 4243 (March 18, 1968); 42 U.S.C. 2000a-3(a), 2000e-5(k), and presumably that would be applicable whether the attorney was privately engaged or was appointed by the court. However, this system of appointments is available only in the federal courts; and it is doubtful whether it has been used in any meaningful way there, that is, in a manner to distribute the civil rights cases among a greater group of attorneys. See Vol. 2, pp. 203-205 and Vol. 3, pp. 6-8, Nelson.

The first reason is that, notwithstanding Fifth Circuit decisions to the contrary,[64] lawyers are generally not appointed to misdemeanor cases in the rural parishes and the civil-rights-context cases usually involve misdemeanors. Vol. 3, p. 91, Nelson. The testimony is that in urban areas appointments may be made in felony and serious misdemeanor cases, but in rural parishes appointments are usually limited to felony matters. Vol. p, pp. 59-60, Buckley; U.S. Ex. 15, p. 66, Berry.[65] Judge Leon said, for example, that he does not appoint counsel to represent indigents in misdemeanor cases, such as simple battery, with which Duncan was charged; and he did not distinguish between serious and non-serious misdemeanors.[66] This procedure would explain in part why, according to the defendants' own study, only 104 of the 893 Negro defendants in Plaquemines Parish between May 17, 1965 and July 5, 1967, or approximately 12%, were represented by counsel;

64/ Harvey v. Mississippi, 340 F.2d 263 (5th Cir. 1965); McDonald v. Moore, 353 F. 2d 106 (5th Cir. 1965).

65/ Judge Bagert testified that his practice in Orleans Parish is to appoint in misdemeanor cases; but he did not distinguish between serious and non-serious misdemeanors. Vol. 8, pp. 21-22, Bagert. See also Vol. 6, p. 59, Buckley.

66/ Pl. Ex. 4, pp. 11-12, Leon. At the time of the Duncan incident, the Judge did not appoint attorneys to represent indigents in any juvenile matters; but apparently there has been some change following the Supreme Court decision in In re Gault, 387 U.S. 1 (1967). See Vol. 6, p. 151, Defley.

and only twenty of those 104 persons were represented by attorneys appointed by the court. Def. Ex. 5.

Secondly, even in those cases where court appointments are made, the appointment is usually not made in a manner that is likely to insure that the representation provided by the appointed counsel is adequate. Often there is no systematic basis for selecting the lawyers to be appointed, and the lot usually falls to a lawyer who regularly practices before the judge or who happens to be in the courtroom at the time. Vol. 8, pp. 33-34, Bagert; U.S. Ex. 11, p. 8 (Tallulah); U.S. Ex. 13, p. 31, Berry; U.S. Ex. 14, p. 14, Millspaugh. This often haphazard and unequal distribution of the burden of appointments is coupled with the lack of compensation and the lack of any payment of expenses in the appointed cases. U.S. Ex. 11, p. 8, (Tallulah); Vol. 8, pp. 20-21, Bagert; Vol. 1, pp. 132-133, Elie; Vol. 6, pp. 152-153, Defley. In 1960 a statute was enacted in an effort to provide some form of compensation to lawyers appointed in felony cases; but as Judge Bagert evaluated it: "That legislation is not worth the paper it is written on."[67/]

67/ Vol. 8, pp. 31-32 Bagert. In 1966 the Louisiana Legislature enacted an Indigent Defender Board statute which allowed for the reimbursement of appointed attorneys in felony cases "where funds are available." L.R.S. 15:141. It created a tax source of funds in the form of a $3.00 levy against all criminal defendants who forfeit bail, plead guilty or are convicted. Judge Bagert stated flatly that he has not implemented the statute because he cannot bring himself to tax a defendant a few dollars after he, for example, has sentenced him to 50 years imprisonment. Vol. 8, pp. 31-32. The experience in New Orleans with this statute seems to reflect that throughout the State.See. e.g., Vol. 8, p. 32, Bagert; U.S. Ex. 16, pp. 16-17, Sharp; U.S. Ex. 17, p. 66, Kidd. But see U.S. Ex. 15, pp. 65, 78, Berry.

The existence of the New Orleans Legal Aid Bureau, which has a salaried staff that is appointed in these criminal cases, makes some contribution to reducing the financial burden; but its significance as a supplementary source of representation in civil rights cases is limited by, among other reasons, the fact that it only has a staff of three,[68] its jurisdiction is generally confined to New Orleans, and does not extend to Plaquemines Parish,[69] and even with such a limited jurisdiction, it has an enormous case load.[70] In any event, it is the only such program in the state designed to serve the Gideon obligation for appointments. Thus, the general experience in the State, including Plaquemines Parish, shows appointment of lawyers without compensation or reimbursement for expenses, and an absence of a system which is reasonably calculated to produce an adequate level of representation for the defendants in the cases for which counsel is appointed. What often results is the appointment of the lawyer,

---

68/ Vol. 6, p. 58, Buckley.

69/ U.S. Ex. 8, p. 39, Tureaud; Vol. 6, pp. 49-50, 66, Buckley.

70/ See State Bar Ex. 13. In addition, it should be noted that the New Orleans Legal Aid Bureau will not represent a defendant who is able to post bail. U.S. Ex. 11, p. 13 (New Orleans).

a conference with the client, and a plea of guilty, all in the matter of a few hours[71] -- a prima facie case of inadequate representation, as has been held in Coles v. Peyton, 2 Cr. L. 2371 (4th Cir. Jan.8, 1968); Fields v. Peyton, 375 F.2d 624 (4th Cir. 1967); Twiford v. Peyton, 372 F.2d 670 (4th Cir. 1967).

There is an additional reason that the Gideon obligation for court appointments has not evolved into an effective, supplementary source of representation in civil rights cases: the appointed counsel has difficulty providing adequate representation since he is not immune from the usual social pressures because he is acting under a court appointment.[72] This is illustrated by the Earl

---

71/ During a period from January 1, 1966 to July 5, 1967 in Plaquemines Parish, there were four instances where counsel was appointed by the Plaquemines Parish Court and a plea of guilty was entered on the same day. These four instances involved: aggravated rape (case no. 14220), simple burglary and receiving stolen things (case nos. 12573, 12574, and 12575), simple battery (case no. 13727), and aggravated battery (case no. 15504). This information was compiled on the basis of a comparison of the Lobrano study (def. Ex. 5) with the Plaquemines Parish Minute Books for the corresponding period (U.S. Ex. 25a and 25b). One of these court-appointed attorneys testified that he spoke to the defendant only a short while before entering a plea of guilty to aggravated rape. Vol. 7, pp. 146-147, Ehmig.

72/ Sometimes the social pressures are such as to make it difficult to fulfill the obligation to appoint counsel. See Vol. 7, pp. 28, 36-37, Gill. New Orleans Attorney G. Wray Gill said he accepted an appointment in a capital case in Evangeline Parish (several hundred miles away) where a Negro was charged with murdering a white woman. The judge requested him to take the case because he could not find local counsel willing to take it.

Clark case. Some measure of representation was provided Earl Clark, a Negro in Plaquemines Parish, when Luke A. Petrovich[73/] was appointed his counsel to defend him in a capital case for raping a white woman; and it is also significant that Mr. Petrovich at least raised the question of the systematic exclusion of Negroes from the petit jury. But serious questions as to the adequacy of the representation can be raised and were raised in federal habeas proceedings, including the facts that: (1) no constitutional challenge to the composition of grand jury was made (upon which ground the federal habeas writ was issued); (2) no change of venue was sought by defense counsel despite the racial overtones of the case and the well-known climate in the Parish; (3) no attempt was made to effect recusation of the District Attorney despite his well-known position on racial matters; (4) the District Attorney in his opening statement disclosed the details of an alleged confession without ever offering it into evidence; (5)the defense counsel permitted the victim to identify the defendant in the courtroom even though he was the only Negro seated at the bar;

73/ For Mr. Petrovich's total involvement in the administration of Plaquemines Parish, see Vol. 7, pp. 82-84, 90-93, Petrovich. He has been on the Commission Council since 1961; along with the defendant Leander H. Perez, Sr., he has defended governing agencies of the Parish in many cases, including affirmative civil rights cases seeking to enjoin those agencies from discriminating on the basis of race.

and (6) no constitutional challenge was made to the infliction of the death penalty for aggravated rape, Clark v. Allgood, (E.D. La., Baton Rouge Division, No. 847, 1966). In some instances the local social pressures are such as to lead the local lawyer (regardless of whether he is appointed or not) not to raise any defenses that would challenge the established social structure, such as the jury exclusion issue. This has been a circuit wide experience. See generally, e.g., United States ex rel. Goldsby v. Harpole, 263 F.2d 71 (5th Cir. 1959), cert. denied, 361 U.S. 838 (1959); United States ex rel. Seals v. Wiman, 304 F.2d 53 (5th Cir. 1962), cert. denied, 372 U.S. 915 (1963); Whitus v. Balkcom, 333 F.2d 496 (5th Cir. 1964), cert. denied, 379 U.S. 931 (1964); Cobb v. Balkcom, 339 F.2d 95 (5th Cir. 1964); and Labat v. Bennett, 365 F.2d 698 (5th Cir. 1966), cert. denied, 386 U.S. 991 (1967).

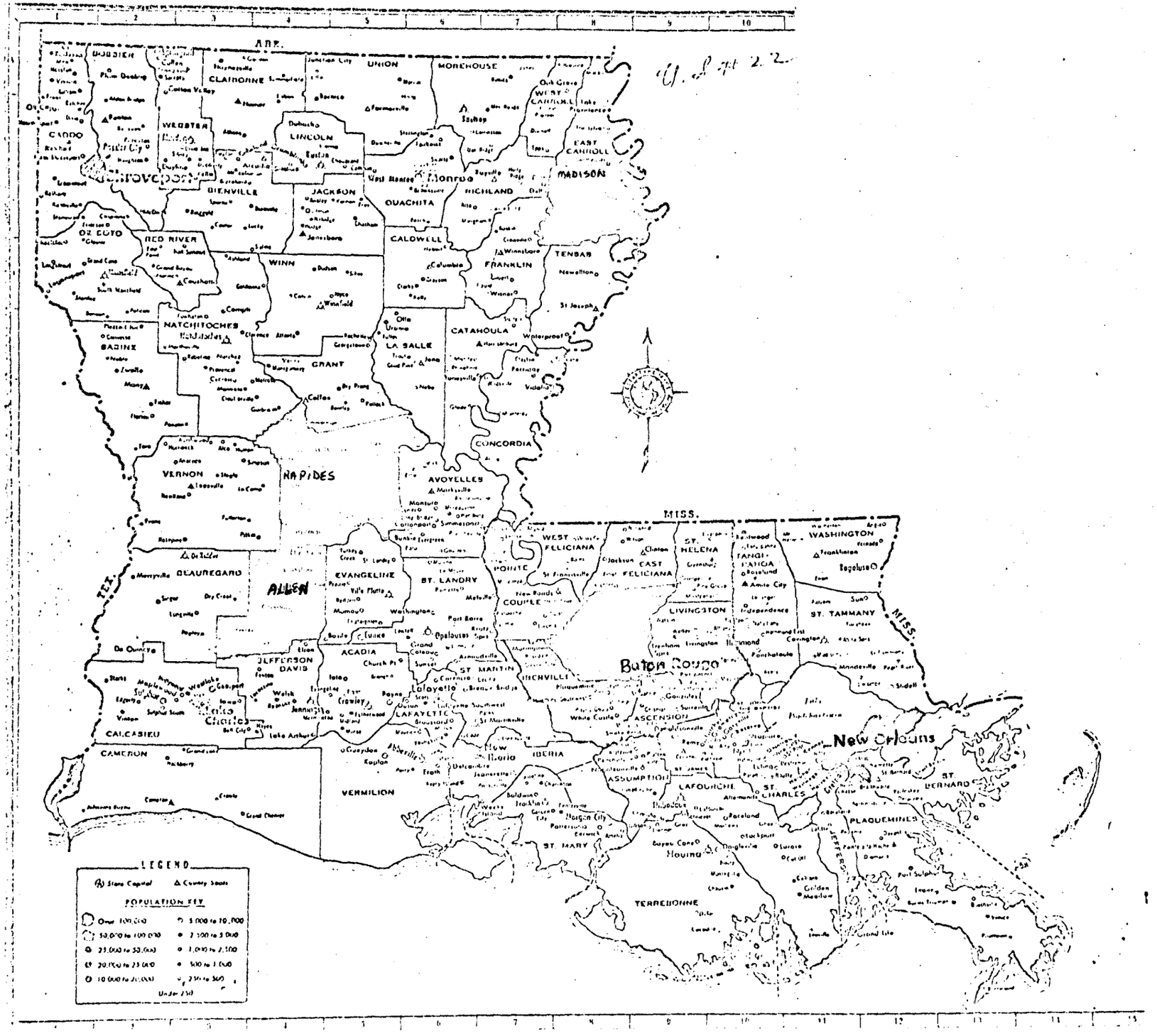
B. Legal Assistance Programs

Legal assistance programs provide representation to persons who would otherwise be unable to obtain effective legal representation for financial reasons. Vol. 6, p. 46, Buckley. The significance of such programs as a supplementary source of the representation in civil rights cases, like that of the Gideon system of court appointments, stems from the relationship between race and poverty in Louisiana, from the fact

that Negroes -- the primary civil rights clients -- are likely to be indigent. See Section III B. The potential of such programs for providing representation in civil rights cases is in one sense greater than that of the Gideon system of court appointments, because these programs are not tied to the State's constitutional obligation in criminal proceedings. Thus, these programs could provide representation in civil rights cases cast in the form of the affirmative civil suit and need not depend on a decision as to whether Gideon applies to misdemeanors as well as to felonies. Vol. 6, p. 48, Buckley. One such program explicitly has committed itself to handling "all cases, including civil rights, which possess suitable qualities for law reform." U.S. Ex. 11, p. 23 (Tallulah).

However, the capacity of such legal services programs to provide a source of representation in civil rights cases is far from fully realized at present, and was even less so in 1966 and 1967 when Richard Sobol sought to provide representation to Gary Duncan. The scarcity of such programs in the state as a whole and the absence of such a program in Plaquemines Parish ~~is~~ are perhaps the most important reasons why this potential has not been realized. Prior to the passage of the Economic Opportunity Act of 1964 (42 U.S.C. 2701) and the establishment of the Office of Economic Opportunity, there were only two locally supported legal assistance programs in the State, one in Baton Rouge

and the other in New Orleans (the New Orleans Legal Aid Bureau). See U.S. Ex. 11, p. 1 (Baton Rouge); pp. 12-13 (New Orleans); Vol. 8, p. 161, Little. Since that time there has been a slight increase in the number of programs: programs were established in Allen Parish (Kinder) in September, 1966, in Rapides Parish (Alexandria) in February, 1967, and in Madison Parish (Tallulah) in 1968; a second legal assistance program the New Orleans Legal Assistance Program (NOLAC) was established in New Orleans on January 22, 1968; and in Baton Rouge, the previously existing legal assistance program became federally funded under the auspices of the Office of Economic Opportunity between September, 1966 and February, 1967. Vol. 6, pp. 47-48, 51, Buckley; U.S. Ex. 12(a)(2); U.S. Ex. 11 (Alexandria); Vol. 8, pp. 161-163, Little; U.S. Ex. 11 (Baton Rouge). The model for each is to have sufficient staff attorneys to provide the legal representation to indigents within certain parishes. The following map indicating the locations of the legal assistance programs throughout the State indicates some of the limitations on the scope of the programs:


ARK.
BOSSIER
CLAIBORNE
UNION
MOREHOUSE
WEBSTER
CADDO
LINCOLN
WEST CARROLL
EAST CARROLL
MADISON
BIENVILLE
JACKSON
OUACHITA
RICHLAND
CALDWELL
FRANKLIN
TENSAS
OUACHITA
RED RIVER
DE SOTO
WINN
NATCHITOCHES
LA SALLE
CATAHOULA
SABINE
GRANT
CONCORDIA
VERNON
RAPIDES
AVOYELLES
MISS.
WEST FELICIANA
ST. HELENA
WASHINGTON
TANGIPAHOA
EAST FELICIANA
POINTE COUPEE
ST. LANDRY
EVANGELINE
ALLEN
BEAUREGARD
LIVINGSTON
ST. TAMMANY
MISS.
TEX.
JEFFERSON DAVIS
ACADIA
ST. MARTIN
IBERVILLE
Baton Rouge
Lafayette
LAFAYETTE
ASCENSION
CALCASIEU
Lake Charles
New Iberia
IBERIA
New Orleans
CAMERON
VERMILION
ASSUMPTION
LAFOURCHE
ST. CHARLES
ST. BERNARD
PLAQUEMINES
ST. MARY
TERREBONNE
Houma
LEGEND
State Capital
County Seats
POPULATION KEY
Over 100,000
50,000 to 100,000
25,000 to 50,000
20,000 to 25,000
10,000 to 20,000
5,000 to 10,000
2,500 to 5,000
1,000 to 2,500
500 to 1,000
250 to 500
Under 250

In addition, the estimated number of persons to be served the great range of legal problems other than the civil rights cases which they could present, and small size of the staff -- some of which have not yet been assembled -- all limit the availability of these programs as a source of representation in civil rights cases. This is indicated by the following chart:

Program	Number of Attorneys Authorized on Staff (including Directors)	Estimated number of People in Parish Who Would be Eligible Financially	Percent of number who are Negroes
Allen Parish	1	8,000	49%
Rapides Parish	4	40,000	30%
East and West Baton Rouge	9	80,000	33%
Madison Parish	2	9,000	65%
New Orleans			
(a)NOLAC	10	60,000-80,000	30%
(b) Legal Aid Bureau	3		

Sources: U.S. Ex. 11, p. 5 (Allen); p. 24 (Rapides); p. 11 (Baton Rouge); p. 8 (Madison); Vol. 6, p. 50, 58 (Buckley); U. S. Ex. 20.

There is no legal assistance program in Plaquemines Parish, though the need for one is surely as great there as in Allen Parish or Madison Parish. See U.S. Ex. 19(b). Nor is it realistic to assume that the legal assistance programs in New Orleans will serve Plaquemines Parish in any cases, including civil rights ones. With respect

to the New Orleans Legal Aid Bureau, a member of the Board of Directors testified that the Bureau does not in any way service Plaquemines Parish. U.S. Ex. 8, p. 39, Tureaud. With respect to NOLAC, the Executive Director testified that his program would probably not be able to provide representation in the Plaquemines Parish courts. Vol. 6, pp. 49-50, 66, Buckley; U.S. Ex. 11, p. 10 (New Orleans). The program was designed to serve New Orleans, and it is even questionable whether 10 lawyers are adequate to do the job there. The geographic and economic factors that limit access of Parish residents to private lawyers in New Orleans and limit the capacity of New Orleans lawyers to practice in the Parish courts[74] would also operate to further limit the capacity of NOLAC to serve the Parish. In addition, NOLAC is organized with the purpose of establishing six legal offices in the various poverty neighborhoods in the city, and any significant practice in Plaquemines Parish would disrupt that basic method of operation.

Aside from these factors relating to the scarcity of legal assistance programs, there are at least two other reasons why such programs are not entirely satisfactory as sources of representation in civil rights cases. One reason stems from the limitations of these programs in handling criminal matters and from the fact that civil rights cases - the civil-rights-issue and civil-rights-context cases-are often cast in the form of a criminal proceeding. As originally conceived most of these legal

---

74/ See supra, pp. 40-41 .

assistance programs excluded felony cases from their coverage because of the State's clear constitutional obligation to provide representation in those cases, but originally they were committed to handling misdemeanor cases.[75] However, in December, 1967, Congress amended the Economic Opportunity Act to preclude, as of June, 1968, federally funded legal assistance programs from handling any criminal matters, (except in extraordinary circumstances); and that prohibition would cover all the legal assistance programs in Louisiana including NOLAC, with the sole exception of the New Orleans Legal Aid Bureau. Vol. 6, pp. 48-71, Buckley; 42 U.S.C. 2809(a)(3). The second reason why the legal assistance program is not entirely satisfactory as a supplementary source of representation in civil rights cases stems from the fact that handling such cases exposes these programs -- which have a significant impact on the legal profession and the community without regard to their involvement in civil rights cases[76] -- to the pressures often directed at attorneys who handle civil

---

75/ See Vol. 6, p. 48, Buckley; U.S. Ex. 11, p. 4, (Rapides Parish), p. 6 (Allen Parish), p. 10 (Madison Parish). The work program for the Baton Rouge legal assistance program gives the Director the discretion to set up guidelines for acceptance of certain misdemeanors (U.S. Ex. 11, p. 16 (Baton Rouge)), but Mr. Buckley testified it does not accept criminal cases. Vol. 6, p. 52, Buckley.

76/ See generally the testimony relating to the controversy between NOLAC and the State and local bar associations, which resulted in, among things, the bar associations' refusal to participate in the Board of Directors because certain lay "splinter groups" were also to be represented on this Board. U.S. Ex. 11 (New Orleans); Bar Ex. 3; Bar Ex. 9; Vol. 8, pp. 168-171, 178-179, Little; Vol. 3, pp. 66, 73, Nelson; Vol. 6, pp. 68-69 (Buckley).

rights cases. For example, this record reveals that at least one legal assistance program in the State, the one in Madison Parish, was opposed by the local bar association because of the recent racial problems in the area and the fear that the legal assistance program "would start up" civil rights litigation. U.S. Ex. 12(A) and (B). Similar concerns may explain why another legal assistance program in the State, that in Rapides Parish, does not -- according to the testimony of a member of its Board of Directors -- handles civil rights cases. U.S. Ex. 15, pp. 42-43, Berry.

C. The Out-of-State Lawyer

The out-of-state lawyer has supplemented the representation in civil rights cases provided by the Negro lawyers licensed to practice in Louisiana. A tradition has existed for some time of using out-of-state lawyers as a supplementary source of representation in civil rights cases, and almost all the local civil rights lawyers have relied greatly on out-of-state assistance. U.S. Ex. 8, pp. 58-59, 77-78, Tureaud; Vol. 2, p. 92, R. Collins; U.S. Ex. 15, pp. 14-15, 52-59, Berry; Vol. 4, pp. 127, 140, Sobol. Indeed, various Negro civil rights lawyers testified that they associate out-of-state counsel in approximately 75 to 95 percent of their civil rights cases (see, e.g., Vol. 1, p. 65, Elie; U.S. Ex. 13, p. 65, White), and others testified that without the assistance of out-of-state lawyers

they could not have provided, either physically or financially, this type of representation. See, e.g., U.S. Ex. 16, p. 38, Sharp; U.S. Ex. 13, p. 73, White; Vol. 2, p. 92, R. Collins; Vol. 9, pp. 15-16, Jones. See also Pl. Ex. 26; Vol. 2, pp. 122-123, DeVito.

There are several reasons why the out-of-state lawyers developed as such an important supplementary source of representation. First of all, there is the simple fact that by going beyond the bounds of Louisiana, a much greater pool of lawyers became available to handle these cases.[77/] See, e.g., U.S. Ex. 15, pp. 14-15, Berry,. Secondly, the out-of-state lawyer is free of some of the restraints which result from involvement in the established social structure of Louisiana. For example, he and his family are less vulnerable to the harassment than if he resided in Louisiana. Thirdly, national, non- Louisiana organizations created, sponsored and supported this supplementary source of representation in civil rights cases. The whole orientation of these organizations transgressed state bounds, and that included recruiting and selecting its staff lawyers, as well as funding the organization and dividing representational responsibilities.

77/ See supra, p. 28, concerning the ACLU's program for recruiting Louisiana lawyers in New Orleans to handle civil rights cases and the lack of response from local lawyers. Vol. 5, pp. 187-189, Peebles. See also Pl. Ex. 14, which indicates that out of a total of 81 volunteers who were working in Louisiana during a four year period, none have been from the Louisiana bar.

Vol. 4, pp. 125-126, 145, Sobol. Such efforts on the part of these organizations were necessary to compensate for the lack of any meaningful response on the part of the individual lawyers to the need for representation in this area and it became necessary to have national, non-Louisiana organizations when the appropriate Louisiana agencies, such as the bar associations and the law schools, failed or refused to establish such organizations.[78/]

This supplementary source of representation provided by out-of-state lawyers has taken many forms. In some instances it has consisted of research and the preparation of briefs, particularly at the appellate level, including proceedings before the Court of Appeals for the Fifth Circuit and the United States Supreme Court. See, e.g., U.S. Ex. 8, pp. 58-59, 77-78, Tureaud; Vol. 2, p. 92, R. Collins; U.S. Ex. 15, pp. 14-15, 58-59, Berry; Vol. 4, pp. 127, 140, Sobol. However, in many civil rights cases, in both state and federal court,

78/ See Vol. 2, pp. 142-143, 203-205; Vol. 3, pp. 6, 33-34, Nelson. Mr. Nelson described two efforts he was involved in to establish organizations to provide a source of lawyers in civil rights cases. The first was in December, 1962, involving a meeting at the Department of Justice with Assistant Attorney General Marshall, the head of a charitable foundation, the deans of 8 to 10 southern law schools (not including any in Louisiana), and Mr. Nelson. Nothing came from this effort. The second one occurred in 1964, immediately after the passage of the Civil Rights Act of 1964. Mr. Nelson spoke with the President of the Louisiana State Bar Association about the association sponsoring a program to encourage lawyers to take civil rights cases and about a program to facilitate the appointment by judges of lawyers to represent people who filed complaints under Title II of the Civil Rights Act. See footnote 24. Similarly he did not receive an affirmative response to that suggestion.

out-of-state counsel appeared and participated during the trial. U.S. Ex. 15, pp. 14-15, 50-54, Berry; U.S. Ex. 14, pp. 10-13, Millspaugh.

With respect to these court appearances by out-of-state lawyers, this supplementary source of representation has manifested itself in various ways. The NAACP's Legal Defense Fund maintains no office in Louisiana and no staff attorney here; instead lawyers on the staff of this organization, with offices in New York, appear in individual cases, and remain in the state only as long as the particular case requires. See Vol. 5, p. 42, Sobol; U.S. Ex. 8, pp. 77-79, Tureaud. As initially conceived, LCDC recruited volunteer lawyers, law teachers and law students to spend short periods of time -- such as Christmas vacation or a three weeks summer vacation -- in the local area in the South with payment for expenses but no compensation. Vol. 4, pp. 113, 127, 130-140, Vol. 5, p. 26, Sobol. These volunteers were most useful in handling civil-rights-context cases in the form of defenses to criminal actions instituted against Negroes and civil rights workers. However, in time it became apparent to both the organization and to local judges that a succession of three-week volunteer lawyers was not the best way to deal with civil rights problems. Vol. 5, p. 44, Sobol. Although this early

arrangement might have been adequate for handling mass arrest situations[79], it was not satisfactory for larger, more complex civil rights cases and for establishing rapport with both the courts and clients. Vol. 5, pp.25-26, Sobol, Vol. 4, p. 121, Young. Also, the regional scope of LCDC activities pointed to the fact that economies could be realized by having, for example, a staff attorney based in New Orleans who could handle cases in Southern Mississippi or Alabama as well when the need arose. See Vol. 4, pp. 125, 126, 145, Sobol.

This supplementary source of representation has been permitted in Louisiana under a statutory pri-

---

[79] The adequacy of such short-term stays is questionable even with such cases. For example, in the Duncan case, which was a misdemeanor, almost eight months elapsed between the time of Gary Duncan's initial arrest and the denial of certiorari by the Supreme Court of Louisiana. See infra section VB. And it was an additional year before the case was argued before the Supreme Court of the United States.

vilege for visiting attorneys. The privilege is provided for in LSA-RS 37:214,[80] where a criminal sanction is attached for exceeding the bounds of the privilege. It is also provided for in the Articles of Incorporation of the Louisiana State Bar Association, which are promulgated by the Supreme Court of Louisiana pursuant to

---

80/ That statute provides:

> Except as provided in this Section, no person licensed or qualified to practice as an attorney at law or as an attorney and counsellor at law in any other state and temporarily present in this state shall practice law in this state, unless he has been duly licensed to practice law by the supreme court of this state.
> Nothing in this Chapter prevents the practice of law in this state by a visiting attorney from a state which, either by statute or by some rule of practice accorded specific recognition by the highest court of that state, has adopted a rule of reciprocity that permits an attorney duly licensed and qualified to practice law in this state to appear alone as an attorney in all courts of record in the other state, without being required to be admitted to practice in such other state, and without being required to associate with himself some attorney admitted to practice in the other state.
> Whoever violates any provision of Section shall be fined not more than one thousand dollars or imprisoned for not more than two years, or both.

statutory authority.[81] The privilege for visiting attorneys in the Articles of Incorporation is co-extensive with the privilege in Section 214. Vol. 8, pp. 227-228, Glusman. The enforcement of the privilege under the Articles of Incorporation is however entrusted to the Committee on the Unauthorized Practice of the Law (UPL Committee), and it would use its ordinary procedures for dealing with attorneys exceeding the limits of the privilege.[82] Those procedures involve, first of all, writing a cease and desist letter to the person whom they have determined to be engaged in the unauthorized practice of the law asking him to cease and desist from the pertinent activity; and, secondly, if the letter is of no avail, instituting a civil injunctive proceeding in the State courts. Vol. 8, pp. 208-209, Glusman; U.S. Ex. 30(R), resolution of November, 1968. The UPL Committee also has the power, used only in rare instances,

---

81/ Louisiana State Bar Association Articles of Incorporation, Art. 12 §9:

> A person licensed or qualified to practice as an attorney at law or as an attorney and counselor at law in any other state and temporarily present in this State...may practice law in this State, if such visiting attorney acts in association with some attorney duly and regularly licensed and admitted to practice law by the Supreme Court of Louisiana.

82/ Article 8, §1(8) of the By Laws of the Louisiana State Bar Association authorizes the UPL Committee to seek the elimination of unauthorized practice of the law by "such action and methods as may be appropriate."

to report the matter to the local district attorney for institution of criminal proccedings under the pertinent statute.[83]

There have been very few, if any, enforcement proceedings brought against those who were claiming to exercise the visiting attorney privilege;[84] there is evidence in the record that for many years it has not been necessary for the UPL Committee to institute injunctive proceedings to protect the privilege. See U.S. Ex. 30(Q); Vol. 8, pp. 202-204, Glusman. Based on an exhaustive examination of the records of the UPL Committee for at least ten years (U.S. Ex. 30), there is no evidence that criminal proceedings were commenced against a visiting attorney. The Chairman of the UPL Committee, Mr. Edward Glusman, testified that it was a unique experience for the UPL Committee to be confronted with a trained professional lawyer from another state in a situation involving unauthorized practice, because its prime concern has been with

---

83/ According to the Executive Counsel of the UPL Committee only one case has been sufficiently grave to warrant such a referral and this involved non-lawyers -- "a group of 'public adjusters'" that appeared following Hurricane Betsy. Vol. 7, pp. 217-218, T. Collins.

84/ Vol. 8, pp. 202, 204, Glusman; U.S. Ex. 30(Q). The sole reported decision appears to be Ex parte Perkins, 224 La. 1034, 71 So. 2d 558 (1954), where a member of the Mississippi bar who had resided and voted in Louisiana for more than 30 years was not considered a "visiting attorney".

preventing laymen from practicing law.[85] During the last ten years it appears that the Committee has had only four matters involving visiting attorneys who exceeded the bounds of the visiting attorney

---

85/ Vol. 8, pp. 203-205, Glusman. The principal areas of concern of the UPL Committee up to now have been simulated legal documents, improper pressures applied by collection agencies and insurance adjusters, and the so-called field of "estate planning" by non-lawyers.

privilege.[86] All four of these out-of-state lawyers were either written or informed that they could not practice in Louisiana, and the evidence indicates that compliance was obtained. The only

---

86/ Vol. 8, p. 204, Glusman; U.S. Ex. 30 (B, E, M, O, P). The following are the cases reflected in the minutes and annual reports of the Committee:

1. A Mississippi attorney attempted to file suit in U.S. District Court but withdrew it when he was reminded he was not licensed in Louisiana. There were no additional complaints. U.S. Ex. 30(B) at p. 3.

2. An Alabama attorney was listed on the stationery of a Louisiana insurance company as a resident attorney. The lawyer indicated on October 10, 1959, that he would comply with the UPL Committee's cease and desist letter. U.S. Ex. 30(E), at p. 1.

3. A Mississippi attorney with an office listing in a trailer park in Bogalusa said he handled only non-legal business in Louisiana. The UPL Committee Chairman was to watch developments but the Committee's minutes do not indicate any further action. U.S. Ex. 30(E), at p. 2.

4. An Arkansas attorney was denied the right by a state court judge to file papers in court because he had no Louisiana license. The UPL's cease and desist letter to him of April 6, 1964, was not answered, but as of December 1965, no further complaints were received about this lawyer. U.S. Ex. 30(M), p. 2, (O) pp. 3-4, (P). See text following.

5. A Mississippi lawyer intending to be admitted to practice in Louisiana requested an advisory opinion as to whether he could place his name on the door and on the stationery of a Louisiana firm before his admission. On June 7, 1957, he was advised by the UPL Committee that he could not do this until he gained admission. U.S. Ex. 30(B), at p. 1.

Also, see U.S. Ex. 32, correspondence between the Assistant City Attorney of New Orleans and the Louisiana State Bar Association concerning a Mississippi attorney who filed a petition in Orleans Parish District Court without indicating his association with local counsel. On May 22, 1967, the attorney acknowledged the Bar Association's letter and stated he was associated with local counsel.

additional step to insure enforcement was taken in the case of an Arkansas attorney who failed to acknowledge the Committee's cease and desist letter, and in this case the Committee contacted the local bar association in Arkansas. Vol. 7, p. 222, T. Collins.

The State interests as protected by the bounds of the visiting attorney privilege are not such as to cause that privilege to be constricted, especially in a civil rights context. There are basically three such interests that need be considered--the interest of the State in assuring a high quality of representation, the financial or economic interests of the members of the Louisiana bar, and the interest of the State in maintaining high levels of professional ethics.

The interest in maintaining standards of professional ethics is fully protected. We deal here with a member in good standing of another bar, and the Louisiana agencies can exercise power over him through the bar of which he is a member[87], through the local lawyer with whom he is associated, or through controlling his access to the local courts. If the lawyer stays for any significant period of time, as is the pattern with LCDC out-of-state lawyers, the control of the State agencies also lies in his continued presence.

---

87 See Vol. 7, p. 222, T. Collins.

Similarly, the visiting attorney who handles civil rights cases poses no threat to the financial or economic interests of the members of the Louisiana bar. As Mr. Thomas Collins, Executive Secretary of the Louisiana Bar Association said, "After all, who wants the business these 'Yankees' will be handling." U.S. Ex. 29(C). See also Vol. 8, pp. 87-88, T. Collins. Civil rights cases hardly result in economic benefit; instead they impose financial burdens on the lawyers. See supra pp.19-25. The out-of-state civil rights lawyer is not depriving Louisiana lawyers of income-producing cases, and there is no evidence in this record that the out-of-state civil rights lawyer becomes a magnet for fee-generating cases, which he then refers to the local civil rights lawyers with whom he is associated. All the evidence is to the contrary. Vol. 4, p. 220, Sobol. And the speculative interest of certain unidentified young attorneys in New Orleans to obtain a salaried position such as the out-of-state attorney might occupy (Vol. 8, pp. 108-110, Wessel) is hardly sufficient to be considered an interest of the State and a basis for constricting the scope of the privilege. See supra, p. 28 ; and footnote 77 , supra. In addition, there are obvious additional factors that would lead the organization to attempt to recruit whatever young Louisiana lawyers they could. Vol. 4, pp. 193-194, Sobol.

Finally, two factors work to insure a high quality of representation by the out-of-state attorney even though he is not a member of the bar.[88] The first is the association with the local lawyer to whom he can turn for knowledge about local rules and procedures; and the second is the self-interest of the client. The client has a deep interest in insuring that the lawyer, whether he be out-of-state or not, is competent and this is likely to be the most effective means of protecting the interest in a high quality of representation. Further, it oftens happens that the out-of state lawyer develops an expertise in civil rights cases and this adequately compensates for any lack of knowledge of local rules. Such out-of-state attorneys might be unreasonably hindered in performing their function as a supplementary source of representation in civil rights cases if they were required to take the bar examination before making court appearances, even though Louisiana does not have a residency requirement. For example, Mr. Sobol came to Louisiana in August, 1966 and probably would have had to wait several months before another bar examination would

---

88/ It should be noted that many members of the bar never took an examination under the diploma privilege, see supra, pp. 49-55, and further that §214 grants the out-of-state attorney almost unlimited right to practice in Louisiana, regardless of what knowledge he demonstrates of Louisiana law, provided his state reciprocates.

be given;[89] there would have been a further delay in grading papers. Thus a limited tour of duty for such a lawyer of one or even two years would be further limited and to that degree made less productive.

The most significant testimony about the lack of any State interest being challenged by this supplementary source of representation in civil rights cases is the determination of the UPL Committee of the Louisiana State Bar Association not to take any enforcement action against out-of-state civil rights attorneys, including Richard Sobol. Vol. 8, pp. 198-199, Glusman; Pl. Ex. 29. These attorneys have been able to adjust to the statutory scheme regarding visiting attorneys and the statutory scheme has in turn been able to tolerate them, with one exception--the arrest and prosecution of Richard Sobol by the District Attorney of Plaquemines Parish.[90]

89/ Article 12, §2 of the Louisiana State Bar Association's Articles of Incorporation provides that the Committee on Bar Admissions will "hold regular examinations in writing at least twice each year."

90/ The Chairman of the UPL Committee even testified that Sobol's case was the first one involving a civil rights lawyer that had ever arisen under the Louisiana UPL statutes. Vol. 8, pp. 202-203, Glusman.

V. The Challenge To The Out-Of State Lawyer Handling Civil Rights Cases.

A. The LCDC Program of Representation In Louisiana.

LCDC owes its founding to the American Civil Liberties Union, Congress of Racial Equality, American Jewish Congress, and other similar organizations, which met shortly after the passage of the Civil Rights Act of 1964 to discuss the problems of legal representation in the South. They decided to talk with lawyers in the South who were handling large volumes of civil rights cases to arrange for office space for volunteer lawyers. Within a short period of time, such arrangements were made and LCDC came into existence. Vol. 1, pp. 81-83, Elie.

LCDC was incorporated in the State of New York in the summer of 1964,[86] and the purposes of the organization, as stated in the Certificate of Incorporation[87]

> ... are exclusively charitable and no other. They shall consist of providing without cost and assisting in the obtaining of legal counsel to persons engaged in activities aimed at achieving the equal protection of law and other rights guaranteed by the Constitution of the United States and who are unable to obtain such counsel without assistance.

86/ Pl. Ex. 6. The Internal Revenue Service granted LCDC tax exempt status based upon its charitable purposes. Pl. Ex. 8.

87/ Pl. Exs. 15 and 16.

LCDC is essentially dedicated to providing representation in civil rights cases. It has been active in civil rights litigation primarily in Mississippi, Louisiana, and Alabama.[88/] It has two major areas of emphasis. One is the affirmative suit seeking to obtain equal treatment and equal opportunity for Negroes, or more specifically, affirmative suits relating to school desegregation, equal employment, public accommodations and facilities, and voting. The second is the civil-rights-context suit. Much of the time of the organization is devoted to defending persons who have been charged with offenses arising out of civil rights demonstrations. Pl. Exs. 17-22. It does not handle cases that are, as that term is used in this brief, solely classifiable as civil-rights-issues cases. Pl. Exs. 17-22; Vol. 9, p. 55, Dowling.

LCDC associates with a law firm in the locale where it is offering a legal representation in civil rights matters. In virtually all instances, it has been associated with Negro law firms. Pl. Ex. 15-17. In Louisiana, LCDC has maintained an integral relationship with the New Orleans law firm of Collins, Douglas and Elie since 1964. The LCDC office has always been geographically located either within the law offices of Collins, Douglas and Elie or in the close proximity to the firm.

88/ The standing Committee on Professional Ethics of the American Bar Association approved the activity of LCDC as "within the standards and practices of the American Bar Association". Pl. Ex. 12.

The law firm also has given LCDC an opportunity to use the firm's stationery for some of its correspondence in civil rights cases. Vol. 4, pp. 217-218, Sobol.

During the summer of 1964, twenty-six volunteer lawyers from States other than Louisiana worked in association with Collins, Douglas and Elie and contributed some period of time - usually a three week period - to provide representation in civil rights cases in Louisiana. Pl. Ex. 14. The predominant number of these cases were civil-rights-context cases involving defenses to municipal and state criminal actions against persons involved in civil rights activities; but there were also affirmative desegregation suits primarily involving public education and equal employment. Pl. Ex. 17. Approximately the same number of volunteer LCDC lawyers worked in Louisiana during the summer of 1965 as during the prior summer and had substantially similar types of cases. In 1964, as was true the subsequent years, none of the volunteer lawyers has been a member of the Louisiana bar. Pl. Ex. 14.

At the conclusion of the summer of 1965, LCDC hired a staff attorney to reside in New Orleans for a longer period of time, such as one or two years. Harris David, a member of the New Jersey bar, worked in New Orleans for approximately one year. On August 2, 1966, Richard Sobol became the LCDC staff attorney for the New Orleans office. Mr. Sobol had been a

volunteer during the summer of 1965. His work was respected, though he worked in the program for only a three-week period that summer; on the basis of his performance during that period, Collins, Douglas and Elie asked him to return. He was an active member of the law firm of Arnold and Porter in Washington, D. C., for three years before assuming the responsibility of staff attorney in New Orleans. He is, and has been since August 1, 1966, on leave of absence from that firm. He and his family moved to New Orleans so that he could assume his position, but Mr. Sobol did not intend to stay more than one year. However, because of increased responsibilities with LCDC Mr. Sobol stayed beyond the time he originally intended. Although he and his family maintained residence in New Orleans, it was not permanent. He did not intend to make this State his home. He never intended to remain here for an indefinite period of years. His first year was extended to a second, and under questioning from the Court he clearly stated that his intention has been to leave the State by October, 1968. Vol. 4, p. 207-209, Sobol.

As of the time of trial of this case, in addition to Mr. Sobol, the New Orleans office had two other staff attorneys working under Mr. Sobol's supervision, Donald Juneau and Robert Roberts, both of whom were residents of Louisiana prior to joining LCDC and both of whom are members of the Louisiana bar. They like, Mr. Sobol, are white. Vol. 5, pp. 11, 98, Sobol.

B. The Arrest and Prosecution of Richard Sobol

Prior to the 1966-67 school year a dual school system based on race was maintained in Plaquemines Parish. On August 26, 1966, the federal court entered an order which, among other things, allowed Negro students to attend the traditionally all-white schools. United States v. Palquemines Parish School Board, 11 Race Rel. L. Rep. 1764 (E.D. La. 1966). Two of the Negro students who took advantage of that order were relatives of Gary Duncan; one was his nephew and the other was his cousin. They started attending the formerly all-white Boothville-Venice School in the middle of September 1966, and encountered difficulties at that school because of their race. Def. Ex. 2, pp. 125-126.

In the course of the school day, on October 18, 1966, these boys were threatened with physical violence by white students. Def. Ex. 2, pp. 124-126. When they left school there was a confrontation or exchange of words with four white boys within the vicinity of the school. It was this scene that Gary Duncan came upon while driving his automobile to Boothville. His attention was drawn to this gathering because of a congregation of white men who were watching the boys. Gary Duncan stopped to ask his relatives what was happening. The cousin and nephew stated that the white boys were attempting to start a fight with them. While the two Negro boys

were getting into Gary Duncan's car or were actually inside already, Duncan touched Herman M. Landry, Jr., one of the white boys.[89] According to Gary Duncan, Landry then said that "his parents were going to put me in jail." Vol. 3, p. 222, Duncan. Duncan then drove off with the boys.

Bert Latham, president of the Boothville-Venice Private School Association that was set up in response to the desegregation order affecting the public school system, was one of the white adults who was observing this scene. He immediately called the sheriff's office.[90] Several minutes later a deputy sheriff stopped Gary Duncan's car and took him back to the scene of the

---

89/ Vol. 4, pp. 48-49, Duncan. Herman M. Landry, Jr., testified about the incident as follows:

Direct Examination by the Assistant District Attorney Bubrig

Q. How did he strike you?
A. He slapped me on the arm.
Q. What did he hit you with?
A. His hand.

Cross Examination by Mr. Sobol
Q. I didn't see where you pointed in response to the question where he hit you.
A. He hit me right here.
Q. A little above your elbow?
A. Right above my elbow.
Q. He hit you hard?
A. It stung a little bit.

* * *
Q. ~~One~~ is that right?
A. Yes sir.
Def. Ex. 2, p. 110.

90/ Vol. 3, p. 209, Duncan, the arrest report from the record in State v. Duncan shows that Bert Latham was the complaining party. Pl. Ex. 34.

incident. After interviewing the white boys and examining Landry, the deputy sheriff told Duncan that he did not believe that he had struck the boy and released him. Vol. 3, p. 211, Duncan.

Three days later, on October 21, 1966, Gary Duncan was arrested and charged with cruelty to juveniles (L.S.A., - RS 14:93). The charge was based upon the incident of October 18, 1966. He was released from jail only upon posting a $1000.00 bond. This was the first of four times Gary Duncan was arrested prior to having exhausted his right to appeal. Pl. Ex. 34.

At this time Gary Duncan was 20 years old. he was earning about sixty-five dollars a week, was married and had a baby. Vol. 3, pp. 198-202, Duncan. Following his release, his parents, Mr. and Mrs. Lambert R. Duncan, came to the LCDC offices in New Orleans, where they conferred with Richard Sobol, the staff attorney. He told them that it would be necessary for Gary Duncan and his witnesses to meet with himself and some member of the firm of Collins, Douglas and Elie. Several days later, Mr. Sobol and Robert F. Collins met with Gary Duncan and his witnesses and decided to take the case. Vol. 4, pp. 152-153, Sobol. They had a very heavy case load at the time, and they realized that this case in the Parish, with the anticipated trips there and the likelihood of appeal, would involve a substantial commitment of resources. They also

realized that the penalty was not severe and that there would be neither compensation or reimbursement for expenses. However, they took it because of the context in which it arose. To them, the arrest and prosecution was nothing more than a form of harassment undertaken in retaliation for the fact that Gary Duncan's relatives chose to go to the school previously reserved exclusively for whites.[91/] Everything that subsequently occurred to both Duncan and Sobol confirmed their initial impression. Vol. 1, pp. 102-105, Elie; Vol. 1, pp. 230-233, Collins; Vol. 4, p. 63, Duncan; Vol. 4, pp. 152-156, Sobol. The trial on the cruelty to a juvenile charge against Gary Duncan was set for November 21, 1966. On that day Mr. Collins and Mr. Sobol represented Gary Duncan at the proceedings which were held in the chambers of Judge Eugene E. Leon, Jr., in accordance with the general procedure for juvenile matters.[92/] Also present were the Judge, Gary Duncan, the Assistant District Attorney, Daryl V. Bubrig, and a court attache. Mr. Collins introduced Mr. Sobol as an attorney from Washington, D. C., whom he wished to have associated with him on the case, and they proceeded to

---

91/ Similar harassment seems to have been directed at approximately the same time against one Juanita Brown, a Negro, who had sent her children to one of the traditionally white schools. She had been carrying a steak knife obtained at a gas station and was charged with carrying a concealed weapon. Vol. 6, pp. 13-14, Tureaud; Vol. 6, pp. 153-154, Defley.

92/ Judge Leon testified that Mr. Collins was the only Negro who had appeared before him as of August 11, 1967. Pl. Ex. 4, p. 14, Leon.

represent their client, Gary Duncan.[93] Sobol and Collins introduced a motion for a bill of particulars and a motion to quash the indictment, which was in part based upon the argument that the cruelty to a juvenile statute required the defendent to have some parental control or supervision over the injured child, which Gary Duncan, a Negro, obviously did not have over Herman Landry, a white. A hearing was set on those motions for January 4, 1967.

Immediately following the proceeding in chambers, Mr. Bubrig spoke with the parents of Herman Landry and told them that the cruelty to a juvenile charge might not be sustainable because of the motion filed by Duncan's attorneys. Vol. 7, pp. 136-137, Bubrig.

On the next day, November 26, 1966, Mrs. Herman M. Landry, signed an affidavit charging Gary Duncan with simple battery based upon the same incident of October 18th. Def. Ex. 2, p. 230. On November 25, 1966, Gary Duncan was arrested for a second time, this time for simple battery.[94] The charge was based upon the same facts upon which he had been charged in the alleged juvenile offense. In order to be released he was required to post a second bond, but this time the stakes got higher. The first bond was

---

93/ Vol. 2, pp. 29-31, Collins. Judge Leon recalled the occasion when Mr. Collins introduced himself and Mr. Sobol as being from Washington; and he never specifically denied that Sobol had been properly introduced. Pl. Ex. 4, pp. 33-36, 48, Leon.

94/ LRS 14:35 provides:
"Simple battery is a battery, without the consent of the victim, committed without a dangerous weapon.

Whoever commits a simple battery shall be fined not more than three hundred dollars, or imprisoned for not more than two years, or both."

$1000.00; this one was set at $1500.00.

Gary Duncan was arraigned on the simple battery charges on December 7, 1966. Duncan appeared alone at that arraignment, and entered a plea of not guilty to the charge on the advice of Mr. Sobol.

The motions relating to the juvenile charge, which had been previously presented by Mr. Collins and Mr. Sobol, were scheduled to be heard on January 4, 1967. Mr. Sobol appeared alone to argue those motions on that date. When the case was called, Mr. Bubrig informed Judge Leon that he wished to nolle pros the cruelty to a juvenile charge, which the court permitted him to do.

On January 25, 1967, the simple battery charge was tried before Judge Leon.[95/] Mr. Sobol appeared alone as counsel for Gary Duncan. This time the State was not only represented on this misdemeanor charge by Mr. Bubrig, but also by his superior Leander H. Perez, Jr., the district attorney. Mr. Sobol filed a demand for a jury trial, which was denied. The court heard witnesses for the prosecution and for the defense; Gary Duncan testified in his defense. At the close of the evidence, Judge Leon rendered a guilty verdict and Mr. Sobol requested the right to a minimum period of twenty-four hours between the verdict and sentencing, which the court granted.

95/ This trial had been continued from December 21, 1966, to January 25, 1967, at the request of the defendent. U.S. Ex. 25a (Minute Book S, p. 567).

Sentencing was set for February 1, 1967. On that date, the court imposed the extraordinary sentence of 60 days in jail and $150.00 fine. The extraordinary quality to the sentence not only appears from a comparison to the usual sentence on a simple battery charge,[96/] but also from the fact that on the evidence

---

96/ The following is a summary (based on an analysis of the Minute Book entries, U.S. Ex. 25a and b) of the sentences issued by the Twenty-Fifth Judicial Court in Plaquemines Parish on charges of simple battery over a two-year period (from January 1, 1966 to January 3, 1968).

9 Nolle Prossed

16 Dismissed

15 Suspended Sentences

- 2 5 days, suspended 30 days probation
- 1 10 days, suspended, 30 days probation
- 4 30 days, suspended, 6 months probation
- 4 60 days, suspended, $25 fine, 6 months probation
- 1 60 days, suspended, $25 fine, 1 year inactive probation
- 1 90 days, suspended, 1 year probation
- 1 6 months, suspended, 1 year probation
- 2 6 months, suspended, 2 years probation

11 Fines in lieu of Improisonment

- 1 5 days or $5 and costs
- 7 30 days or $25 and costs
- 2 60 days or $50 and costs
- 1 90 days or $90 and costs

8 Imprisonment

- 2 10 days (one person was also charged with disturbing the peace)
- 1 15 days with credit for time served (also charged with aggravated assault)
- 1 30 days
- 1 90 days with credit for time served
- 1 6 months (also charged with disturing the peace)
- 1 18 months (also charged with attempted aggravated rape)

1 Fine plus Imprisonment (where sentence was not suspended)

- 1 60 days, $150 fine plus an additional $20 if the fine was not paid

most favorable to the prosecution all that Duncan did was touch the arm of the victim once, without inflicting any injury at all. After imposing the sentence, Judge Leon advised Mr. Sobol that he did not want any lawyer associated with Lolis Elie practicing criminal law in his court so long as Mr. Elie was an assistant district attorney in New Orleans under the provisions of the Louisiana Code[97] which had gone into effect on January 1, 1967. Mr. Sobol, while agreeing to the request of the court, explained his view that the statute did not interrupt legal representation which had begun prior to January 1, 1967, as in the Duncan case, where the trial had been originally set for December 21, 1966.

96/ (Cont'd) The Duncan sentence was the last one. It was clearly one of the most severe imprisonment sentences; only 3 persons out of 60 from the two-year period received greater sentences, and two of those had other charges, such as attempted aggravated rape and breach of the peace, pending against them for apparently the same incident. Duncan's fine was the heaviest one by far; and he was the only one who had both a fine and imprisonment imposed (where imprisonment was not suspended). George Ehmig who freguently handles criminal cases in Plaquemines Parish, testified that the usual fine in a simple battery case would be $25 and costs by making an "arrangement" with the District Attorney and by pleading quilty; in his experience, there had never been any jail terms on charges of simple battery. Vol. 7, p. 143, Ehmig.

97/ LSA Code Crim. Pro. art. 65, provides:
Defense of prosecution unlawful
It is unlawful for the following officers or their law partners to defend or assist in the defense of any person charged with an offense in any parish of the state:
(1) Any district attorney or assistant district attorney; or
(2) The attorney general or any assistant attorney general
The Committee on Professional Ethics and Grievances of the Louisiana State Bar Association investigated this matter on the basis of a complaint from the attorney for the defendants and found that there was no unethical conduct. Pl. Ex. 1 Sobol was charged with "practicing law without being licensed," (Pl. Ex. 33, record in State v. Sobol, the information) and there is no reason for believing that a violation of Article 65 was a basis for that charge. See

(cont'd next page)

At no time during the course of the proceedings on that date or on any prior date did Judge Leon, Mr. Bubrig or District Attorney Perez, make any statement to Mr. Sobol with reference to his non-membership in the Louisiana bar. Mr. Perez, however, did -- on some undisclosed date -- institute an investigation of Mr. Sobol, which was presumably undertaken to show the date when Mr. Sobol arrived in Louisiana, that he lived with his family in rented apartment, and that he was not a member of Louisiana bar. For example, he made inquiries of the Southern Bell Telephone Company in New Orleans and the New Orleans Public Service Company to determine when Mr. Sobol had received telephone, electricity, and gas installation at his apartment in New Orleans. Vol. 7, p. 190, Perez, Jr. He also received oral and written confirmation from the office of the Louisiana State Bar Association that Mr. Sobol was not admitted to the Louisiana Bar. Ibid at 189, Pl. Ex. 27.

After the sentencing of Gary Duncan, Mr. Sobol gave notice of his intention to apply to the Supreme Court of Louisiana for a writ of certiorari based upon the denial of his request for a jury trial. Judge Leon set a new bond of $1,500.00 pending the disposition of

---

97/ (Cont'd) U.S. Ex. 27, letter from Mr. Provensal to the Chairman of the U.P.L. Committee, dated February 27, 1967.

the application to the Louisiana Supreme Court. Gary Duncan was arrested for a third time and stayed in jail for a few hours that night, pending the posting of the new bond. Vol. 4, p. 162, Sobol.

On February 20, 1967, the Louisiana Supreme Court denied the writ of certiorari. On February 21, 1967, after receiving notice of the action of the Louisiana Supreme Court, Mr. Sobol called Judge Leon for an appointment so that the bond could be continued pending an appeal to the United States Supreme Court. Judge Leon's secretary advised him that the Judge would be available until noon of that day. After this telephone call from Mr. Sobol, Judge Leon told Mr. Bubrig that Mr. Sobol was coming to the courthouse on that day. Pl. Ex. 4, pp. 44-45, Judge Leon. Mr. Bubrig telephoned Mr. Perez, the district attorney, who was at his office in St. Bernard Parish. Mr. Perez signed a bill of information charging Mr. Sobol with practicing law without a license. Mr. Perez gave the following explanation:

> After I received the message, when I found out that Sobol was going to be there, as I told you, so as not to overly inconvenience him and get him out of the bed at midnight or something like that, and have to make an extra trip down there, I had it sent down immediately by one of my investigators. And he gave it to Mr. Bubrig, and I had spoken to Mr. Bubrig and asked that he file it in open court and asked that the Judge issue a Bench Warrant.[98]

98/ Pl. Ex. 5, p. 25, Perez, Jr.

Mr. Bubrig requested and was granted a hearing in open court on that morning at which he filed the bill of information and Judge Leon issued a bench warrant for the arrest of Richard Sobol.

Mr. Sobol met with the Judge, who set a new bond of $1500.00 for Gary Duncan pending the appeal to the United States Supreme Court. Shortly after leaving the Judge's chambers and while still in the courthouse Mr. Sobol was arrested and charged with practicing law without a license. Mr. Sobol was incarcerated in the Plaquemines Parish Prison for approximately four hours: he was photographed and his brief case was taken. Bail was set at $1500.00, and Sobol was released upon posting that bond later in the day on February 21, 1967.

Leander H. Perez, Jr. and his attorney sent copies of the bill of information and letters to one or more district attorneys in parishes where Mr. Sobol had represented clients for their "consideration" as well as to obtain information regarding Mr. Sobol's legal representation. Pl. Ex. 27.

On February 21st, Judge Leon issued another bench warrant, this time for the arrest of Gary Duncan. The Judge based this action on the theory that the denial of the writ of certiorari by the Louisiana Supreme Court cancelled the previous bond

on the simple battery charge. On February 23, 1967, Gary Duncan was arrested for the fourth time.[99/] Bond was set, once again for $1500.00. This time he was jailed for approximately twenty-four hours because the Plaquemines Parish Sheriff's Office refused to release Duncan on a surety bond unless the evaluation of the surety bond was double that of the $1500.00 bond. The Sheriff's Office maintained that position for a day, even though it was contrary to the past practice of the Sheriff's Office with respect to the three prior arrests of Duncan. Vol. 4, p. 168, Sobol. Donald Juneau, an attorney with LCDC, went to Pointe-la-Hache in an attempt to secure his release, but was unsuccessful and returned to New Orleans. Vol. 4, p. 16, Sobol. Finally the Sheriff's Office reverted to the past practice and allowed Duncan's release on the basis that the bond requirement was met by a surety bond with an evaluation equivalent to the bond.

The Supreme Court noted probable jurisdiction over Duncan's appeal on October 9, 1967 (389 U.S. 809), the case was argued during the week of January 15, 1968 (36 U.S. Law Week 3293), and it is presently awaiting decision.

99/ The three other arrests of Gary Duncan were on Oct. 21, 1966, Nov. 25, 1966, and Feb. 1, 1967.

VI. Relief

A. Relief Against Criminal Prosecutions

With respect to criminal prosecutions against out-of-state civil rights lawyers, the United States seeks relief of two types -- the first is to stop the pending prosecution against Richard Sobol and the second is to establish a constitutional safety zone so as to enable other out-of-state lawyers to provide much needed representation in civil rights matters without the risk of being criminally prosecuted.

1. Injunction against the Prosecution of Richard Sobol

Under established doctrine, 28 U.S.C. §2283 [100/] is no jurisdictional bar to this Court enjoining the pending state prosecution against Richard Sobol. Leiter Minerals, Inc. v. United States, 352 U.S. 220 (1957); United States v. Wood, 295 F. 2d 772 (5th Cir. 1961). See also United States v. McLeod, 385 F. 2d 734 (5th Cir. 1967); Baines v. City of Danville, 337 F. 2d 579, 590, 592-3 (4th Cir. 1964). Section 2283 is intended to prevent unnecessary conflict between state and federal courts, but the significance of its policy pales when the United States seeks to preserve a high national interest, as represented by the application of the United States for an injunction against a state prosecution. In Leiter Minerals the

---

100/ 28 U.S.C. §2283 provides:

> A court of the United States may not grant an injunction to stay proceedings in a state court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

Supreme Court reasoned:

> There is...a persuasive reason why the federal court's power to stay state court proceedings might have been restricted when a private party was seeking the stay but not when the United States was seeking similar relief. The statute is designed to prevent conflict between federal and state courts. This policy is much more compelling when it is the litigation of private parties which threatens to draw the two judicial systems into conflict than when it is the United States which seeks a stay to prevent threatened irreparable injury to a national interest. The frustration of superior federal interests that would ensue from precluding the Federal Government from obtaining a stay of state court proceedings except under the severe restrictions of 28 U.S.C. §2283 would be so great that we cannot reasonably impute such a purpose to Congress from the general language of 28 U.S.C. §2283 alone. It is always difficult to feel confident about construing an ambiguous statute when the aids to construction are so meager, but the interpretation excluding the United States from coverage of the statute seems to us preferable in the context of healthy federal-state relations. (352 U.S., at 225-26.)

Leiter Minerals was a suit brought by the United States as plaintiff. But we maintain that the rule of that case applies with the same force where the United States did not initiate the suit, but rather as in this case, intervened as a party-plaintiff. This position is in part based on the language in which the Supreme Court cast the Leiter Minerals rule -- as "excluding the United States from the coverage of the statute".

It is also based on the rationale of the rule. The rationale of the Leiter Minerals rule is to provide the United States with access to its traditional forum -- the federal courts -- for asserting a national interest, even if that national interest calls for enjoining a state court proceeding. Thus, what is important is that the United States is a party to the law suit, asserting a national interest and seeking relief against a state court proceeding on the basis of that interest, not whether its technical posture is plaintiff or plaintiff-intervenor.[101/] The interest of the United States in

---

101/ Cf., e.g., Studebaker Corp. v. Gittlin, 360 F.2d 692 (2nd Cir. 1966), where the court held that even though a private party rather than the United States was asserting the national interest, the assertion of that interest brought Leiter Minerals into play, and §2283 did not bar an injunction against state court proceedings. The Court there said:

> [T]here is little question that if the [Securities and Exchange] Commission had sought the injunction here, §2283 would not have blocked its way. We are not persuaded that a different decision is compelled under the circumstances of this case. If the policy of the anti-injunction statute is superseded by the need for immediate and effective enforcement of federal securities regulations and statutes, the fact that enforcement here is by a private party rather than the agency should not be controlling. (Id., at 698.)

this case, like that of the Government in United States v. Wood,[102] is not so much to protect the rights of the individual who is being prosecuted but to protect the rights of other persons who are not parties to the state prosecution but who are, nevertheless, significantly affected by the prosecution. In this case, the interest of the United States is to protect the rights of Negroes and civil rights workers to obtain -- free from State interference -- adequate legal representation in civil rights cases. Hence, both the language and rationale of the Leiter Minerals rule makes it fully applicable to this case even though the United States technically is a plaintiff-intervenor rather than a plaintiff.[103]

102/ United States v. Wood, supra, 295 F.2d at 781 (5th Cir. 1961):

> [T]he Government here asserts the rights of all those Negro citizens in Walthall County who are qualified to register and vote. The rights of these citizens are not at issue in Hardy's prosecution, and remedies available to Hardy in his trial are in no way available to them. Thus, if the prosecution of Hardy does injure them, they have no adequate relief in his trial.

See also Marshall, Federalism and Civil Rights, p. 54 (1964).

103/ Title IX of the Civil Rights Act of 1964, under which the United States has intervened in this case, further supports this conclusion. It provides that "[i]n such action the United States shall be entitled to the same relief as if it had instituted the action." 42 U.S.C. §2000 h-2.

Section 2283 is no bar to this Court enjoining the criminal prosecution against Richard Sobol.[104/] However, the question remains whether, as a matter of equity, it would be necessary or appropriate for this Court to grant that relief.

As a necessary condition to granting such relief it must be established that the prosecution of Richard Sobol is unlawful. We believe that such a showing has been made in this case either on the legal theory that the prosecution of Richard Sobol was nothing more than a form of harassment, or on the alternative legal theory, that the arrest and prosecution were an unconstitutional application of a state statute.

The prosecution could be viewed as an unconstitutional form of harassment and as such unlawful. See generally United States v. McLeod, 385 F. 2d 734 (5th Cir., 1967). The prosecution was not undertaken to further any legitimate governmental interests. It was undertaken solely because Richard Sobol, a civil rights lawyer, was forcefully representing a Negro in a civil rights case. It was to serve as a form of retaliation, and as a warning to Sobol, to other lawyers engaging in similar activity and to other Negroes in the Parish who would dare consider to seek the type of representation Gary Duncan did. This conclusion is based on the

---

104/ Thusly, this is no occasion for this Court to await the decision by the Supreme Court in Cameron v. Johnson (O.T. 1967 No. 699, argued on March 5 and 6, 1968, 36 U.S. Law Week 3356) where one of the issues tendered is whether 42 U.S.C. §1983 is an exception to the anti-injunction statute, 28 U.S.C. §2283.

following well-established facts:

1. At the initial point of contact between the local judge and Mr. Sobol, the judge indicated by his silence and otherwise a willingness to allow Mr. Sobol to practice before him even though, according to the uncontradicted testimony before this Court, he was advised that Mr. Sobol was an out-of-state attorney.

2. Mr. Sobol was arrested, photographed and then released only after posting a $1500 bond. This action is inconsistent with the fact that, at the most, only an innoncent violation of §214 was involved, and it is also inconsistent with Mr. Sobol's professional status.

3. The prosecution was instituted almost a month after the alleged violation of the statute occurred, and the facts and circumstances of the arrest suggest that no action would have been taken against Mr. Sobol if he had not returned to the Parish for the purpose of obtaining bail for his client during the period when he was appealing to the United States Supreme Court.

4. The effort by the local officials to give this prosecution a state-wide significance is demonstrated by the letters sent to other District Attorneys throughout the state.

5. The representatives of the Louisiana State Bar Association, the agency entrusted with an enforcement responsibility regarding the visiting attorney privilege, asserted that there is no basis in law and fact for the

prosecution, and that it was "a mistake."[105/]

6. It is doubtful whether the criminal sanction of 214 has ever been used in the state and it has never been necessary to institute injunctive proceedings to protect the visiting attorney privilege from abuse.

7. Alternative less drastic remedies were available to the local officials to protect whatever governmental interests they might have thought were threatened by Richard Sobol's representation of Gary Duncan. For example, there were the civil procedures usually employed by the Committee on Unauthorized Practice of the Law of the State Bar Association to insure that visiting lawyers acted within the scope of their privilege, and the local judge could have explicitly confronted Mr. Sobol with the claim that he was not authorized to practice before his court.

8. The facts and circumstances of the Duncan case show that there was no harm to the victim, that the sentence was unduly severe, that Duncan was initially

---

105/ It is not necessary for this court to conclude that Sobol did not violate the state statute in order to hold that the prosecution was a form of harassment. See United States v. McLeod, 385 F. 2d 734, (5th Cir. 1967):

> [The Act] does exempt acts done for purposes other than interfering with the right to vote. It is here that the probable guilt or innocence of the person arrested becomes relevant. If the person is clearly guilty the probability that the police have acted for a legitimate reason is much greater than it is if the arrest is clearly baseless. But the fact that the person is guilty does not end the inquiry. Police may arrest guilty people for reasons other than their guilt -- for example for the reason that they are Negroes who want to register and vote. At 744.

arrested on a totally baseless charge, and that he was arrested four times prior to exhausting his right to appeal; these facts indicate that Duncan's prosecution itself was a form of harassment arising out of the desegregation of the Parish schools.

9. The hostile attitude of the local officials to the effort to achieve civil rights within the Parish indicates their apparent willingness to interfere unlawfully with persons identified as civil rights lawyers, as was demonstrated by the Chicken Shack incident.

On the alternative legal theory, the prosecution is also unlawful. The application of the state statute represented by the institution of the criminal proceedings against Sobol would be a denial of the equal protection of the laws[106/] because it would -- without regard to the purpose of the defendants -- have the effect of denying to the Negroes adequate representation in civil rights cases. It eliminates one supplementary

---

106/ Therefore, there is no occasion for us to consider other possible ways of conceptualizing the unconstitutionality of the application of the state statute, such as in terms stemming from the Sixth Amendment right to counsel, United States v. Bergamo, 154 F.2d 31 (3rd Cir. 1946), or the privileges and immunity clause of Article IV, §2 of the Constitution, Spanos v. Skouras Theaters, 364 F.2d 161 (2nd Cir. 1966), or the First Amendment right to engage in civil rights litigation as a means of political expression, NAACP v. Button, 371 U.S. 1 (1964); United Mine Workers v. Illinois State Bar Association, 389 U.S. 217 (1967). See generally: Note, Retaining Out-of-State Counsel: The Evolution of a Federal Right, 67 Colum. L. Rev. 731 (1967); Recent Development, Constitutional Right to Engage an Out-of-State Attorney, 19 Stan. L. Rev. 856 (1967); Note, Attorneys: Interstate and Federal Practice, 80 Harv. L. Rev. 1711 (1967). Brotherhood of Railway Trainmen v. Virginia State Bar, 377 U.S. 1 (1964).

source of legal representation in civil rights cases which, as discussed above, is both seriously needed in the State and which poses no threat to any legitimate governmental interests. It would have the effect by preventing Richard Sobol from practicing in this Parish. It would prohibit or deter him from practicing in other courts throughout the State, for fear that other local officials would be encouraged to take similar action, It would prohibit or deter other out-of-state lawyers from coming to the State for the purpose of representing persons in civil rights cases. And it would inhibit potential civil rights clients from engaging Richard Sobol, LCDC lawyers and out-of-state civil rights lawyers in general to represent them. Against this substantial impact on this supplementary source of representation in civil rights cases, there is practically no state interest to weigh. In fact, under defendant's theory Sobol violated the statute by staying six months, rather than two or three weeks or just a day, and yet every legitimate state interest is served by extending his stay. He becomes more familiar with local rules; and the control of the Court over his professional conduct is increased.

The unlawfulness of a state court prosecution, though a necessary condition, is not a sufficient condition for enjoining it since the subject of the prosecution could be remitted to asserting Sobol's claim of unlawfulness in the course of the state proceedings. Something more is required for this federal

Court to enjoin the State court prosecution. The sufficient condition must be found in those special circumstances which would make it inadequate to litigate the unlawfulness of the prosecution in the course of the State proceedings. Generally, two sets of circumstances would provide the sufficient condition; the first would relate to the impossibility of getting a fair hearing in the State courts;[107] and the second would arise because there are interests which are threatened by the very fact that the litigation is pending and which, without regard to the ultimate outcome of the prosecution, are not fully protected in State court prosecution.[108] It is the second set of circumstances on which we focused in this case, and which we believe are sufficient to justify issuing the injunction.

The United States seeks to insure that Negroes and civil rights workers in the State can obtain fair and adequate representation in civil rights cases. This interest of the United States is threatened by the arrest and prosecution of Richard Sobol, and it will not be fully protected if Richard Sobol litigates the unlawfulness of the prosecution in the course of the State proceeding. Mr. Sobol's capacity to serve the interest of the Negroes who cannot obtain fair and adequate representation in civil rights cases by Louisiana lawyers has already been greatly limited. News of Mr. Sobol's arrest and the prosecution would, for example, deter Plaquemines Parish Negroes from

---

107/ See, e.g., 28 U.S.C. §1441(1).

108/ See Dombrowski v. Pfister, 380 U.S. 479 (1965), United States v. Wood, supra.

seeking his assistance; it would emphasize to such potential clients that Mr. Sobol is not in "good standing" in the parish and that his ability to win cases there is diminished. U.S. Ex. 8, pp. 56-58, Tureaud. And in fact, since his arrest in Plaquemines Parish on February 21, 1967, more than a year ago, Sobol has decided that he could not safely appear in any State court and for that reason has had to turn down civil rights cases. Vol. 4, p. 170, Sobol. However, some other harm flowing from the prosecution remains to be cured by federal injunctive relief. There is the burden of defending the charge in the State court system. In addition, Sobol could be made available to handle civil rights cases in state courts throughout the remainder of his stay in Louisiana, and this is of great importance to some of his clients. See, e.g., Vol. 3, p. 119, Young; Vol. 3, pp. 175-176, Wyche. In addition, the "chilling effect" of the state prosecution upon both his clients' activities and upon other lawyers would be reduced;[109/] clients would, in part, be assured of the availability of the federal judicial process to protect their lawyers from state criminal prosecutions intended to interfere with constitutionally protected rights.

109/ See Vol. 2, pp. 148-149, Nelson. Mr. Nelson described how a lawyer's arrest is a great psychological blow to civil rights clients, and might discourage them from further activity. See, e.g., Vol. 2, p. 6, R. Collins; Vol. 3, pp. 22, 80-81, Nelson; U.S. Ex. 8, pp. 56-58, Tureaud; Vol. 4, pp. 170, 173-174, Sobol; Vol. 4, pp. 79-80, McKnight; Vol. 5, pp. 206-207, Peebles; Vol. 1, pp. 119-120, Elie; for testimony on the chilling effect of the prosecution.

2. Constitutional Limits on the State Statute

An injunction against the prosecution of Richard Sobol on any ground, even on the limited ground that the prosecution was a form of harassment, would make some contribution to eliminating one barrier which prevents Plaquemines Parish Negroes from obtaining adequate representation. Such a disposition would not, however, serve to eliminate the full scope of the chilling effect of the prosecution against Sobol. It would not adequately deal with Sobol's future activities, the efforts of other potential out-of-state lawyers to provide representation in civil rights cases, and the access of Negroes and civil rights workers to lawyers willing to represent them. From this perspective, the chilling effect of the prosecution arises from the fact that the institution of the prosecution represents a judgment by the District Attorney of the Parish that a criminal statute, L.S.A.-R.S. 37:214 was violated. By instituting the prosecution the District Attorney was enforcing a particular construction of the scope of the visiting attorney privilege under §214, and unless some federal constitutional relief is afforded with respect to the State statute, either on its face or as applied and construed, Richard Sobol and other out-of-state lawyers handling civil rights cases confront the risk of being criminally prosecuted under that same construction, which we maintain is a denial of the equal protection of the laws.[110/]

110/ See, e.g., Pl. Ex. 2, a letter from the District Attorney in Washington Parish raising the question whether Sobol might be subject to similar prosectuion in that parish.

The State Bar Association, in an attempt to protect the State statute from constitutional attack, claims that the prosecution of Richard Sobol was "a mistake." See motion of intervenor-defendant Louisiana State Bar Association to dismiss (Jan. 11, 1968), paragraph I(4); see also Vol. 8, pp. 195, 197, 200, 210, Glusman. According to the representatives of the State Bar Association, on January 25, 1967, the date Sobol represented Gary Duncan in the local court, he was acting within the scope of the privilege for visiting attorneys provided by L.S.A.-R.S. 37:214. According to the representatives of the State Bar Association: (1) Sobol was not permanently residing in the State at that time and thus met the statutory requirement that the visiting attorney be only "temporarily present" in the State (see Vol. 1, p. 11, Argument on Motion to Dismiss); (2) the initial, informal, introduction by the local attorney was sufficient to satisfy the "association" requirement of section 214 (Vol. 8, p. 100, Collins; Vol. 8, p. 231, Glusman); and (3) the criminal sanction of section 214 cannot be imposed since there is no basis for charging Sobol with criminal intent which the State Bar Association considers "an indispensable and essential element" of an offense under section 214. Trial brief on behalf of defendant-intervenor Louisiana State Bar Association, p. 3.

This effort to insulate the State statute from a constitutional challenge is inadequate -- even assuming the visiting attorney privilege so described was sufficient to meet the needs of out-of-state lawyers.

See supra, Section IV C. The inadequacy stems from the fact that notwithstanding this belated[111] expression of view as to the meaning of the State statute, the District Attorney strongly persists -- as he is free to do under state law (Vol. 8, p. 209, Glusman) -- in his construction of the State statute, the construction represented by his initiation of the prosecution. There is reason to believe that for the District Attorney a "visiting attorney" is one that either comes into the State for a single appearance or for no more than a week or two,[112] and that for him the association requirement of §214 could require a formal written motion, and conceivably the presence of the local attorney at all court appearances.[113] Nor does the District Attorney seem to acknowledge the existence of a "criminal intent" requirement in Section 214. See Vol. 8, p. 209, Glusman.

The disagreement between the District Attorney and the representatives of the State Bar Association could be judicially resolved on the basis of State law. One way this could occur, even if the prosecution of Richard Sobol were enjoined on a harassment theory,

---

[111] It is unclear from the record why the State Bar Association did not express to this court, the plaintiffs, or the public its view of the State statute until almost one year after the prosecution was initiated and the federal court suit commenced. But see Vol. 8, p. 197, Glusman.

[112] Vol. 4, pp. 121-123, 198-206, Sobol; Pl. Exs. 30, 31, 32; Def. Exs. 3, 4, and 12; Vol. 6, pp. 136-137, Slavich.

[113] Vol. 8, pp. 13-14, Bagert; Vol. 6, pp. 134-135, Slavich; Vol. 7, p. 121, Bubrig; Vol. 7, pp. 172-173, Leon. See also defendants' answer to complaint in intervention, pp. 3-4.

would be for this Court to retain jurisdiction of the cause while the State Bar Association or other interested parties commenced declaratory proceedings in the State courts.[114] See England v. Louisiana State Board of Medical Examiners, 372 U.S. 411 (1964). In the view of the United States this would be unsatisfactory, even assuming arguendo that such relief would be available under State law. Inevitably there would be considerable delay in obtaining such an adjudication, and in the interim -- possibly lasting for another year -- the chilling effect of the initiation of the State prosecution would go unabated. Sobol would not be able to engage in State court practice during that period; LCDC would be curtailed in choosing and engaging a successor for Sobol in October; other out-of-state civil rights attorneys might be deterred during that period from coming to the State to practice; and their potential civil rights clients would be without representation. The United States also believes that it would be inappropriate for this Court, under some expansive theories of pendent jurisdiction,[115] to attempt to resolve -- on the basis of State law -- the disagreement between the State Bar Association and the District Attorney about the scope of the privilege for visiting

---

114/ See L.S.A, C.C.P., Art. 1871-1872 for declaratory judgment provisions. It is also conceivable that the State Bar Association could have obtained this determination in injunctive proceedings commenced by the UPL Committee pursuant to its powers under Art. 8, Section 1(8)(a) of the By Laws of the Louisiana State Bar Association. Vol. 8, pp. 196, 234.

115/ See generally United Mine Workers v. Gibbs, 383 U.S. 715 (1966).

attorneys under section 214 -- even if it were possible to avoid federal constitutional questions relating to that statute. The determination of this state law issue is more appropriately left to the state court system, and the presentation before this Court was not particularly addressed to enabling the Court to make a state law determination.

Hence, even with the statements in this record of the representatives of the State Bar Association as to the meaning of section 214, and even assuming that the privilege for visiting attorneys as they defined it was sufficient to provide out-of-state attorneys handling civil rights cases with appropriate access to the State courts, this Court would still be faced with the responsibility of abating the chilling effect created by the arrest and prosecution of Richard Sobol. The Court still would have to define a safety zone within which visiting civil rights lawyers may act without fear of prosecution based on constructions of the state statute essentially similar to that expressed by the institution of the Sobol prosecution, and the basis for defining such a zone must be premised on the Federal Constitution.

One remedy that could be used to create such a constitutional safety zone is simply to declare the threatening statute void in its entirety, as

vague[116] and overbroad. See plaintiffs amended complaint, paragraphs 21 and 22; plaintiffs' pre-trial memorandum of law, pp. 42-43.[117] The Supreme Court approved such a remedy in Dombrowski v. Pfister, 380 U.S. 479 (1965). See also, e.g., Zwickler v. Koota, 389 US 241(1967), reversing 261 FSupp 985(E.D. N.Y. 1966); Cox v. Louisiana, 379 U.S. 536 (1965); NAACP v. Button, 371 U.S. 415 (1963). However, the United States believes that effective relief against the chilling effect of Sobol's prosecution may be achieved without the necessity of declaring the entire statutory scheme void.

116/ The disagreement between the local District Attorney and the representatives of the State Bar Association as to the meaning of the State statute, is certainly probative of such a vagueness claim. Vol. 8, pp. 195-199, Glusman; U.S. Ex. 28.

117/ It should be noted that even if the District Attorney acceded to the interpretation of section 214 propounded by the representatives of the State Bar Association, it is arguable that the plaintiffs would not be deprived of their standing to raise this constitutional claim. See Gilmore v. James, 274 F. Supp. 75 (N.D. Tex., 1967), affirmed 389 U.S. 572 (1968). The plaintiff there had been required "mistakenly" to take a sweeping loyalty oath. The parties agreed that the state statute dis not apply to the plaintiff since plaintiff was an instructor at a junior college financed by county funds and the statute required the loyalty oath only at colleges supported by state funds. The court nonetheless allowed the plaintiff to attack the statute on the ground of its overbreadth, and reasoned:

> "Whether . . .[the statute] applies to Gilmore as written is of no concern to us. We look only to the effect of the action of state officers applying a state statute . . . . Gilmore was aggrieved by . . . [the statute] when it was applied to him by . . . [the college]. Inquiry concerning whether or not . . . [the college] was authorized to apply the statute is irrelevant. [The college's] . . . action in exacting the oath is directly attributable to . . . [the statute]. 274 F. Supp. at 83, 84."

The relief the United States seeks here is essentially the imposition of federal constitutional limits on the application of section 214. In determining what these limits are, we have been guided by a desire to mesh the legitimate needs of the State with the need for a supplementary source of representation in civil rights cases. See United Mine Workers of America v. Illinois State Bar Association, 389 U.S. 217 (1967). In determining what form the supplementary source of representation should take, we have looked to the basic pattern of representational activity Richard Sobol, as an LCDC attorney, was engaged in and the traditional role played by the out-of-state lawyers in civil rights cases. See supra, Section IV C. Neither a "temporarily present" requirement nor an "association" requirement has been -- at least in Louisiana -- an impediment to out-of-state lawyers fulfilling this role as a supplementary source of representation in civil rights cases. The question is the precise nature of those requirements, and for that purpose, we have given great weight to the views of the State Bar Association, the state-wide professional association consisting of all the members of the Louisiana Bar and which has experience in this area. The constitutional limits we urge this Court to impose on the State statute essentially coincide with what the representatives of the State Bar Association (though not the District Attorney) believe the statute to mean: a person is not temporarily present in the State when he permanently resides in the State with the intention

to make it his home. When the out-of-state attorney is so domiciled, the State is entitled to require him to become a member of the Louisiana bar, either by motion or by taking the bar examination. The requirement that the out-of-state attorney be associated with local counsel requires no more than an initial introduction of the out-of-state attorney to the court by the Louisiana attorney. By so introducing him, the local attorney assumes some general responsibility towards the out-of-state attorney's representation; the out-of-state attorney can turn to him for advice for local rules of procedure and the local court can use the office of the local attorney as a means of communicating with the out-of-state attorney. But it would be too oppressive to require that the local attorney be physically present during all the court appearances of the out-of-state attorney.

The United States recognizes that even with the constitutional limits on the State statute some chilling effect persists; the contours of some of the concepts -- such as "civil rights cases", and "permanent residence" or "domicile" -- used to define constitutionally the scope of the visiting attorney privilege remain imprecise, and the penalty for transgressing these contours is the criminal sanction. We believe, however, that this residual chilling effect can be further reduced by two techniques -- one is to impose a criminal intent requirement on the application of the criminal sanction of §214; and two, is to have this court explicitly retain continuing jurisdiction

of the case.

The first technique of imposing a criminal intent requirement once again impinges on no legitimate state interest. This judgment is based on several facts. One is that this constitutional requirement comports with the view of the representative of the State Bar Association as to what the statute requires as a matter of statutory construction. Another is that the chairman of the Unauthorized Practice of the Law Committee of the State Bar Association, surely the individual with the greatest sensitivity to the needs of the State legislation in this area, testified that the criminal sanction was merely a hindrance to protecting the interests of the State and he would be in favor of abolishing it altogether. Vol. 8, p. 206, Glusman. This judgment is also based on the procedures and practices used by the UPL Committee in discharging its responsibility under the Articles of Incorporation to seek to eliminate the unauthorized practice of the law by "such action and methods as may be appropriate." Louisiana State Bar Association By-Laws, Article 8, §1(8). Those procedures entain first advising the visiting attorney by letter that it is the view of the Committee that the bounds of the visiting attorney privilege have been exceeded and that unless he "ceases and desists" from such practice in Louisiana, an injunctive

suit will be brought against him to that end. Vol. 8, pp. 207-208, Glusman; U.S. Ex. 301. These procedures reflect the state's interest in fairness that will be furthered rather than hindered by constitutionally imposing a criminal intent requirement in section 214; and this requirement does not render these procedures ineffective. We are basically dealing with the conduct of a professional person; and the effectiveness of the UPL Committee's procedures is in part testified to by the fact that no injunctive proceedings have in recent history been brought by the UPL Committee against a person seeking to take advantage of the visiting attorney privilege. Vol. 8, pp. 202-204, Glusman; U.S. Ex. 32; Vol. 8, pp. 97-100, T. Collins; U.S. Ex. 30 (Q), See supra, section IVC.

The second technique, that is, for this Court to retain continuous jurisdiction of this case will further curtail the chilling effect of the criminal statute. This continuous jurisdiction would provide an effective means for interested persons, both parties and non-parties, to make applications of this court to construe the meaning of this decree and the permissible constitutional limits of a state criminal action under section 214. Past experience indicates that merely providing this opportunity may be sufficient to promote greater communication between the interested persons, and this could limit the burden that might otherwise be placed on the Court by the explicit retention of jurisdiction.

In sum, the United States is urging this Court,

in addition to stopping the prosecution of Richard Sobol, explicitly to retain jurisdiction over this matter and to impose three federal constitutional limits on the application of §214 to lawyers representing persons in civil rights cases. They are as follows: to prohibit the application of the section to such a lawyer where (1) he is not domiciled or permanently residing in the state; (2) he has been initially introduced to the court by the local attorney; and (3) he has acted without criminal intent.

The question remains whether these constitutional limits should be given a statewide significance. The incident that triggered this lawsuit, the arrest and prosecution of Richard Sobol, occurred in Plaquemines Parish. The inadequacy of representation available in civil rights cases from lawyers licensed to practice in Louisiana is most acute in Plaquemines Parish. The factors limiting the availability of attorneys to handle civil rights cases, such as the harassment, financial burdens and the local lawyers' lack of identification with the cause of racial equality are most intense in the Parish. There are no Negro attorneys in the Parish and the access to those in New Orleans is questionable. There is no legal service program in the Parish and the system of court appointments in operation there does not provide a supplemental source of representation in civil rights cases that is meaningful. However, we do not believe that it would be appropriate to confine these constitutional limits of the State statute to enforcement

activity within Plaquemines Parish. We instead urge that limits be imposed on a state-wide basis. See Fed. Rule of Civ. Proc. 54(c). The pattern of behavior indicating the adequacy of representation available for civil rights cases has been shown by the evidence before this Court to exist on an essentially consistent level throughout the state, although some are accentuated in Plaquemines Parish. In addition, two state-wide agencies, the State of Louisiana as represented by the Attorney General and the Louisiana State Bar Association, have fully participated in these proceedings, fully represented the interest of the local district attorneys throughout the State.

It is true that the only district attorney against whom injunction could run directly is the district attorney of Plaquemines Parish. However, there are techniques for giving the constitutional limits on the State statute state-wide significance. By retaining jurisdiction of this cause, counsel for any parties will be able to ask for prompt relief against any district attorney in the State who would transgress these constitutional limits. One method for doing this would be the one that was used to administer the state-wide school decree of the three-judge federal court in the Middle District of Alabama. Lee v. Macon County Board of Education, 267 F. Supp. 458 (M.D. Ala. 1967) (3 judge court), aff'd sub nom. Wallace v. Lee, 389 U.S. 215 (1967). The Court there held that the State Superintendent of Education was to advise 99 local school

boards that they are required to adopt a freedom-of-choice school desegregation plan. Almost all adopted such plans, even though they were not parties to the suit. When the Court was advised that an individual school board that was not a party to the proceeding refused to adopt such a plan, an application was made to the Court for order to show cause. Such an order, which was promptly issued, required the local school board to show cause why it should not be made a party to the suit, and the Court specifically or directly ordered them to adopt such a plan. See the May 18, 1967 order in Lee v. Macon County Board of Education, entered against the Bibb County School Board. Only at that point did the contempt sanction become available. This method can be adapted with respect to the local district attorneys in the State who are not parties to the suit so as to give state-wide significance to the constitutional limits to the state statute.

This approach of imposing constitutional limits on the state statute has its roots in the established theories of holding a statute

unconstitutional as applied and construed.[118] However, rather than simply to hold the statutes unconstitutional as applied to the peculiar facts of Sobol's arrest and prosecution, we ask the Court -- in order to create the much needed safety zone -- to hold that application of the statutes to certain similar and related activity would also be unconstitutional.

This Court, under its general equity powers, has the power to grant such relief,[119] and there is precedent for such relief. One of the clearest examples of a court's taking such an approach is Sims v. Baggett, 247 F.Supp. 96 (M.D. Ala. 1965) (3-judge), a reapportionment case. The Court held that state-wide application of certain parts of the Alabama Constitution would result in unconstitutional apportionment in some counties. The Court did not void these provisions

---

118/ That is the basis, as far as the United States' complaint is concerned, for convening a three-judge court under 28 U.S.C. 2281. Poindexter v. Louisiana Financial Assistance Commission, 258 F.Supp. 158, 165 (E.D. La. 1966), aff'd, 389 U.S. 571 (1968). See also, e.g., Ex parte Bransford, 310 U.S. 354, 361 (1940); Query v. United States, 316 U.S. 486 (1942); Wright, Federal Courts 164 (1963). The propriety of convening the three judge court should no longer concern this Court. The question of whether it is proper to convene a three-judge court is relevant only for two purposes: (1) to conserve the judicial resources that might be consumed in a trial before three judges and, (2) to determine the proper forum for appeal. The judicial resources have already been consumed in the trial; and the proper forum for appeal should be decided by the Appellate Courts. The original district judge could certify, out of an abundance of caution, that he individually arrived at the same conclusion as the three judge panel, (See Swift v. Wickham, 382 U.S. 111, n.4 at 114 (1965) and the party appealing could file a notice of appeal for both the Court of Appeals and the Supreme Court and seek a prompt adjudication of the proper forum for appeal.

119/ See generally, e.g., Mitchell v. DeMario Jewelry Co., 361 U.S. 288 (1960); Porter v. Warner, 328 U.S. 395 (1946); NLRB v. Express Publishing Co., 312 U.S. 426 (1941); 28 U.S.C. 1651 (All-writs statute).

in their entirety, but rather set forth the appropriate constitutional standards and voided only those applications that crossed the boundary of constitutional protection. For example, with respect to the section providing for a minimum of one representative per county, the Court noted its beneficial aspects and held the section valid on its face. The Court said, however:

> Intelligent and meritorious purposes are not enough to sustain application of this intially valid constitutional provision to counties whose population falls below the minimum required for valid reapportionment, or to counties of larger population whose joinder into a single district becomes necessary to reapportionment based on population ... In instances where the proviso can be applied without bringing about a conflict with the federal constitutional requirements, the proviso remains operative. 247 F.Supp., at 101.

The Court concluded:

> [T]he protective effect of the... proviso...should be stayed only where the Federal Constitution requires. Enforcement of the... proviso ... to the extent that it will not conflict with the Federal Constitution in no way violates "the intent with which it...was promulgated" nor does it cause a result "not contemplated" by the framers of the Alabama Constitution. In fact the limited application of section 199 continues to effectuate its purpose. Id., at 102.

Another example is Morris v. Fortson, 261 F.Supp. 538 (N.D. Ga. 1966) (3-judge), where the plaintiffs attacked as unconstitutional a new Georgia statute allowing any person to assist only one illiterate voter in the course of an election. An older statute allowed one person to assist up to ten illiterates.

The Court held that limiting assistance to one assist per election was unconstitutionally restrictive, but that the principle behind the statute was constitutionally sound. Rather than void the new statute in its entirety, the Court simply enjoined its application in a manner more restrictive than the old standard of ten assists.

Some of the most striking cases in which courts have engaged in constitutional boundary-drawing involved tuition-grant statutes. In Griffin v. State Board of Education, 239 F. Supp. 560 (E.D. Va. 1965), for example, the three-judge Court was convened to rule on the constitutionality of Virginia's tuition-grant law. The Court did not grant the plaintiffs' request to hold the law unconstitutional on its face, but rather established the "predominant support" boundary line[120/] which defined the constitutionally permissible applications of the statute. See also Lee v. Macon County Board of Education, 267 F. Supp. 458 (M.D. Ala. 1967), aff'd 389 U.S. 215; Shuttlesworth v. Birmingham Board of Education, 162 F. Supp. 372, 381-84 (M.D. Ala. 1958) (3-judge), aff'd, 358 U.S. 101 (1958); Armstrong v. Board of Education of City of Birmingham, 220 F. Supp. 217 (N.D. Ala. 1963), 333 F. 2d 47 (5th Cir. 1964); United States v. Jefferson County Board of Education, 380 F. 2d 385 (5th Cir. 1967), (en banc), adopting 372

120/ Although this Court and the Supreme Court have rejected placing the boundary line at "predominant" support, the courts did not reject the analytical approach as improper. See Poindexter v. Louisiana Financial Assistance Commission, 275 F. Supp. 833 (E.D. La. 1967) aff'd 389 U.S. 571 (1968).

F. 2d 836 (5th Cir. 1966), cert. denied, 389 U.S. 840 (1967).

Finally, federal courts have on occasion delineated constitutional boundaries about the enforcement of state criminal statutes. For example, in Smith v. City of Montgomery , 251 F. Supp. 849 (M.D. Ala. 1966), local authorities arrested Negroes who were protesting against racial discrimination and prosecuted them for violating a city ordinance regulating parades. The defendants removed the prosecutions to federal court. The Court explicitly recognized the legitimate interests sought to be served by the ordinances, yet it held:

> If the ordinance of the City of Montgomery which these petitioners were charged with violating (as the City evidently believes) makes the petitioners' conduct punishable in that, as a prerequisite to exercising such right, they failed to apply for and secure permission from the City officials to exercise their right to engage in such conduct, then the ordinance is unconstitutional as applied to these peitioners. Such an interpretation of the ordinance constitutes a constitutionally impermissible prior restraint on the petitioners' right to engage in the type of conduct the evidence reflects in these cases. 251 F. Supp., at 851 (Emphasis added.)

See also In re Wright, 251 F. Supp. 880 (M.D. Ala. 1965); McMeans v. Mayor's Court, Ft. Deposit, Ala., 247 F. Supp. 606 (M.D. Ala. 1965). In Williams v. Wallace, 240 F. Supp. 100 (M.D. Ala. 1965), the question before the Court was whether Alabama State officials should be enjoined from interfering with the plaintiffs' proposed march from Selma to Montgomery. The Court discussed the scope of the Constitution's protection, and the importance of the state's interest in maintaining

the safety of its highways. The Court held that the plan submitted by the plaintiffs was within the safety zone protected by the Constitution. It therefore enjoined the state officials from interfering with the march by enforcing state statutes or otherwise.

The Supreme Court has on occasion used an approach similar to the one which the United States urges here. The Supreme Court's consistent practice in the obscenity field has been to set general limitations on the application of criminal obscenity statutes by defining a category of literature that is not constitutionally protected. See Ginzburg v. United States, 383 U.S. 463 (1966). Another example is Garrison v. Louisiana, 379 U.S. 74 (1964), where the Court was faced with a challenge to the validity of Louisiana's criminal libel statute. District Attorney Garrison had apparently invoked the "actual malice" rule from New York Times v. Sullivan, 376 U.S. 254 (1964); but there is no indication that he alleged the truth of his statements. Nonetheless, in reversing Garrison's conviction on the ground that the statute as interpreted and applied "incorporates constitutionally invalid standards", the Court included among the invalid standards a provision which rendered truth less than an absolute defense. Thus the Court fully defined the constitutional restrictions on the criminal libel statute, even though enunciating the truth criterion was not necessary to the reversal.

These cases, and others teach that when the circumstances warrant such action, it is both permissible

and necessary for a court to go beyond the precise situation presented and to establish a constitutional safety zone to protect related or similar activity. The United States therefore asks this Court to enjoin plaintiff Sobol's prosecution and to set the constitutionally impermissible applications of Louisiana's unauthorized practice statutes to out-of-state civil rights lawyers.

B. Other Forms of Relief and the Parties against Whom Relief is Necessary

1. The District Attorney

No issue can be raised as to the propriety of relief against Leander H. Perez, Jr. As the district attorney he is the chief prosecuting officer of the Parish. He is responsible for the pending prosecution against Richard Sobol for unauthorized practice of the law. Similarly, he would be responsible for any further prosecutions of Richard Sobol of a like nature and for the enforcement of Section 214 against other out-of-state lawyers providing representation in civil rights cases. In order to stop the prosecution of Richard Sobol, the district attorney must be enjoined; and if constitutional limits are to be placed on the state criminal statutes, the district attorney of Plaquemines Parish, as the only local district attorney before the court, must be enjoined from transgressing those limits, and from applying that statute as was done in instituting the present prosecution against Richard Sobol.

2. The Local Judge

It has been a common practice to name state court judges as defendants in federal court suits to enjoin state criminal prosecutions, and usually no particular objection is raised to that practice.[121]

---

[121] The Court of Appeals for this Circuit has held in United States v. McLeod, 385 F.2d 734, 738n.3 (5th Cir. 1967) that the doctrine of judicial immunity expounded in Pierson v. Ray, 386 U.S. 547 (1967), is concerned with liability for damages only and does not shield state judges from federal injunctive relief against the unconstitutional exercise of their authority. See also Due v. Tallahassee Theatres, Inc., 333 F.2d 630, 632 (5th Cir. 1964), where the Court distinguished, for purposes of dealing with the doctrine of sovereign immunity, between a sheriff's liability for damages and his amenability to injunctive relief.

No objection is raised here. See, e.g., Dilworth v. Riner, 343 F.2d 226 (5th Cir. 1965) (state court prosecution enjoined on the basis of Title II of the Civil Rights Act of 1964; state court judge was one of the defendants); Hulett v. Julian, 250 F.Supp. 208 (M.D. Ala. 1966) (injunction issued against Justice of the Peace from proceeding with local prosecution). The question is, however, what relief, if any, is needed in this case against the defendant local judge, Judge Leon. See Vol. 7, p. 168, statement by the Court.

Relief against Judge Leon would not be essential -- even in light of his obvious complicity in instituting the harassing prosecution against Richard Sobol [122] -- if, first, the only relief we needed or were entitled to were a means of stopping and preventing criminal prosecutions against Richard Sobol and other lawyers similarly situated; and if, secondly, this court issued the appropriate injunctive relief against the district attorney. Presumably such an injunction would stop the criminal prosecutions, and a further injunction against the state court judge would do no more than insure that he would not act in any way to interfere with the performance of the district attorney's obligations under the decree. However, relief over and above an injunction to stop the criminal prosecutions is needed, and it is those items -- addressed to means of interference other than criminal prosecutions -- which justify relief against Judge Leon. Specifically, the

---

122 / See Section VB supra.

United States requests relief to prevent Judge Leon from employing the inherent power of his court to interfere, directly or indirectly, with plaintiff Sobol and other out-of-state lawyers' appearances in civil rights cases before him.

As a legal principle, it is the inherent power of a Louisiana court to control practice before it. See La. Const. Art. 2, §2; Art. 7, §10; In re Mundy, 202 La. 41, 11 So. 2d 398 (1942); Meunier v. Bernich, 170 So. 567 (1936). As a matter of practice Louisiana judges exercise a considerable range of discretion in regulating the appearance of lawyers before them. For example, Judge Bagert testified that in the exercise of his inherent power he would require an out-of-state lawyer to have Louisiana counsel present at all times during trial. Vol. 8, pp. 13-14, 17, 30-31, Bagert. He stated that this rule was not based upon LSA-R.S. 37:214, of which he had no knowledge, and it is clear that such a requirement would exceed the requirements of that statute respecting association with local counsel. See Vol. 8, pp. 17-18, 30-31. Instead, he testified that such a rule would be based on his inherent power to control the proceedings before his court and to insure that criminal defendants were adequately represented. Other judges exercise their inherent power by establishing requirements of varying

stringency.[123] In his deposition, Judge Leon himself referred to his power to allow or disallow particular attorneys to practice before his court, and he described how he exercised that power. Pl. Ex. 4, pp. 12-13, Judge Leon.

This evidence reveals the broad discretion within which Louisiana judges exercise their inherent power to control the appearance of out-of-state lawyers before their courts. It is because of this broad discretion that Judge Leon must necessarily be enjoined as a party defendant in this suit. We do not mean to deprive him of this power to regulate the practice of his court, which certainly can be used for legitimate purposes. Instead, our purpose is to take steps to insure that this power is not used so as to deprive Negroes in the Parish of adequate representation in civil rights cases. Without such an injunction, he alone could refuse to permit plaintiff Sobol or other out-of-state lawyers to appear before him in civil rights cases,[124] or impose

---

[123] Some have established more relaxed standards. Plaintiff Sobol testified, for example, that Judge Jones of the Bogalusa City Court had worked out an arrangement with Collins, Douglas, and Elie whereby Sobol could appear by himself at any time. Vol. 4, pp. 131-133, Sobol. Judge Adams of Madison Parish allowed Sobol to appear alone. Vol. 4, pp. 171-172, Sobol. The Judge of the Washington Parish Court, Sobol testified, took a different approach and permitted him to practice provided that he had received the local district attorney's permission. Vol. 4, p. 215, Sobol.

[124] See Cooper v. Hutchinson, 184 F.2d 119 (3rd Cir. 1950) a federal injunctive suit against a state court judge who pronibited out-of-state attorneys associated with local counsel to appear on behalf of defendants in a capital case.

such conditions on their appearances to make such appearances practically impossible,[125] independently of any action that might or might not be taken by the defendant district attorney or the defendant State Bar Association.

3. Leander H. Perez

Leander H. Perez's capacity to deny Negroes adequate representation in civil rights cases can manifest itself in two ways. first, he could exercise his control over the local officials, including those in the district attorneys's office and the local courts, so as to cause them to take action that would deny Negroes adequate representation in civil rights cases; and secondly, he could take direct, personal action to deny Negroes adequate representation in civil rights cases and do so without fear of any restraint from the local law enforcement officials. It is both this capacity and, in light of his past conduct, the risk of its being exercised that justify federal injunctive relief against Mr. Perez.

This record[126] is ample to show the full scope of Mr. Perez's control over the local governmental

---

125/ See Anderson v. Cox (5th Cir. No. 25815) and Sanders v. Russell (5th Cir. No. 25797) involving a rule of a federal court that, inter alia, limits appearances to out-of-state counsel to one a year.

126/ Hence, there is no need for this Court to take judicial notice of "local conditions" (L.A.R.S. 15:422) or to rely on this Court's familiarity with those conditions. See Vol. 4, p. 39, Statement by the Court. See also Hall v. St. Helena Parish School Board, 197 F.Supp. 649, 652 (E.D. La. 1961), aff'd, 368 U.S. 515 (1962) Judges "cannot shut our eyes to matters of public notoriety and general cognizance. When we take our seats on the bench we are not struck with blindness, and forbidden to know as judges what we see as men."

officials. Mr. Perez has held elected political office in Plaquemines Parish since the 1920's, for almost a half century. Pl. Ex. 3, p. 9, Perez, Sr. He has served in the past as district attorney, district judge, and Chairman of the Commission Council. He is still a member of the State Democratic Committee and is State Democratic Chairman. He is Chairman of the Plaquemines Parish Democratic Executive Committee, Chairman of the 26th Senatorial District Democratic Executive Committee, and Chairman of the First Representative District Democratic Executive Committee. Id., at 6-7.[127/]

Mr. Perez's influence is not measurable solely by the political offices he has held in the past and extends far beyond the political offices he now holds. Throughout his deposition, Mr. Perez referred to projects in the Parish as personal achievements. E.g., id., at 63-64, 92-93, 94. He proclaimed unequivocally that he was the leader of the Parish, that his opinions and platforms receive general acceptance in the Parish, and that he

---

127/ In light of these political offices he now holds it is questionable whether he could be considered as no more than a "private citizen." See Smith v. Allwright, 321 U.S. 649 (1944), and Terry v. Adams, 345 U.S. 461 (1953). In any event, this court has the power to enjoin private citizens from denying persons the benefits of its decree or from causing persons, who are government officials, to act inconsistent with federal law or a federal court decree. See, generally, United States v. Original Knights of the Ku Klux Klan, 250 F. Supp. 330 (E. D. La. 1965); United States v. Beaty, 288 F. 2d 653 (6th Cir. 1961); United States v. Bruce, 353 F. 2d 474 (5th Cir. 1965); United States v. Deal, 6 Race Rel. L. Rep. 474 (W. D. La. 1961); Hoxie School District No. 46 v. Brewer 238 F. 2d 91 (8th Cir. 1956).

participates in all the activities of the Parish. Ibid. He has represented local governing bodies in important, controversial litigation. Vol. 7, pp. 92-93, Petrovich. Some measure of his influence is that candidates running for office in Plaquemines Parish with his support usually receive at least 90% of the vote. Pl. Ex. 3, p. 94, Perez, Sr. Mr. Perez now has two sons who hold important political offices in the Parish -- Leander H. Perez, Jr., the defendant District Attorney; and Chalin O. Perez, President of the Commission Council. Transferring the presidency of the Commission Council from himself to his son could not have the effect of dissipating Mr. Perez's influence throughout the Parish. No evidence was even offered to suggest that it had that effect.[128/]

The United States urges that injunctive relief be granted to insure that the power of Mr. Perez not be used for the purpose or effect of denying Negroes adequate representation in civil rights cases. His past conduct indicates the risk of such abuse of his power and the need for relief. The evidence relating to this past conduct consists of three types. The first is testimony relating the experiences encountered by individuals who challenged Mr. Perez or the administration of the Parish in some fundamental sense. For example, Emile Martin, a Parish

---

128/ Plaintiffs amended complaint (paragraph 10) names Mr. Perez as a defendant both individually and as Chairman of the Commission Council.

lawyer who opposed the candidates supported by Mr. Perez in an election testified that the result of such a challenge was the decline of his income by about 80% and that he believed something similar to that would occur to a lawyer in the Parish who represented a Negro in an affirmative civil rights case suit. Vol. 6, pp. 175-176, Martin. See also Vol. 6, pp. 156-157, Defley; Vol. 4, p. 9, 10, 28, 40, 42-43, Zelden (threat of violence to New Orleans attorney for role in voting contest).

The second type of evidence is the public statements made by Mr. Perez. In his deposition Mr. Perez acknowledged making many of certain widely publicized threats, such as that relating to the incarceration of civil rights workers in Fort St. Philip and the treatment that Rev. Martin Luther King would receive in the Parish. Pl. Ex. 3, pp. 49-54. As though those statements were not enough, he made new public pronouncements in his deposition for the purpose of this record:

> So, if you are a member, for instance, of the American Civil Liberties League or of any Communist organization, regardless of whether the Federal Government attempts to protect you, we would make it very inconvenient for you in the Parish of Plaquemines.
>
> We don't welcome that kind of trash, or rats and law violators who would destroy our system of government; not in the Parish of Plaquemines. Id., at 37.

Such threats of Mr. Perez clearly were intended to be addressed to the lawyers involved in civil rights matters, as well as the Negroes and civil rights

workers. He made this clear in his deposition. He was asked what action would be taken if a lawyer affiliated with the American Civil Liberties Union, such as Mr. Sobol, addressed a meeting in the Parish to which he was invited to explain to the Negro community their right to equal employment opportunities under Title VII of the Civil Rights Act of 1964. Mr. Perez responded:

> No, I wouldn't feel that it would constitute a breach of the peace but, I, personally, not as President of the Council, but as a man, and if I saw him agitating unthinking Negroes to disturb the peace, I'd handle him personally, as a man.
>
> Yes, I'd stop him, and try it and see, Mr. Sobol.
>
> We pride ourselves in being real Americans, red blooded Americans with courage enough to defend ourselves and to protect ourselves against those who would set up unlawful demonstrations leading to violence.
>
> Try it and see. Id., at 40.

These public statements undoubtedly have some impact on the attorneys who might otherwise handle civil rights matters in the parish. See e.g., U.S. Ex. 8, p. 81, Tureaud; Vol. 6, pp. 10-13, Tureaud; Vol. 9, pp. 8-9, Jones; U.S. Ex. 15, pp. 29-31, Berry. See Section II B(1) supra.

The third category of evidence of Mr. Perez's past conduct which indicates a sufficient risk as to warrant injunctive relief consists of his conduct in frustrating the attempts of lawyers to represent Negroes in civil rights matters. There have, according

to the record before this Court, been only two instances in the 1960's when private individuals generally identified as civil rights lawyers sought to represent Negroes in civil rights cases. one was Richard Sobol in the Duncan case in 1966-1967; the other was the attempt by Mr. Earl Amedee and Mr. A. M. Trudeau in the Chicken Shack incident in 1961. With respect to the first incident there is no doubt as to Mr. Perez's role in denying the Negroes adequate representation. See Vol. 5, pp. 131-143, 162-163, Amedee. Pl. Ex.3, pp. 80-82, Perez. See supra, pp.16-19. With respect to the second incident, that relating to the arrest and prosecution of Richard Sobol, there is no direct evidence establisning Mr. Perez's role in that incident. However, this Court is entitled to base a finding as to his role in that incident on the basis of the reasonable inferences that can be drawn from the following well-established facts: (1) the importance of the arrest and prosecution in the affairs of the Parish; (2) Mr. Perez's extensive control over affairs in the Parish; (3) the time lag between Sobol's allegedly unlawful conduct and the arrest and prosecution; (4) the fact that some kind of an investigation, reaching beyond the boundaries of the Parish, was undertaken by the District Attorney's office prior to the institution of the prosecution; and (5) Mr. Perez's conduct and statements relating to otner civil rights cases, and his role in the Chicken Shack incident. These

inferences are, in our judgment, sufficient to support a finding that, despite his disclaimers, Mr. Perez is one of the moving forces in the program of harassment, or that at the very least this program was undertaken with his encouragement, support, cooperation and that he exercised his power and control over the local officials to make sure it was fully executed. Nevertheless, we emphasize that a finding as to Mr. Perez's role in this particular incident, the Sobol arrest and prosecution, is not a necessary predicate to granting relief against him. The predicate for the United States' request for relief is the magnitude of the control over local officials and risk that he would abuse that control so as to deny adequate representation in the future. The evidence before this court adequately establishes that predicate without regard to Mr. Perez's involvement in the Sobol incident.

4. The Defendant-Intervenors

The United States urges that certain provisions be incorporated in the decree respecting two of the defendant-intervenors, the State of Louisiana and the Louisiana State Bar Association. This relief is not intended to prevent either party from engaging in any conduct claimed to be wrongful or unlawful. There is some evidence in the record indicating that the defendant-intervenors had engaged in conduct which contributed to the present fact that Negroes cannot obtain fair and adequate representation by Louisiana

lawyers in civil rights cases.[129] However, our analysis of the power of the defendant-intervenors under state law and our review of the record lead us to conclude that at this time only certain limited relief against the State of Louisiana and the Louisiana State Bar Association would be necessary and that any relief beyond that would serve no useful purpose. The relief which is requested is intended to assist this Court in effectuating the decree we propose against the other parties.[130] Under Rule 54(c) of the Federal Rules of Civil Procedure this Court has the power to grant relief against the defendant-intervenors even though the United States has not demanded such relief in its pleadings.

Under State law the power of the State of Louisiana as represented by the Attorney General is limited. In Kemp v. Stanley, 204 La. 110, 15 So.2d 1 (1943), the State Supreme Court held invalid under the State Constitution a provision of the Louisiana Code of Criminal Procedure giving the Attorney General somewhat unlimited and unrevocable power to "relieve, supplant, and supersede" the District Attorney in any criminal proceeding. On March 31, 1963, the Attorney General issued an opinion stating that the Attorney

---

129/ See supra, pp. 13-15, 55-58, and 49-54.

130/ See, e.g., paragraph X of the decree in Lee v. Macon County Board of Education, 267 F.Supp. 458-486 (M.D. Ala. 1967) (3-judge), aff'd. 389 U.S. 215 (1967), requiring the United States as plaintiff-intervenor to make certain reports to the Court; see also Turner v. Goolsby, 255 F.Supp. 724 (1964) where the State Board of Education was given certain responsibilities for the effectuation of the Court's decree even though it was not a defendant.

General has no legal authority to relieve, supplant, or supersede a district attorney willing to perform his duties, nor to deprive a district attorney of his powers. L.S.A. Vol. 2, Art 7, §56 of Const., 1967 Pocket Part. Aside from his power to institute impeachment proceedings,[131] this leaves the Attorney General only with his power and responsibility under the Louisiana Constitution of 1921, to "exercise supervision over the several district attorneys throughout the State."[132] The scope of this supervisory authority is far from clear. However, it would seem to extend to the power to distribute copies of the decree to all district attorneys in the State, to notify them of the constitutional limits of the State statute and to ask all district attorneys to report to him prior to instituting criminal charges under section 214 against out-of-state attorneys who are representing persons in civil rights cases. This relief would assist the Court in exercising its continuing

---

[131] Article IX, §1 of the Louisiana Constitution.

[132] Article VII, §56, provides in pertinent part that the Attorney General and his assistants

> . . . shall attend to and have charge of all legal matters in which the state has an interest or to which the state is a party, with power and authority to institute and prosecute or to intervene in any and all suits or other proceedings, civil or criminal, as they may deem necessary for the assertion or protection of the rights and interests of the State. They shall exercise supervision over the several District Attorneys throughout the State, and perform all other duties imposed by law.

See also Article 62 in the Louisiana Code of Criminal Procedure of 1967.

jurisdiction; and it would further limit any chilling effect cast by the criminal sanction in §214 by insuring that there will be a reasonable opportunity to get further relief from this Court before other unlawful prosecutions are actually instituted and the lawyer arrested. This limited responsibility under the decree is consistent with functions already performed by the Attorney General, for under section 21 of the Code of Criminal Procedure each district attorney must submit an annual written report to the Attorney General indicating the number of people prosecuted, convicted, and acquitted and the nature of the crimes.

With respect to the Louisiana Bar Association, we are aware of its enforcement powers under its Articles of Incorporation and By-Laws. L.R.S.A., Vol. 21A (1964); L.S.B.A., By-Laws, Art. VIII, §1(8); L.S.B.A. Art. of Inc., Art. XII, §9, Art. XIII. It has the duty of eliminating unauthorized practice of the law by such action and methods as may be appropriate," and has exercised this power by way of cease and desist letters and injunctive suits. L.S.B.A., By-Laws, Art. VIII, §1(8); L.S.B.A., Art. of Inc., Art. XII, §9. However, two facts emerge from the record before this Court which lead us to believe that, if the constitutional limits are imposed on the state statute by way of an injunction against the District Attorney, and the scope of the visiting attorney privilege is further protected by an injunction against the local judge, then there would be no need to place the State Bar Association under

injunction which would require them to observe those constitutional limits. The first fact is that the constitutional limits we ask this Court to impose on the statute generally coincide with the State Bar Association's now publicly announced understanding of the scope of the visiting attorney privilege. That announced understanding is part of the record before this Court. The second fact is that the State Bar Association has thus far shown no recent inclination to exercise its enforcement powers against out-of-state attorneys engaged in civil rights cases. On the contrary, it seems to approach the area with a high degree of caution. See supra section IVC. In these circumstances, the United States does not believe that there is a need to place the State Bar Association under an injunction to observe the constitutional limits of the safety zone for out-of-state attorneys engaged in providing representation in civil rights cases. The continuing jurisdiction of this Court will enable all the parties, including the plaintiffs, the United States and any civil rights organizations that may become parties, to deal quickly with changed circumstances. Nevertheless, because of the statewide scope of the Association, and the often close relationship between the officials of the local bar associations and law enforcement officials,[133] it, too, can assist the Court in implementing its decree by sending a copy to all local bar associations throughout the State, and,

---

[133] See U.S. Ex. 17, pp. 20-30, Kidd.

by advising the Court and the parties of any complaints it receives against out-of-state attorneys providing representation in civil rights cases.

VII. Conclusion

On the basis of the foregoing analysis of the record before this Court, we respectfully request the entry of the attached decree.

LOUIS C. LA COUR
United States Attorney

STEPHEN J. POLLAK
Assistant Attorney General

OWEN M. FISS
HUGH W. FLEISCHER
LESTER N. SCALL
ALLEN D. BLACK
Attorneys,
Department of Justice
Washington, D. C.

April 12, 1968

PROPOSED DECREE

IT IS HEREBY ORDERED that the defendants Leander H. Perez, Jr., District Attorney of the Twenty-Fifth Judicial District, State of Louisiana, the Honorable Eugene E. Leon, Jr., Judge of the Twenty-Fifth Judicial District, State of Louisiana, Leander H. Perez, together with their agents, employees, successors in office, and all those in active concert or participation with them who receive actual notice of the order or any of them, shall be and hereby are restrained in the following terms:

(1) The defendant District Attorney shall not in any way proceed with the prosecution against Richard B. Sobol now pending in the Court of the Twenty-Fifth Judicial District (No. 14998, State of Louisiana v. Richard B. Sobol), and he shall take all necessary action to dismiss that prosecution.

(2) The defendant District Attorney shall not initiate a criminal prosecution under L.S.A.-R.S. 37:214 against any attorney licensed to practice law in any State in the United States for conduct relating to the representation in civil rights cases where that attorney (a) has been initially introduced in the case in question to the Court by an attorney who is licensed to practice law in Louisiana and, at the time of the representation, is not a permanent

for the purpose or interfering with or detering lawyers from providing fair and adequate representation in civil rights

(2) Notify every District Attorney in the State that he is prohibited from prosecuting under L.S.A.-R.S. 37:214 an attorney licensed to practice law in another State for conduct relating to the representation of persons in civil rights cases provided such attorney is (a) not permanently residing in Louisiana at the time of the representation and has been initially introduced to the Court in the case by an attorney licensed to practice law in Louisiana; or (b) is acting in the good faith belief, to be determined in light of all the circumstances that he is properly associated with local counsel and is not permanently residing in the State at the time of the representation.

IT IS HEREBY FURTHER ORDERED that the defendant-intervenor Louisiana State Bar Association shall:

(1) Notify each local bar association of the provisions of this decree; and

(2) Advise the parties and the Court of any complaints it or any of its officers or committees receive respecting out-of-state lawyers engaged in representing persons in civil rights cases.

IT IS HEREBY FURTHER ORDERED that this Court shall retain jurisdiction of this cause to amend or modify this decree or to issue such further orders as may be necessary and appropriate.

IT IS HEREBY FURTHER ORDERED that the costs incurred to this date are taxed against the defendants.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing brief has been served upon the following attorneys of record, at the addresses indicated, either by depositing it in the United States mail or by having it personally delivered, this 12th day of April, 1968.

Collins, Douglas & Elie
344 Camp Street
New Orleans, Louisiana 70130

Alvin J. Bronstein, Esquire
Harvard University
Cambridge, Massachusetts 02138

Anthony G. Amsterdam, Esquire
3400 Chestnut Street
Philadelphia, Pennsylvania 19104

Sidney W. Provensal, Jr., Esquire
1014 Whitney Building
New Orleans, Louisiana 70130

Jack P. F. Gremillion, Esquire
Attorney General
State of Louisiana
State Capitol Building
Baton Rouge, Louisiana 70804

Thomas M. Brahney, III, Esquire
Special Counsel to the
Attorney General
104 Supreme Court Building
New Orleans, Louisiana 70112

John P. Dowling, Esquire
2538 Tulane Avenue
New Orleans, Louisiana 70119

William F. Wessel, Esquire
National Bank of Commerce Building
New Orleans, Louisiana 70112

Walter D. Kelly, Esquire
2538 Tulane Avenue
New Orleans, Louisiana 70119

Cicero C. Sessions, Esquire
1333 National Bank of Commerce Building
New Orleans, Louisiana 70112

Alvin R. Christovich, Sr., Esquire
National Bank of Commerce Building
New Orleans, Louisiana 70112

Wood Brown, III., Esquire
806 National Bank of Commerce Building
New Orleans, Louisiana 70112

Owen M. Fiss

OWEN M. FISS
Attorney
Department of Justice