IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1947

HARRISON PARKER, Petitioner, v. PEOPLE OF THE STATE OF ILLINOIS, Respondent.	No. 270 and No. 428

Washington, D. C.

Friday, February 13, 1948

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The above-entitled causes came on for oral argument at 12:00 o'clock Noon.

PRESENT:

The Chief Justice, Honorable Fred M. Vinson, and Associate Justices Black, Reed, Frankfurter, Douglas, Murphy, Jackson, Rutledge, and Burton.

APPEARANCES:

On behalf of the petitioner:

HARRISON PARKER

On behalf of the respondent:

WILLIAM C. WINES, Assistant Attorney General, State of Illinois.

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P R O C E E D I N G S

The Chief Justice: Case No. 270 and 428, Harrison Parker v. People of the State of Illinois.

The Clerk: Counsel are present.

ARGUMENT ON BEHALF OF PETITIONER

By Mr. Parker

Mr. Parker: May it please the Court.

The Chief Justice: Mr. Parker.

Mr. Parker: My name is Harrison Parker. I am a citizen of the United States. I am before this Court upon a petition in which it was alleged that my constitutional rights under the Constitution of the United States had been denied me by the courts of Illinois.

The charge is contempt of court. The sentence is three months of the Cook County jail. The issue before this Court is: Can a state court by rules of practice deny to a citizen the protection of the Constitution of the United States?

In an effort to put me in jail, the Attorney General has written frantically and voluminously. I have read all the cases. Not a single one is in point. Only two are entitled to a passing mention. This, I will do in the course of my argument.

Upon the following verification the lawyers for Jacob Shamberg obtained from the trial judge an order to produce

within five days all of the archives of the Puritan Church. J. B. Martineau, being duly sworn, on oath, deposes and says that he is of the firm representing the defendant, that he has served the foregoing petition, and that it is true to the best of his knowledge and belief.

Upon that verification, the trial judge issued an order to produce all the records of the Puritan Church enumerated in the order. The order did not say where to produce it.

I knew that the order was void. The Puritan Church was not even a party defendant in the litigation, but I didn't want to litigate that point. I thought it was too costly to litigate it in the state courts; so I decided to produce.

I felt that I would go to jail whether I produced or whether I did not, so I decided to produce.

I had five days only to do it. I had told the court that most of the records had been taken to Canada for safekeeping, out of the jurisdiction of the courts of Illinois. I didn't know what to do. I didn't know what to do.

So in that situation I decided to go to the law books and find out what to do. There I found out that the Supreme Court had answered the same question previously, which had probably bothered somebody else; and the Supreme Court in

Lester v. The People, 150 Illinois 408, said:

"The right to compel the production of books as evidence is clear. The right to compel the submission of a general examination or inspection out of the presence of the court, even though in the presence of one of its officers, is entirely a different matter. As stated before, its" -- that is the statute concerning discovery -- "purpose is met when the party is required to produce in open court all books and papers in his possession and power, which contain evidence pertinent to the issue, and reasonable presence and under the direction of the court."

And other authorities in other states have said:

"The established practice is to require the documents to be deposited with an officer of the court."

That is in Martin v. Martin Company, Delaware 102, Atlantic, 373.

In Beck. v Bohm, 88 New York 584:

"The proper place to produce documents for inspection is the clerk of the court."

So, I deposited them with the clerk of the court under a court order. I could see no other way out. I wouldn't go to Shemberg's office. Shamberg wouldn't come to my

office. I had produced all of these documents in my possession in examination before trial.

They had copied them -- that is, all that I had. The offending document on which I was sentenced for contempt of court had been in the possession of Shamberg's lawyer's for a year. The examination before trial was over a year. They had photographed, they had copied it.

When I produced it in open court, when I deposited it with the clerk, these same lawyers who had that document and who knew its contents asked the judge to cite me for contempt of court on the ground that the document was scurrilous that it was libelous.

They had it. They knew it. They weren't strangers to it, and this trial judge gave me three months in the Cook County jail for producing a document which they knew about.

The sentence of the trial court was referred to the Supreme Court of Illinois in an application of mine for writ of error. Justice Fulton of the Supreme Court came to Chicago and heard that motion and denied it, denied me a writ of error to the Supreme Court of Illinois.

Then I went to the appellate court. There the appellate court found that Parker by suing out a writ of error from this court waived all constitutional questions that might be involved. I had asserted them in the trial court and I had asserted them in my petition for writ of error, and I again

asserted them in the appellate court. But they say in their opinion that by suing out a writ of error I was compelled to sure it out in that court, I had no alternative. I either had to go to jail for three months or sue that court because the Supreme Court had denied me this writ.

By suing out a writ of error from this court they said I waived all constitutional rights, although I was there asserting them with all the power within me.

That opinion was appealed to the Supreme Court of Illinois, and under the Practice Act of Illinois, under section 86, rule 47, when I was in the appellate court with constitutional questions, it was the duty of that court, by its motion, to transfer it to the supreme court. Schmidt v. Barr, 328 Illinois 365.

That is the law of Illinois in all litigation except Parker v. The State of Illinois. That is the only exception in the records of Illinois of that rule.

So I had to go, instead of the appellate court transfering it, I had to go to the Supreme Court of Illinois. In their opinion, they said:

> "Having first taken his case to the appellate court he, Parker, is deemed to have waived the constitutional questions, and they cannot now be considered."

In other words, "Mr. Parker, you go to jail." I had no

chance.

Previously the Supreme Court had passed upon that question squarely in Chapman v. Commissioners of Highways, 126 Illinois 264, 274. This is what our supreme court said:

> "We are unable to agree with the appellate court that the complainant, by the mere act of taking an appeal to that court, must be deemed to have waived the question as to the validity of the statute. Without holding that he might not have so far waived or abandoned his claim in this respect as to have given that court jurisdiction, so far as its jurisdiction depended upon whether the validity of a statute was involved, we think it clear that in this case he made no such waiver. Whether the party appealing has waived a particular error must be determined from his assignments of error, and from his brief and argument on appeal. In both of these the complainant asserted and insisted upon the invalidity of the statute."

I insisted all the way through upon my constitutional rights. I never waived them. I knew they were good.

Now, both the appellate court and the supreme court say that I waived my rights. Article VI of the Constitution of the United States is as follows:

"The Constitution and the laws of the United States which shall be made in pursuance thereof shall be the supreme law of the land, and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

I say that article is clear, and every court in Illinois should have observed my constitutional rights when I asserted them. I say they have no right by their rules of practice to put me in jail when a constitutional question is involved, without considering it.

That is all I have to say on 270.

I am now going to the next sentence, the next case.

I was sentenced in that case. The charge is contempt ofcourt. The sentence is six months in the Cook County jail, and I am appealing that sentence to this Court on the grounds that my constitutional rights were denied me in that court.

On page 3 of his brief in opposition to petition for the writ of certiorari, the Attorney General of Illinois makes the following statement:

"The sole question present is" --

Justice Burton: Are you referring to Case No. 428 now?

Mr. Parker: Yes, sir, I am on 428.

I am through with 270. The arguments are joined, as I

understand it; am I right?

The Chief Justice: Yes, sir.

Mr. Parker: On page 3 of his brief in opposition to petition for writ of certiorari, the Attorney General of Illinois makes the following statement:

> "The sole question presented is, may Illinois constitutionally interdict voluntary and unauthorized importunities to a grand jury, to indict for alleged crimes and enforce such interdiction by proceedings and punishment for contempt of court."

This question is not before this Court. The Attorney General says it is the sole question. That is not here at all.

My answer to the Attorney General of Illinois is, "Yes, Illinois might under the limitations of the Constitution of the United States interdict voluntary and unauthorized importunities to a grand jury, and she can abolish it entirely."

Article II, section 9, of the Constitution of Illinois is as follows:

> "The grand jury may be abolished by law in all cases."

But she has not done it. She has not done it. The grand jury in Illinois is still the only arm of government to which a violation can be submitted after all other agencies

of government shall have failed to act upon it.

Yes, Illinois could build a trench across State Street and say, "if you cross it you could get six months in the Cook County jail", and if you cross it you get six months in the Cook County jail. But that would not be contempt of court. That would be something for which a citizen could have a jury trial.

Yes, she can do that. Wisconsin has abandoned the grand jury. Illinois might do it, but she has not. It is the only arm of government to which the citizen can appeal.

Now, I claim that the natural right --

Justice Rutledge: You mean there is no statute forbidding communication with the grand jury?

Mr. Parker: No, sir, and no law -- I will touch on that in my argument. There is no statute, sir.

Now, I claim that freedom of speech is a right which an American citizen sucks in with his mother's milk. The right to communicate to a grand jury is one of the proudest heritages of an American, and also the right to criticize our Government.

Our form of Government is nourished by criticism. That is what it is. That is its difference from other forms of government. It is a Government of all the people, by all the people, for all the people. That is from one of my kinsmen. Lincoln used it, but it was originally from one of my kinsmen.

That is our privilege. That is why we are so proud of our citizenship.

Now, there are limitations to that. I haven't any right, as Oliver Wendell Holmes said in one of his speeches, I haven't the right to go into a crowded theater and shout "Fire!" I haven't the right to tear down my Government except by the orderly processes of the Constitution. I have no right to preach sedition. I have no right to do many things. There are limitations, but I have the right to uphold my Government.

I have the power to uphold the Government, which protects me, my children and my neighbors' children, if I do it in an orderly way.

Now, the Supreme Court of Illinois found that I was guilty of obstructing justice; that is the charge, obstructing justice, by signing this letter. Now, it is only a short letter, and I am going to read it to the Court.

Justice Murphy: Did anybody else sign that?

Mr. Parker: No, sir. I am the Chancellor of the Church. I am the Secretary of their corporation.

Justice Murphy: Who did you send it to?

Mr. Parker: I sent it to the grand jury. It reads as follows:

"PURITAN CHURCH

The Church of America

Office of the Chancellor

La Grange, Illinois

May 9, 1946.

Foreman of the Cook County Grand Jury,

Criminal Court Building,

26th Street and California Avenue,

Chicago, Illinois.

Dear Sir:

This Church has in its possession, certified documents which show that by an open violation of the Constitution of Illinois, the law passed by her legislature, and an expressed mandate of the U. S. Supreme Court, the Tribune Company, with the connivance of the Kelly-Nash Democratic machine, has stolen from defenseless Cook County, a sum of money which including the taxes owed to Cook County, the penalty for violating the Constitution and the law, and the statutory interest thereon, amounts to the enormous sum of 100 million dollars, the amount for which Mayor Kelly is seeking a new bond issue for Chicago.

In the evidence open to you, is the heretofore suppressed testimony under oath, by A. T. Ward, the

trustee of the Medill Estate, that the Tribune Company, from 1892 to 1925, paid its stockholders in monthly cash dividends, sometimes at the rate of 500% per month, a total amount of TWENTY EIGHT MILLION and SIXTY-THREE THOUSAND, SIX HUNDRED AND SIXTEEN DOLLARS and EIGHTY CENTS: Upon a paid in capital of $200,000; the accuracy of these figures is attested by the Clerk of the Supreme Court of Illinois; certified balance sheets of the Tribune Company are also in the evidence.

On such cash dividends, the Constitution and the law of Illinois upheld by the U. S. Supreme Court, requires a tax. The certified copies of the books of the County Assessor, also in the possession of this Church, show that not a single cent of the legal tax was ever either assessed by the Cook County Assessor or paid by the Tribune Company; the taxable items were feloniously omitted from the tax rolls; thus the tax was avoided.

The evidence also discloses that the tax money which was legally due to Cook County, was used by the Tribune Company, to acquire the Ontario Paper Company of Canada, and the New York Daily News: The Ontario Paper Company is today appraised at 50 million dollars; and the New York Daily News

is appraised at 100 million dollars.

Thus, by a violation of the Constitution of Illinois, and the law passed by her legislators, and a mandate of the U. S. Supreme Court, the multimillionaire stockholders of the Tribune Company, were enormously enriched and the defenseless little home owners of Cook County were correspondingly despoiled.

The taxes now due to Cook County from the Tribune Company, on taxable items omitted from the tax rolls, are never out-lawed. There is no provision in the law either 'to settle' or to compromise, either the principal sum due, or the penalty, or the interest. When the debt shall be paid, and it must be, if this be a government by Constitution and the law, it must include interest at the rate of 10% per annum, up to the day of settlement.

Awaiting your call to display this evidence to your Honorable body, we remain,

Very truly yours,"

I was not tearing down my Government. I preached no sedition there. I stated only facts. I exercised my right as an American citizen to uphold the law, to protect my children, my wife, my grandchildren and everybody else's grandchildren.

The answer to that orderly letter was an information.

Now, remember that that condition could not exist unless the State Attorney were involved. He is the law-enforcing officer of Cook County. He is charged with the collection of taxes.

Mr. Shamberg, with whom I had words, was in charge of the collection of taxes. They are supposed to keep after taxes. He knew about it.

Now, the answer to that letter was an information filed by the State Attorney, citing me for contempt of court. The consequence of that citation was a sentence by the trial judge to six months in the Cook County jail, although I had asserted then and there that the letter had been signed by me as the Chancellor of the Puritan Church, was protected by Article II, sections 2, 3, 4, 8, 9, 10, 11, 17, 19, 20, of the Constitution of Illinois, that it was protected by amendments 1, 5, 6, 8, and 14 of the Constitution of the United States and by all the laws cited above.

The law on the grand jury of Illinois is very simple. The Justice asked me if there were a statute against writing. No. In other words, the law of Illinois is clear, as it should be. The law is all right. There is no fault to find with the law of Illinois on grand jury, and I will show you right here.

The existing law of the grand jury in Illinois in People v. Graydon, 333 Illinois 429, commencing at page 431,

is as follows:

> "The power of the grand jury is not dependent upon the court but is original and complete, and its duty is to diligently inquire into all offenses which shall come to its knowledge, whether from the court, and the state's attorney, its own members, or from any source, and it may make presentments of its own knowledge without any instruction or authority from the court."

That is the law of Illinois.

Now, while I was standing in the criminal dock, waiting to get this sentence of six months, the judge who had sentenced me for communicating with the grand jury addressed the grand jury and included that law, and you will find that in my brief. You will find that in the record.

Now, there are no cases forbidding access to a grand jury. I have given most of them in my brief, and I am going to read only one that I picked up recently that you should have. This is King v. Second National Bank and Trust Company of Alabama:

> "Public policy demands that the citizen, without hazard to himself, may freely bring before the grand jury the fact that a crime has been committed, request an investigation, and furnish such information as he has, in aid of the investigation."

That is all I did. I didn't do anything else. I didn't call anybody any names.

Now, there are several citations in my brief, but here is one I picked up the other day. It is Fishback v. The State.

The Chief Justice: Under the same point?

Mr. Parker: Yes, sir, under the same point.

In Fishback v. The State, 131 Indiana 304, 30 N.E. 1088 (1892), a newspaper editor was accused of contempt in attacking a judge and the grand jury. Among other things, the court said:

> "the public press has rights with which no court has the power to interfere and it is legitimate and proper for the press to call the attention of the grand jury to violations of the law believed to have been committed and ask for an investigation."

Well, if a newspaper can do it, I say any newspaper can do it. In other words, if they are privileged to call the attention of the grand jury to a crime, any citizen is if he does it in an orderly way.

Now, previously, I had been sentenced for contempt of court to ten days in the Cook County jail for also informing the grand jury of this crime. In that case, I had not preserved my United States constitutional rights, and the Supreme Court knew it. They knew from the record that I had

not and they knew it was an open season; and when I applied to this Court for writ of certiorari, not having observed your rules, you naturally denied my petition, and I had to go to the Cook County jail for ten days for informing the jury of a crime.

Now, the Constitution of Illinois provides as follows:

> "Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that liberty."

That is in the constitution. That is pretty plain. I had depended upon that, but I had to go to the Cook County jail.

Now, the state is going to depend upon two cases; that is all. As I have said in my opening, they have not quoted a case in point, not a single one, and there are only two that are entitled to just a passing mention, which I am going to give here in just a few minutes. I am not going to take much of your time; I just want to tell what I think.

They depend upon People v. Doss. That is a very tricky opinion, if you will read it, but the facts are entirely different. Mr. Doss was about to be indicted by the grand jury, and he wrote to the grand jury on a matter that was pending before them, and he was justly convicted of contempt. That is contempt. We all know that. No man who is being investigated by a grand jury has a right to talk about it.

He can talk about it when he is indicted in a defense court, he can talk about it here, but the grand jury should be untrammeled.

That puts the Doss case out, and if the Attorney General wants to waste time on that, those are the facts.

Now, the other case is People v. Parker. That is my case, for which I went to jail for ten days. The old, original information in that case charged me with signing a letter to the grand jury. The information was filed not by the State Attorney but by a detective in the employ of McCormick of the Tribune. In other words, the court turned the government over to him.

The State Attorney refused to file an information against me for writing to the grand jury, the court did. So the Tribune, bothered by these letters -- they wouldn't defend them, and they got one of their detectives to walk over and dress up as a state officer and he filed contempt proceedings against me. I went before the trial judge and defended the charge, that there was no crime in writing a letter to the grand jury.

So the judge sentenced me for 10 days for obstructing justice. I never heard of the charge until I got it in the sentence, so I could not defend it.

I went down to the Supreme Court of Illinois to defend that charge, and when I got there and defended that charge,

they rigged up a new charge: writing a letter which had a tendency to inflame a grand jury.

So I did not have any chance to defend that, and I had to go to jail where I was for 10 days.

Now, the state is going to depend upon that. If you will read that carefully, you will find that is a studied opinion. They do not reverse People v. Graydon; they don't do it. They attempt to interdict inflammatory letters. It lose is carefully defined. They were afraid to close the grand lose jury; they were afraid to close it. I think the grand jury in Illinois is closed today to citizens. They were afraid to do it in that opinion. They didn't have the courage to do that, so they wrote a very careful opinion interdicting inflammatory letters.

I claim that all letters to a grand jury are inflammatory. All letters to a grand jury are intended to compel that grand jury to act. This letter of mine is not an inflammatory letter, nothing inflammatory about it, but it was intended that that grand jury should find out why those taxes were not collected; so that every letter to a grand jury is inflammatory.

Now, that opinion is so tricky that it has caused great confusion in the courts of the United States. I think you lawyers have an axiom that "bad cases make bad law." You will find in Wells. v. Brock that the court of Massachusetts struggled with that opinion. They just could not make it

out, and they finally decided that a man could go to the grand jury after he had exhausted all of his other remedies.

Well, the record in this case shows that I notified the Governor that the Tribune had broken the constitution and the law. I notified every judge in Cook County. I notified the Attorney General, I notified the State Attorney, and when no one paid any attention, I was shouting like Ishmael in the desert, and when no one paid any attention, I went to the grand jury; and for that I got six months in the Cook County jail.

Now, I think I have disposed of the only two cases they have -- People v. Parker and People v. Doss. That leaves only the charge of Justice Field.

In the first case, the court was at a disadvantage. There was no law to sustain them, so they went back 50 years and got a charge to the jury by the late Justice Field -- a grand jury.

Now, Justice Field was probably a magnificent figure on the stage when the Dred Scott decision was the supreme law of the land. But life is progressive; we have to go on; man must improve in his ideas of justice as he improves in his ideas of plows and in his ideas of religion.

Where would the world be today if the thought in the Dred Scott were animating the men of this Court?

The religious ideas of Moses were a step in advance of

the religious ideas of the idols of Egypt. The religious ideas of the prophets were a step mentally in advance of the religious ideas of Moses, and the religious ideas in the Sermon on the Mount are a little higher than the religious ideas of the prophets. The religious ideas in the Sermon on the Mount caused men to perceive in the cosmos the ideas of justice which are expressed in the Code of Justinian.

The Code of Justinian opened men's minds to the Magna-Carta and the Bill of Rights, and those two documents opened up the mind of Spinoza. He paved the way for Voltaire. Voltaire paved the way for the men who wrote the Declaration of Independence.

The religious ideas in that document attacked the brains and the brawn of the world to the American shores, and though animated by those ideas, those men perceived in the cosmos the ideas which, manifested into reality, became the incandescent light, the washing machine, penicillin, Bridges v. California, and Pennycamp v. Florida.

Those ideas have made the United States the most powerful nation in the world and its people the most contented and happy, and I ask this Court not to go back to the thought of Justice Field, which was based on the thought of Jeremiah Benton and the thought which went into the Dred Scott decision. I think we have grown beyond it.

ARGUMENT ON BEHALF OF THE RESPONDENT

By Mr. Wines

Mr. Wines: May it please the Court. Your Honors, in Case No. 270, we feel that the most forcible and formidable reply to the petitioner's contention is a straightforward, simple, chronological narrative of the facts.

Petitioner's misleading statements and even more misleading suppressions and omissions have given to the Court an entirely and utterly distorted picture of the record in Case No. 270. So, with your Honors' indulgence, I will undertake that narrative of the facts in the case.

Petitioner, who claims the Office of Chancellor of the Puritan Church of America, has long been engaged in a feud with the Chicago Tribune and with anyone, or at least with a large number of persons who are in any way identified with that publication, and the corporation that publishes it.

He brought suit against a Cook County Assistant State Attorney named Jacob Shamberg, petitioner charging Shamberg with slander, the utterance of which petitioner complained was Shamberg's statement that petitioner was a blackmailer. Shamberg's defense was a short answer admitting the utterance in publication and pleading the truth.

Those were the issues in the case of Parker v. Shamberg, which is a civil suit, incidentally, to which this contempt proceeding arose.

In 1934, your Honors, Illinois adopted Rules of Civil Procedure like those that were finding favor in other states and in the United States courts. Rule 17 of those rules adopted in 1934 provides that a litigant may obtain an order upon his adversary to list and show cause why he should not produce relevant or pertinent or material documents or, if necessary, physical exhibits. The rule is a simple one easily understood.

Mr. Shamberg applied for a rule on petitioner to show cause why he should not produce for inspection and to be copied or photographed the documents described in said writ and motion.

Now, your Honors, it is of the utmost importance in the statement of facts in this case to note the directive provisions of that order, as they were written in the record and not as they have been paraphrased at the bar this morning. Directive provisions are quoted at page 4 of respondent's brief in bold-faced type at the bottom of the page.

The Chief Justice: What is the reference on that?

Mr. Wines: The record reference is 71 and 212. The order is:

> "To show cause why he should not produce for inspection and to be copied or photographed the documents described in the motion."

Your Honors, it should be explained that at the time

that application was made for this motion, petitioner stated in open court, but not under oath -- the picture is, your Honors, that Shamberg, the defendant in this libel suit, is before Judge Trude, a circuit judge, asking for these documents. Mr. Parker said at that time, but not under oath, that the documents were in Canada and were not coming back.

Thereupon, it was suggested that if petitioner did not have the documents in his possession, he make that showing by oath. Therefore, this order was applied for, and the order, your Honors, petitioner's statement in his brief and to this Court to the contrary notwithstanding, says not one single word about even producing, muchless filing these documents. But when that order was applied for --

Justice Reed: What did you say that order was?

Mr. Wines: The order that was applied for was an order to show cause why he should not produce, not an order to file any documents or order to produce them.

Justice Reed: Where is the order found?

Mr. Wines: The order is at page 71 of the record, your Honor, that the plaintiff, Harrison Parker, within four days from the date hereof show cause why he should not produce.

Justice Reed: Where are you reading from?

Mr. Wines: Page 71, your Honor, up here (indicating), the second paragraph typographically entitled "First".

Justice Reed: I see. Thank you.

Mr. Wines: "First, that the plaintiff, Harrison Parker, within four days from the date hereof show cause why he should not produce for inspection, and to be copied or photographed, the documents described in said written motion; and

"Second, that the plaintiff, Harrison Parker, within four days from the date hereof, state by affidavit filed in this court whether any of the documents described in said written motion are now or at any time in the past have been in his possession of power."

Now, at the time that order was applied for petitioner consented to it, and here is what he said, reading from the record at page 5, and it is quoted in the appellate court's opinion at page 8 of appendix B said to the court:

> "They" -- that is, the documents described in the motion -- "They are not coming back, your Honor. There is no worry about that. I can answer that thing. I should say, give me until Friday, and I will have a nice answer; one that the town will be glad to have on record."

That is what he told the court. Then, the order was entered, and the order was to show cause why he shouldn't produce these documents for inspection. Not a word about filing the documents.

Thereupon, petitioner gratuitously filed the very extraordinary and remarkable documents that are the subject

matter of the case. These documents purported to be certified copies of resolutions of the Puritan Church of America. They went on for many, many pages. They recited in substance -- this is admittedly paraphrased. They recited in substance that our country was founded by the Puritans, who were dedicated to certain ideals that were set forth in these resolutions but there had come to America's hospitable but unprotected shores a lot of scoundrels, blacklegs, thieves, and crooks, including an Irish ancestor of a well known Chicago newspaper editor, who, as soon as he was deloused and fumigated at Ellis Island, undertook to commit a number of crimes that were laid to the charge of this Irish ancestor of the Chicago newspaper editor.

The resolutions then go on to recite that the Chicago newspaper editor learned to steal while sucking milk at the breast of his ignorant and penurious mother. Then he proceeds gratuitously to asperse a very large number of Illinois citizens.

Now, Illinois wants to disclaim any suggestion or intimation or hint that these documents would be rendered contemptuous by the fact that they contained an attack on personalities who happened to hold judicial office. If they would not be contemptuous, if they assailed the humblest citizen -- we make no point that a citizen has no right to libel just by documents filed in the office of the clerk, if

he has the right to libel anybody else.

It does so happen that a large number of persons mentioned in these documents are justices and judges of various courts of Illinois. The meat and pith of these documents is pretty well set out in the appellate court's opinion, to which the Supreme Court refers, beginning about page 3 of appendix B in the blue covered brief in this case.

Just to call the court's attention to the tenor of some of these documents, not at any greater length than is necessary fully to present the question, I read almost at random -- it makes no difference where you open the pages. He says that McCormick either influenced, intimidated or bribed Justices Stone, Gunn and Wilson -- they are justices of the Supreme Court of Illinois -- still sitting on the Supreme Court of Illinois, to write in Case 24,881 an opinion more crooked than any ever written by Judge Manton of Atlanta prison, by which Cook County's legal, orderly lawsuit to compel the Chicago Tribune to disgorge millions of dollars it has stolen from Cook County, and so on.

Now, these resolutions, after making charges of this kind, concluded with a petition to the President of the United States to have hanged or shot Colonel McCormick, Justices Stone, Wilson, and Gunn of the Supreme Court of Illinois, Justices Friend, Burke, and some others of the Appellate Court of Illinois, a large number of circuit or

Superior Court judges, most of the personnel, I don't want to exaggerate these charges -- a large percentage of the personnel of the Chicago law firm of Kirkland, Fleming, Green, Martin, and Ellis, and divers and sundry other citizens.

Now, these documents were never shown to the court before they were filed. On the contrary, petitioner's statement to the court was he did not have them and would not get them.

Well, Shamberg's attorneys in the libel suit, the principal cause, thereupon made a motion to hold petitioner in direct contempt of the court of Illinois for an act committed in the court, it being an Illinois rule that acts done in the clerk's office are within the precincts of the court and are direct contempt, and if the fact of the act is committed -- and he never denies filing any of these documents, on the contrary, he proclaims his right to file them -- that that is summarily punishable.

Justice Reed: These documents were filed in answer to the order of January 2?

Mr. Wines: Purported. What the order directed him to do was to show cause why he should not produce them. Instead of that, he went and filed them.

Justice Rutledge: These are the documents that the order related to?

Mr. Wines: These are documents of the kind that the order

related to. So, then, when this motion was presented to hold petitioner for contempt, although there was no rule to file an answer to the motion, for the answer to the application -- no rule had been entered yet to hold him in contempt -- he just refiled the very same documents.

Now, certainly, nothing in the order of the court or in Rule 17 even permitted or suggested, muchless required, that he refile these same documents in answer to the charge of contempt for filing them the first time.

Justice Rutledge: Mr. Wines, if a hearing had been had and it was found that there is not sufficient cause for withholding the documents and an order had issued then to produce, would that have protected him in producing in accordance with the terms of the order? Then, would Illinois have been free, or would it have held that the production was contempt?

I mean, does the fact that the person is under duty by virtue of court order in your state to produce, make him responsible on production for consequences that might flow?

Mr. Wines: Certainly not, if he produced in accordance with the order.

Justice Rutledge: You say that in producing in response to the show cause order he was not, as might perhaps be assumed, except for some countervailing factor, confessing that there was no cause to withhold and then complying with

what he deemed the order to require?

Mr. Wines: Let me make this answer to your Honor. Illinois does not contend and will not contend that in a case, which is not this case, but in a case where a citizen is required to produce in court any document in his possession, under a threat to be imprisoned for contempt if he does not produce it, that any one who produces a document in obedience to the compulsion of an Illinois order cannot possibly be in contempt for the production of that document.

Justice Rutledge: When an order to show cause why a document should not be produced issues in Illinois, has it been, prior to this case, determined that a production in response to that order is not a confession that there is no cause and a compliance with that order? Have there been earlier adjudications?

Mr. Wines: I do not understand your Honor's question.

Justice Rutledge: I mean this: The court issues an order to cause why certain documents, specified, should not be produced.

Mr. Wines: Yes.

Justice Rutledge: That means if you have any cause why they shouldn't come in, you must show it. But suppose the person comes in and says, "I have no cause; I herewith produce." You are saying that the order to show cause --

Mr. Wines: Does not permit or require him to file the

documents in the court.

Justice Rutledge: Then, all he can do in response to that order is say "I have no cause."

Mr. Wines: The documents are to be produced, as is well understood in Illinois, in the office of one of the parties and not in the office of the clerk. That is the law. That is the Illinois practice, petitioner's statement to the contrary; it simply is not the truth.

Justice Rutledge: Does the order specify that?

Mr. Wines: The order does not specify that, but that is well understood, and petitioner was represented by counsel in this case.

Justice Rutledge: Are there decisions that a production in court would not comply with the order?

Mr. Wines: I know of no such decision, sir.

Justice Rutledge: What I am trying to get at is whether, when a person comes into court in response to the order to show cause and confesses that he has no cause, then, is he in jeopardy of contempt for failure at the same time to produce?

Mr. Wines: To produce?

Justice Rutledge: The documents specified in the order to show cause.

Mr. Wines: No, your Honor. The rules contemplate that you make a request on your opponent for production of docu-

ments, and then he can make a list of those he has and is willing to produce and those that he is not willing to produce.

Justice Rutledge: Suppose he says in response, "I am willing to produce all you have asked for, I have no valid reason for withholding?"

Mr. Wines: That is a compliance with the rule, and he need do no more than show his willingness to produce them.

Justice Rutledge: But if he does more?

Mr. Wines: If he files them in court, because "produce" does not mean file in the office of the clerk. It never has been deemed to mean that by anybody practicing in Illinois except the plaintiff.

Justice Rutledge: To me, it is a rather strange procedure that when a court issues an order to produce and specifies no other place, my understanding is that the general effect of those orders is to produce in court. Your law, of course, may be different, but if so I should like to know the decisions that make it so.

Mr. Wines: The question had never arise, before this case, in the Supreme Court of the State of Illinois, so far as I know; but this case does construe the Illinois law.

Justice Reed: Now, let me see if I understand this. This is a suit between Parker and Shamberg, Parker suing him for libel, and there were certain papers that had been referred to.

Mr. Wines: Yes.

Justice Reed: And Shamberg wanted them produced?

Mr. Wines: Yes.

Justice Reed: And the order that is on page 71 was entered?

Mr. Wines: By agreement.

Justice Reed: By agreement.

Now, is that the order we are talking about?

Mr. Wines: That is only one of them, your Honor.

Justice Reed: Is that the order that he filed in response to --

Mr. Wines: That is the order that he filed purportedly in response to --

Justice Reed: Purportedly. Now, under that order, instead of producing them to the attorneys for Shamberg, he filed them in the clerk's office?

Mr. Wines: Or instead of suggesting that he couldn't produce them or file them --

Justice Reed: What he did was in response to this order. Instead of producing them to Shamberg or his attorney, he filed them in the clerk's office?

Mr. Wines: Yes, he filed them in the clerk's office.

Justice Reed: That was his contempt?

Mr. Wines: That is the beginning of it.

Justice Reed: Is that what he was tried for?

Mr. Wines: Not entirely. That is only part of it. Then, after he filed them once, Shamberg's attorneys --

Justice Reed: Found them in the clerk's office.

Mr. Wines: Found them in the clerk's office and made a motion asking that he be held in contempt for filing. They did not obtain any rule on him to answer that motion, but he gratuitously filed an answer to the motion to hold him in contempt for filing them the first time.

Justice Rutledge: What do you mean by "gratuitous"? When a man is ordered committed for contempt, isn't he entitled to respond under your procedure?

Mr. Wines: Yes, your Honor.

Justice Rutledge: Then, it could not be gratuitous if it was in answer to the citation.

Mr. Wines: There was no citation; there was no citation.

Justice Rutledge: Then, do you mean that you do not even require citations to put a man in jail?

Justice Reed: This was a motion that was filed --

Mr. Wines: There was a motion to hold him in contempt. On that motion, he would have been entitled to a hearing, but as soon as he got it --

Justice Rutledge: Is he entitled to answer it?

Mr. Wines: Yes.

Justice Rutledge: Then, if he files this, as I understood you to say, in answer to that, why was it gratuitous?

Mr. Wines: Because no rule had yet been entered. He was just served with notice of a motion.

Justice Rutledge: If you receive notice of a motion, you can't answer that motion?

Mr. Wines: If your Honor please, I had not quite finished my sentence. I was not going to say his answer was gratuitous, but what I should have said was he gratuitously refiled these same documents.

The Chief Justice: Mr. Wines, if it was not contempt in filing in the clerk's office, would you say the second filing would be contempt?

Mr. Wines: Yes, your Honor, that we would say. We would say that when the documents are once on file -- he does not deny that the matter contained these charges -- that when he was admonished that there was a question as to the contemptuous or non-contemptuous character of these documents, that he knew then that there was at least a serious question as to the propriety of having these documents in the record.

The Chief Justice: If it had been finally held that the filing in the clerk's office was not contempt, would you still maintain that the filing before the judge in the court room was contempt?

Mr. Wines: Yes, your Honor.

The Chief Justice: How do you construe that?

Mr. Wines: I was just going on with the facts.

Justice Reed: He received notice of the motion?

Mr. Wines: Yes, he received notice of the motion.

Justice Reed: What did that notice say?

Mr. Wines: That they were going to apply.

Justice Reed: You mean, he received notice from opposing counsel and not from the court?

Mr. Wines: Yes, that is right, that they were going to apply to have him held in direct contempt. Now, then, when he got that notice, he came over and he refiled these same papers.

Justice Reed: But the motion was already pending?

Mr. Wines: The motion was pending, but, if your Honors please, I have not yet finished the facts on which this contempt order is based. He not only refiled these documents again, but he appended to them -- and this was gratuitous -- an affidavit that he was not in contempt of court because everything he said in these documents was true, and he added 20 pages in that affidavit of more charges, not documents that he was producing in accordance with any rule, but he added 20 pages more, or so, of new material calculated to use and exploit the facilities of the court for defamation -- and this, I say, was gratuitous -- defamation of the citizenry of Illinois, including but not limited to the judiciary, as I have explained.

So, the factual basis, whatever questions of law may arise,

state or federal, the factual basis on which this order of commitment is predicated is, first, the original filing of these documents; second, before any contempt order or any order at all was entered in respect to that filing, refiling the same documents with an affidavit that they were true, and 20 pages of original composition which was not supposed to be relevant documents.

Justice Reed: In answer to a --

Mr. Wines: In answer to a notice that a rule would be applied for, he reapplied.

Justice Reed: In answer to a motion?

Mr. Wines: A notice that a motion --

Justice Reed: In answer to a motion duly filed with the court for a rule against him to show cause whether he should not be furnished?

Mr. Wines: Yes, in substance. The practice was, as I recall, he got the notice that the motion would be presented and then filed it.

Justice Reed: Before the motion was filed?

Mr. Wines: I believe so, your Honor, I believe so.

The Chief Justice: I understood you to say filing a motion finding him in contempt, and he got notice of the motion.

Mr. Wines: Yes, and ostensibly in resistance, but three Illinois courts passed on the issue of fact and held,

as a matter of fact, that his intention was simply to obstruct justice.

He then proceeded to file these other documents, to refile the documents, together with an affidavit that everything they said was true, and some more charges.

Now, that is what the order is based on.

Justice Reed: What happened after he filed the papers in response to the motion, as a matter of procedure?

Mr. Wines: As a matter of procedure, an order was entered, finding that his intention was to obstruct justice.

Justice Reed: Without any rule against him?

Mr. Wines: The order in its original form -- and it was later amended, which is important in this case, too -- but in its original form it appears at the bottom of page 71, but that is not the order from which this writ of error was prosecuted. That follows immediately on 74.

The recitals are these:

> "This cause coming on this day to be heard on the motion of the defendant, Jacob Shamberg, for an order finding the plaintiff, Harrison Parker, guilty of direct contempt of court by reason of his having filed in the Office of the Clerk of the Circuit Court of Cook County, on January 4, 1945, a certain scurrilous affidavit, and on January 15, 1945, a certain scurrilous answer, containing as

a part thereof" and so on.

Justice Reed: Apparently no rule was issued.

Mr. Wines: No.

Justice Reed: Well, was the petitioner here before the court?

Mr. Wines: He was.

Justice Reed: Where does that show in the amended order?

The Chief Justice: Was he represented by counsel?

Mr. Wines: I think he was, your Honor. He had been.

Justice Reed: I do not understand how you can have a trial for contempt before the judge without calling the party charged before the court.

Mr. Wines: He was before the court.

Justice Burton: It says at the bottom of page 75:

"The court further finds that said Harrison Parker, who is now here present in open court . . ."

Mr. Wines: Yes, thank you, your Honor. It says:

"The court further finds that said Harrison Parker, who is now here present in open court, is, by reason of said conduct guilty of direct contempt of this court."

The Chief Justice: Then, what happened?

Mr. Wines: This order was entered, and he was given three months.

Now, the constitutional question that he seeks to present

in this court he never raised any place except here. He never suggested it in the trial court, he never suggested it in the Supreme Court of Illinois, and he never suggested in the appellate court.

Justice Reed: Now, in this proceeding here, this refers to the order -- where did he have a chance to raise it?

Mr. Wines: He could have raised it --

Justice Reed: In answer to a rule to show cause, he could have raised it?

Mr. Wines: He could have raised it by a motion to vacate or by the hearing at the time this order was entered. He was present in court. He had a hearing.

The Chief Justice: He made some statement about the Supreme Court, about presenting the issue there.

Mr. Wines: Did you say I did?

The Chief Justice: He did.

Mr. Wines: I will explain that.

Justice Reed: Where did he make that?

Mr. Wines: In the Supreme Court of the United States on his petition for certiorari, no other place.

Justice Reed: What did he take as his first step after the amended order?

Mr. Wines: The first step after the amended order? A petition for writ of error to the appellate court.

Justice Reed: Where is that? Have you got it before you?

Mr. Wines: We asked leave, and The Chief Justice indicated that leave was granted, to file a certified transcript of two pages of his brief in the appellate court, and that transcript has been filed, and in that it appears.

Justice Reed: Where was it filed?

Mr. Wines: It was filed with the clerk here, your Honor. It was not in the transcript because we had no idea that this contention was to be posed.

The Chief Justice: It is my understanding that that has been consented to.

Mr. Parker: Yes, sir, I consented to it.

Mr. Wines: Yes, but in the transcript -- the clerk only sent us one copy -- in that transcript it appears that he argued in the appellate court that he did not take his writ of error from the Supreme Court of Illinois in that court, because it would have been useless.

Justice Reed: I do not understand it yet. What was the next step after this order of January 23 was entered?

What was petitioner's next step?

Mr. Wines: After that order was entered, the order of the 23rd was a petition for writ of error from the appellate court.

Justice Reed: From the appellate court or to the appellat court?

Mr. Wines: We speak of a writ of error coming from the

court where we would say an appeal comes to it.

Justice Reed: Where is that? Does he set out his grounds in that for his objection?

Mr. Wines: That is not the way a writ of error is sued out. What you actually do is file a transcript of the record and pay your costs. You file a praecipe for the writ of error, but the writ of error never issues. It is like certiorari. It would issue if the lower court refused to send up the record.

Justice Reed: You do not have to set up grounds?

Mr. Wines: No. Now, he had tried to appeal from the Supreme Court -- I mean take a writ of error from the Supreme Court -- of Illinois from the earlier unamended order, that is true. There he was denied a supersedeas, which we concede is in effect a denial of the writ of error, because on a short sentence, if he did not have any supersedeas, the question would be moot by the time the case was reached. We won't make any point of the difference between supersedeas -- but here is the thing he hasn't called to your Honors' attention. The constitutional questions that he raised in the Supreme Court of Illinois, he does not raise here, and the ones he raises here he never raised in Illinois as a constitutional question, although he did raise it as a question of Illinois procedure.

Now, here is what he did.

Justice Reed: Perhaps I am confused. I will ask one more question.

Mr. Wines: Yes, sir.

Justice Reed: This amended order of January 23, his first step was to go to the intermediate court, the appellate court, and get a writ of error?

Mr. Wines: That is right. Admittedly, he had been denied a supersedeas, and that, in effect, denied a writ of error from the Supreme Court of Illinois on the January 15 order.

Justice Reed: How did he raise his objections in that court, by his brief?

Mr. Wines: His constitutional questions?

Justice Reed: Whatever he raised.

Mr. Wines: By a brief only, yes.

Justice Reed: Do we have that brief?

Mr. Wines: No.

Justice Reed: Do we know what questions he raised in the appellate court?

Mr. Wines: The full brief is not in the transcript.

Justice Reed: Is there anything that tells us what he raised there?

Mr. Wines: Yes. The opinion will show.

Justice Reed: Do we depend on the opinion of the intermediate court to tell us what questions were raised there?

Mr. Wines: I think you have to, your Honor, because he did not seek to have that included in his transcript.

Justice Reed: What?

Mr. Wines: His appellate court briefs. He has not sought to have those included.

Justice Reed: So, from your point of view what we have is the opinion of the appellate court?

Mr. Wines: That is right. We have not felt it incumbent upon us to make his record for him. We are satisfied with the transcript that he has filed here.

Justice Rutledge: We know as a matter of judicial knowledge that the court does not always note in their opinion all of the issues.

Mr. Wines: That is right, but he has not chosen to show wherein they omitted.

The Chief Justice: Does the opinion fairly show the points upon which he relied?

Mr. Wines: It does, but your Honors will have to bear in mind that an appeal to or a writ of error from the Appellate Court of Illinois is a waiver under Illinois practice of all constitutional questions.

Justice Rutledge: That means that they will treat no federal constitutional questions?

Mr. Wines: The appellate court will treat no federal constitutional questions.

Justice Frankfurter: What is the waiver?

Mr. Wines: In Illinois, there is a right of direct appeal or writ of error, as the case may be. In all cases, civil or criminal, of every kind -- that is, if they are appealable at all -- final orders, and so on, directly to the Supreme Court of Illinois. That does not include habeas corpus. But of all cases where there is appellate review at all, there is a right of direct appeal to or writ of error from the Supreme Court of Illinois, if any state or federal constitutional question is involved.

Justice Rutledge: And the appellate court, intermediate court, has no jurisdiction in constitutional questions?

Mr. Wines: That is right, and if you go to the appellate court and raise any constitutional questions, then that is a waiver.

Justice Frankfurter: If I am not mistaken, this Court has passed on that very same procedure in Illinois.

Mr. Wines: This Court has upheld that procedure and sustained it in the City of Edwardsville case. In the City of Edwardsville case, the plaintiff lost some kind of public utility case, went to the appellate court, sought to raise both constitutional and non-constitutional questions. If you raise only constitutional questions, they will transfer it, but if there is anything there that they can decide, they will retain it.

Justice Frankfurter: What is the relevance of that to this situation?

Mr. Wines: The relevance of it is that by his going to the appellate court in Illinois from the January 23 order under a canon of Illinois judicature, which this Court has approved. Specifically, he waived any federal constitutional question that he might have raised.

Justice Frankfurter: What is here, then, in your view?

Mr. Wines: Nothing, no federal constitutional questions at all.

Justice Frankfurter: Did we not grant a writ of certiorari to the Supreme Court of Illinois?

Mr. Wines: You did.

Justice Frankfurter: Then, something went to the Supreme Court of Illinois?

Mr. Wines: Yes.

Justice Frankfurter: And something was entertained and disposed of?

Mr. Wines: Yes.

Justice Frankfurter: Something was disposed of, and that something is complained of here?

Mr. Wines: That is right.

Justice Frankfurter: What is that?

Mr. Wines: After the appellate court had affirmed this

citation and commitment for contempt, petitioner then had a right to sue out a writ of error from the Supreme Court of Illinois to the appellate court. He need not go by our analogue of your Honors' certiorari. He could sue out from the Supreme Court of Illinois in any criminal case, and this is a criminal case for this purpose. He had a right to sue out a writ of error from the Supreme Court of Illinois, which he did.

Justice Frankfurter: To review what?

Mr. Wines: To review any non-constitutional questions, only, that the appellate court had jurisdiction to decide.

Justice Frankfurter: The Supreme Court of Illinois then made a disposition of the purely non-constitutional questions?

Mr. Wines: Yes.

Justice Frankfurter: And it is your position that that is all that is sought to be reviewed here?

Mr. Wines: Yes.

Justice Frankfurter: And that cannot be reviewed here because only a non-federal question was disposed of by the supreme court.

Mr. Wines: Very precisely stated, your Honor.

The Chief Justice: It would be of interest to me to know what happened. What does the record show after this judgment of conviction was entered? What did Mr. Parker do in the Supreme Court of Illinois before he went to the

appellate court?

Mr. Wines: You see, your Honor, on January 15, the first order as unamended was entered. He sued out a writ of error from the Supreme Court of Illinois, which you do by filing the transcript of the record, as a practical matter, and paying your costs.

The Chief Justice: In your procedure, do you state points or do no more than file the transcript?

Mr. Wines: You just file the record. Assignments of error have been abolished except as they appear in the brief.

The Chief Justice: He filed a transcript?

Mr. Wines: He applied to a justice of the Supreme Court of Illinois for supersedeas. He was told that the constitutional questions, which he then raised, which are not the questions he presents here --

The Chief Justice: What were the questions he then raised?

Mr. Wines: Right to pursuit of happiness, freedom of religion, right to petition for redress of grievances, I think, freedom of speech; but no constitutional contention in constitutional terms that he was denied due process on his theory that he would have been in contempt if he did not file them and would be in contempt if he did file them, and, therefore, he is denied due process.

Justice Reed: Now, is that brief here in this record?

Mr. Wines: No, sir, that would just be an oral applica-

tion to a justice in his chambers.

Justice Reed: No record of it is here and no appeal taken from it to this Court?

Mr. Wines: No appeal.

Justice Reed: We know nothing about that except what you tell us?

Mr. Wines: There is a minute in the record to the effect that the supersedeas was denied but nothing about that was raised or anything like that. He never tried to appeal from that order.

Justice Reed: That is out of it from your point of view?

Mr. Wines: That is out of it from our point of view.

Justice Frankfurter: May I ask you a blunt question?

Mr. Wines: Certainly.

Justice Frankfurter: If what you say is so, why do you not sit down at this point? What more is there to argue, if you are right, Mr. Wines?

Mr. Wines: I have some trepidation, your Honor. There is nothing more to argue, your Honor, but somebody might think I wasn't right.

Justice Jackson: You cannot be quite sure?

Justice Frankfurter: I did not say you should, but I put a hypothesis: If you are right, you should sit down.

Mr. Wines: If I am right, everything else I say is as gratuitous as some of the things Mr. Parker has filed, but

I think more seemly.

I want to make it plain, in leaving, that Mr. Parker did contend that Illinois rules should be construed to require him to file the document and Illinois said "No", and he never said until he got here that that construction denied him any constitutional right. He never claimed the Constitution. He did claim he was caught between Scylla and Charybdis, between the devil and the deep blue sea. He did not put that claim in constitutional grounds, however. He did claim some other constitutional rights, such as pursuit of happiness, which he abandons here. That is the posture of that case.

Now, in connection with the other case, your Honors --

Justice Rutledge: Before you proceed to the other, what should he have done, and how could he have come here to raise any constitutional question in the case you have just covered?

Mr. Wines: During the proceedings -- he had a hearing on his contempt proceeding -- either before that order was entered or it would have been plenty of time in the trial court after it was entered on a motion to vacate, assert his contention that the Illinois rule required him to file these documents, if that is a federal question, which we say it is not, but he seems to think it is because he argues it, and that to require him to file these documents under pain of contempt and then give him a sentence when he did file

them denied his due process.

Justice Rutledge: How would he have raised that; first, in the trial court and then in the appellate court?

Mr. Wines: Orally, in writing, or any other way in the trial court.

Justice Rutledge: Then, how would he go about it?

Mr. Wines: Then, he would undertake to sue out a writ of error from the Supreme Court of Illinois.

Justice Rutledge: Which, as I understand it, he did.

Mr. Wines: He did, but without having raised this constitutional question. At that time the constitutional questions he raised were pursuit of happiness and freedom of religion.

Justice Rutledge: He went before one justice?

Mr. Wines: Went before one justice and was denied supersedeas.

Justice Rutledge: Which he would have to go before if he had raised it?

Mr. Wines: He could have asked for a ruling by the full court, and he could have gotten it, but we do not make that point.

Justice Rutledge: I just wanted to know what remedy.

Mr. Wines: We admit he was about to go to jail for a term that was so short that it might have been over by the time he had done some of the things unless he acted pretty fast.

Justice Rutledge: In other words, you now admit he had no real remedy in the Illinois court?

Mr. Wines: No, your Honor. If he had raised this question, we do not know what the Supreme Court of Illinois would have done.

Justice Rutledge: The remedy is inadequate to me, the situation presented by the shortness of the term -- I don't see what difference it makes whether it be on one question or another.

Justice Reed: Could he get a stay long enough to get to the Supreme Court of Illinois?

Mr. Wines: He had that because he was over there at chambers. Otherwise, he would have been in jail.

Justice Rutledge: But he never did go to jail?

Mr. Parker: Yes, I was in jail one night.

Mr. Wines: He was in jail.

Justice Black: At what page of the record is the denial of the right of appeal?

The Chief Justice: Was there an order?

Mr. Wines: There is this minute that I am trying to find.

Justice Black: Do not bother with that. Did I understand that this man tried to get an appeal to the Supreme Court, that that was denied, was supposed to go to the appellate court, and the court held that he waived his constitutional rights?

Mr. Wines: That is not the same order. That is how he

Justice Black: I wanted to find out what you said. I did not quite get it clear. Did he try to go to the supreme court in this particular case?

Mr. Wines: On the January 15 order, yes.

Justice Black: Was he denied?

Mr. Wines: He was denied a supersedeas by a justice.

Justice Black: Did he then go to the appellate court?

Mr. Wines: He then went there.

Justice Black: Now, the State Supreme Court held that by failure to come to the supreme court he waived his constitutional rights?

Mr. Wines: He went to the appellate court on a different order; same case, different order.

The Chief Justice: January 15, there was an order.

Mr. Wines: Yes.

The Chief Justice: That is the order he applied to the justice of the supreme court?

Mr. Wines: Yes.

The Chief Justice: There was an amended order?

Mr. Wines: January 23.

The Chief Justice: In what respect was it amended?

Mr. Wines: It was amended by setting out in full the documents that were the subject matter of this case.

Justice Rutledge: What must be contained in the order itself?

itself?

Mr. Wines: There is a law in Illinois that the contempt order must contain the full basis within its four corners.

Justice Rutledge: You mean the evidence?

Mr. Wines: And not by reference to the record itself.

Justice Rutledge: You mean the order under your law must contain the evidence?

Mr. Wines: Oh, yes. It must set forth the evidence. It cannot refer to the record for it.

Justice Frankfurter: What order are we reviewing?

Mr. Wines: The order of January 23.

Justice Frankfurter: That is the one that is before us?

Mr. Wines: Yes.

Justice Frankfurter: Was the commitment made under that order?

Mr. Wines: The commitment was made under that order.

Justice Frankfurter: What is here before us, the commitment under order of January 23?

Mr. Wines: Yes, from which he never sought direct review by the Supreme Court of Illinois, which he took first to the appellate court.

Justice Black: What would have been a difference between the right to review the order as amended and the order as originally entered by the supreme court?

Mr. Wines: As far as I can tell, your Honor, none.

Justice Rutledge: You do not say the first order was void for want of the things?

Mr. Wines: It might have been, your Honor.

Justice Rutledge: Yet he was denied supersedeas on that order?

Mr. Wines: Yes, because they said that the constitutional questions that he sought to raise were not substantial.

Justice Rutledge: If it was a void order by your law, you would think your court would not deny.

Mr. Wines: They would unhesitatingly deny supersedeas from even a void order unless he raised a constitutional question that they regarded as substantial.

Justice Frankfurter: Otherwise, he has to go to the appellate court?

Mr. Wines: Otherwise, he has to go to the appellate court and then to the supreme court. Unless there is a constitutional question involved, he could no more get into the Supreme Court of Illinois directly, even on a void order, unless there is a constitutional question involved.

Justice Rutledge: Do you have a due process provision?

Mr. Wines: We certainly do.

Justice Rutledge: I should think that might be sufficient basis. Of course, you are saying that if he does not assign that, he does not get a hearing.

Mr. Wines: I did not hear your Honor.

Justice Rutledge: I should think that in itself would be a constitutional question, state or federal, but your point, I take it, is that since he did not assign it, he was not entitled to even that notice.

Mr. Wines: That is correct. If an order is void for non-constitutional reasons, and there are many of them.

Justice Reed: There is no reason why he could not come here after the refusal to grant him a review.

Mr. Wines: None at all that I know of. That is for your Honors to say.

Justice Rutledge: If there is an order that we can review.

Mr. Wines: Yes, but I do want to emphasize that the constitutional questions he was presenting then are not the ones he is presenting here.

Justice Reed: I do not understand why you emphasize that. What is the difference?

As I understand it, your position is that on the first order he went to the Supreme Court of Illinois, and the Supreme Court of Illinois refused to take cognizance of it. That ends that phase of the case from your point of view.

Mr. Wines: That is right, from my point of view; but, as I say, I am not always sure that my point of view on one contention will prevail, so I like to assume, that should I be held against on that, that there are still other reasons why the judgment should be affirmed.

The Chief Justice: I would like to hear you on the question of writing the letter to the grand jury, the letter which was read. Is that the letter which was sent?

Mr. Wines: That is one of them.

The Chief Justice: That is the one involved in this case?

Mr. Wines: Yes. I think that is the only one involved in this case.

The Chief Justice: And the ones upon which the former convictions were had were quite different?

Mr. Wines: I do not think they were, your Honor, very different.

The Chief Justice: I thought you had all the language that was in the documents that were filed in No. 270.

Mr. Wines: They had a lot of that language.

The Chief Justice: Well, the letter that he read here omitted a lot of those allegations.

Mr. Wines: The letter that he read here, if your Honors please, is mild and restrained by comparison only when you have been reading a lot of the more --

The Chief Justice: Should we take into consideration the history of the battle and read into the record the documents that are in No. 270, or do we take the letter that he sent to the grand jury?

Mr. Wines: You have to take that letter.

Justice Murphy: That is all that is before us, is it not?

Mr. Wines: That is all before your Honors in that case. However, I say that is not mild and restrained unless you do compare it with the records in the other case, which comparison should not be made.

Our position on that argument in 270 may be very briefly stated, your Honor. The Illinois Supreme Court has held, not only in Mr. Parker's first case but in the Doss case, that communications with a grand jury, voluntary and unsolicited are against Illinois public policy, and the mode of enforcing that public policy that we have evolved, which we say does not deny federal due process, is to punish for contempt.

Our brief contains a demonstration, which we think is conclusive, that there was no common law right to communicate with the grand jury, except through the mediacy of the court, that even if there had been, that common law right does not rise to the dignity of a federal constitutional right, certainly in a state court, and that every state may choose for itself whether it will throw its grand jury open to the public for communication, which does not deny due process, either, or whether it will insulate it and immunize it substantially as it does a petty jury, that Illinois policy, as evolved her sovereignty, is to interdict voluntary communications with a grand jury and to punish the fact of such communications

as contempt of court and that that policy as thus evolved and uttered does not deny or infringe any federal constitutional right.

So far as there is any suggestion that the right to petition for the redress of grievances is involved, Illinois affords plenty of adequate means for redressing any grievances that petitioner may have had, and the record shows that he has undertaken to avil himself of them.

Justice Black: Have you cited the statute which prohibits making reports to the grand jury?

Mr. Wines: There is no such statute. It is a part of our reading of our common law.

Justice Black: Have you cited the case?

Mr. Wines: The first case decided was People v. Parker, the earlier case, in which this same petitioner received 10 days.

The Chief Justice: What other case?

Mr. Wines: The Doss cases. There is a gentleman in Illinois by the name of Mr. Doss, who, in one of the down-state counties periodically floods grand juries with mimeographed, impassioned appeals to indict a large number of the local county, and he has been in jail time and again for it.

Justice Black: Is that cited here?

Mr. Wines: Yes, sir, it is, and your Honors have fre-

quently had it -- People v. Doss. It is cited in our brief, your Honor, 382 Illinois 307, cited in our brief at page 9. He has been here time and again in an effort to obtain certiorari. It is a well settled Illinois public policy, and it is no surprise to petitioner.

Justice Rutledge: If his case was the first -- Did the Doss case come before any involving petitioner?

Mr. Wines: It came between his first and second.

Justice Rutledge: It can hardly be said that he might not have been surprised on the first one.

Mr. Wines: He might have been surprised on the first. I tried to use the present tense. It is no surprise to him, and he said in his motion for change of venue that he applied to the chief justice for permission to go before the grand jury. He said in his petition for a change of venue that he sought to exculpate himself -- we think inculpate himself -- that he had been before the chief justice or several justices and asked to go before the grand jury, and was told he could not do it, and he did it anyway. He think that is an exhaustion of state remedies. We say it shows a disobedience of a state order. We regard it as a contempt of court.

Justice Reed: I have one question. I understood you to say that Mr. Parker would have a remedy if there had been a refusal to call the matter to the attention of the grand jury.

Mr. Wines: It is in our brief. He can petition the chief

justice of the criminal court if he wants to, to impanel a special grand jury, or he can appear before any judge or magistrate and swear out a warrant for any citizen who has committed a crime. But his story is that everybody has conspired.

Justice Reed: Your answer to my question is that he can petition for a special grand jury?

Mr. Wines: Yes.

Justice Reed: And does that give him the right to present to that grand jury the charges that he has?

Mr. Wines: Only through the mediacy of the chief justice of the criminal court of Cook County or the circuit judge in any other county. He has no right in Illinois of direct access to a grand jury unless the grand jury calls him, unless the state's attorney calls him, or a judge gives him permission. We frankly admit it is Illinois' policy to treat a grand jury in this respect very much like a petit jury.

Justice Reed: A newspaper can call attention to crimes?

Mr. Wines: Yes.

Justice Reed: And publish it to the world?

Mr. Wines: Yes.

Justice Reed: But a petitioner, can he do that, too? Can he put an advertisement in a paper that there are certain crimes?

Mr. Wines: Yes, he can, but a direct communication to a

grand juror while sitting, it is the same analogy.

Justice Reed: The answer is that it is only when you communicate directly with the grand jury; is that right?

Mr. Wines: Direct communication exhorting grand juries to act as such.

Justice Reed: You have to exhort them?

The Chief Justice: Can a grand jury read a newspaper and get a lead from that, from which they can summon witnesses before them?

Mr. Wines: Yes, sir.

The Chief Justice: That makes it a little different from petit juries, doesn't it, the effect of notice of crime to a grand jury? In Illinois petit jurors cannot be controlled by newspaper articles, can they, in making a decision in a case?

Mr. Wines: They should not be, but they frequently do see newspapers because they are not always locked up.

The Chief Justice: I know, but when proper showing is made, do you have any cases in Illinois where a petit jury can be dismissed because of influence?

Mr. Wines: There are some cases.

The Chief Justice: So there is a distinction in that regard between petit juries and grant juries?

Mr. Wines: Yes, there is in that degree, but we say it is one that does not infringe any constitutional

rights.

Justice Frankfurter: In your study of grand jury proceedings in American states, have you encountered any state where a man can get before a grand jury unless either the grand jury itself summons him or the prosecuting attorney brings him before it?

Mr. Wines: There are states.

Justice Frankfurter: Which do what?

Mr. Wines: Which say that it is the right of any citizen to communicate directly with the grand jury.

Justice Frankfurter: Is that by statute? What I want to know is this: What legislation is there or practice through state court decision, which varies from what I understand to be the common practice in the United States, unlike the English practice, the prosecution is by an official prosecutor and not by private prosecutor.

Now, I do not understand that anybody can go before a grand jury held in the District Court of the United States except by leave of the United States Attorney or when summoned by the grand jury.

Mr. Wines: That is right.

Justice Frankfurter: Nobody can break in and say, "I want to talk to you."

Mr. Wines: No right to write to them either.

Justice Reed: That is not the issue we have here. The

question is whether a private person can notify the grand jury that a crime has been committed in his vicinity.

Mr. Wines: That is right. The answer to that under Illinois rules, as I say, is "No."

Justice Reed: And you say in other states the answer is "Yes."

Mr. Wines: In most states the answer is "No", and I want to concede that there are a few states that have held that a citizen has the right to go directly to the grand jury and say, "I want So and So indicted, and I will tell you why."

Justice Frankfurter: Did you say a while ago that Mr. Parker had a special grand jury summoned?

Mr. Wines: He could ask to have it summoned.

Justice Frankfurter: What is the source of that right?

Mr. Wines: That is a statute cited in the brief, your Honor.

Justice Frankfurter: Where is that?

Mr. Wines: That is in the brief.

Justice Frankfurter: Is that in 270, Mr. Wines?

Mr. Wines: That is in 428, your Honor. That is Illinois Revised Statutes of 1940.

Justice Frankfurter: What pages?

Mr. Wines: That is cited on page 19 of the brief in 428 and it is expounded in People v. Graydon.

Justice Frankfurter: What is the nub of that?

Mr. Wines: The nub of it is that I think any two citizens -- I think it may require joint action of two -- may appear before any judge who has authority to convoke a grand jury, which is the chief justice of the criminal court in Cook County but the circuit judge in other counties, and petition, setting forth his grounds for the impaneling of a special grand jury; and, if necessary, the appointment of a special state's attorney, not assistant but a special state's attorney, and a special attorney general, not assistant attorney general, if the state's attorney is interested or in another sense disinterested.

Justice Reed: I fail to see the pertinency of that here.

Mr. Wines: Because he says that the reason that his constitutional rights are infringed is that we have denied him the right to petition for redress of grievances. Our reply to that is that we have given him a means of redressing grievances, which is adequate but which is not the one he has chosen to pursue.

REBUTTAL ARGUMENT ON BEHALF OF THE PETITIONER

By Mr. Parker

Mr. Parker: I will answer that last question first. The record shows that I petitioned the Governor, that I petitioned the Attorney General, I petitioned every judge in Cook County, not only for a special grand jury but for anything to get to the grand jury, and I petitioned the

State's Attorney of Cook County.

The letters are in the record, nobody answered them. Nobody would answer me. I told them it was a serious crime, that a newspaper was violating the Constitution and the law, and nobody answered.

When I received no answer, then I wrote to the grand jury.

Now, you will find that in Wells v. Brock. I was surprised at the first case of People v. Parker. There was no case. Mine was the first case. They wanted to put me in jail, and there was no place in that record where I had observed my constitutional rights, so it was an open season, and I had to go to jail.

It was confusing. I was surprised. Everybody was surprised. You will find the courts were surprised. In Wells v. Brock they finally compromised by saying that a man can go to the grand jury after he has exhausted all of these remedies. Well, I had exhausted all of them.

That is all I am going to say on 428. He has not answered my right to freedom of speech, to defend my Government. I did not preach any sedition. It was an orderly letter. He didn't answer that.

Now, I want to answer Justice Frankfurter in the first case. I did not raise in my petition for writ of certiorari the question which he argued for an hour. I don't care about it.

The question I have before the Court in that first case is: Can the state by rules of practice deny a citizen the protection of the Constitution of the United States?

That is the question before this Court.

Now, he talks about -- he says this Court has decided that matter in the Edwardsville case. The Court there decided that the Illinois practice was good, except where jail is concerned, and there is jail for three months here.

Now, I want to clear up on several other points that the justices seemed confused on and the Attorney General did not seem to know the facts, and in two cases he did not know the law of our state. So, I want to clear that up.

In order to do that, remember in this first case I care nothing about the first orders, the contempt, or anything else, because they are meaningless when the federal question of whether the states can make rules that deny the protection -- I had filed with -- Shamberg was an assistant state's attorney. He called me a blackmailer after I had told him he sold out the state. If I had committed any blackmail, I should have been indicted. They shouldn't have fooled with me for two minutes. I should have been indicted.

Of course, there was no blackmail. He knew that. They had an examination before trial for a year, one year. I had to abandon my lawyers because the expenses of the examination before trial would have exhausted us.

In the examination before trial I produced all of the documents which I possessed and they copied them. All right.

Now, we step into court. Shamberg asks the order set forth there from the court to show cause why I should not produce them. I had produced them. There was no cause why I should not produce them. I had decided that was the easiest way out of this Scylla and Charybdis situation. I was offering no reason why, but I did not know how to produce them, where to produce them. There is nothing in the order.

So, I decided to file them with the court for protection. I did not want to file them with Shamberg.

If the order had directed me to file them with Shamberg, it would have been void, according to Lester v. The People. Shamberg would not come to my office. So, what was I to do? I filed them with the court.

Now, remember the court had ruled that they were material. He said I volunteered them. I protested as hard as I possibly could. The record shows I told the court they were dangerous documents. I knew what was in the documents, and their lawyers knew what was in the documents. They knew it. And yet they came back with an order to produce, and I filed them with the court.

At once, the Shamberg, the lawyers, who knew about it, asked that I be fined for contempt of court because they were scurrilous.

I had made some truthful statements there that some powerful people objected to. I was cited for contempt of court, and I tried to purge myself with an answer.

In the order citing me for contempt of court they said that my statements in that court record were untrue. Remember, I now was without a lawyer. We had to abandon the lawyer on account of the time. I was alone, and I did not know how to handle it.

So what I did was to file them, and then when they cited me for contempt, I tried to purge with an answer. He said that answer was terrible, and he said I should go to jail for the answer.

The court sentenced me to three months for filing. That is one sentence. Then the court fined me three months more for the answer.

Now, they ran against this in the appellate court:

> "Reiteration by way of confession and avoidance of a contemptuous article in an answer to proceedings to punish for contempt is not an original further contempt."

So I lost the second three months in the appellate court.

Now, as soon as I was sentenced for contempt of court, and I had a six months' sentence there, I went over, I had a stay of five days. I used it up trying to get out of it and working as best I could, and then I went over to the

Supreme Court of the United States with a written petition. He says oral. It was written, carefully written.

I had set up in my answer my constitutional rights, not only in the State of Illinois but here, the same constitutional rights which I amasserting here were asserted there.

I went over to the supreme court with the petition for writ of error, setting up my constitutional rights. It was denied, and I was directed to the appellate court where later on they were going to strip me of my constitutional rights.

Justice Black: Is that order in the record?

Mr. Parker: No. I am going to say to you that order, unfortunately and to the disgrace of Illinois, has been carefully removed from the archives of the Supreme Court of Illinois. It is a shocking thing. All records of that important transaction.

The gentleman seems to know about it. He knows something about it. I have never been in the court house, and my lawyer has never been in the court house, but the record of that important transaction -- he wants me sent to jail on that transaction, and that transaction has been removed from the archives of the State of Illinois.

Justice Black: Does that appear in the record?

Mr. Parker: Yes, it does, because when he filed his first brief in opposition to my petition for writ of

certiorari, where I had said that I had applied to the Supreme Court of Illinois for writ of error, he said I was a liar.

Justice Black: Does that appear in the record?

Mr. Parker: Yes, sir, it is in your record.

Justice Black: What page?

Mr. Parker: In opposition to the petition for writ of certiorari he plainly says I was a liar when I said so.

The Chief Justice: You made your application to a judge?

Mr. Parker: Yes, sir, that is the rule of practice.

The Chief Justice: You did not present it to the full court?

Mr. Parker: No, the court was not in session and the court rules provide that when the court is not in session, one judge shall act. He denied it, but I asserted my constitutional rights there, and while I was asserting my constitutional rights, the bailiff was outside, and when I walked out of the court they put me in the Cook County jail.

While I was in the Cook County jail defenseless, they amended the order.

Now, he claims -- Remember, the court had said I had no constitutional questions involved in the law suit. And while I was in the Cook County jail they amended the order, and he says now that I did not take that up to the court. None of us know what we did there because those records have been carefully extracted from the archives.

Justice Rutledge: Are you asserting now that you did take it up again?

Mr. Parker: No question about it. You mean whether I took up the second order?

Justice Rutledge: Yes.

Mr. Parker: I just do not know, your Honor, and the only record is in the supreme court. It was such confusion. I am in jail. I am behind the bars. The reason for it was as follows: --

Justice Rutledge: I should think you would know whether you took the second order up.

Mr. Parker: I do not remember, Mr. Justice. I really have forgotten.

Justice Rutledge: I am not asking you to go outside the record.

Mr. Parker: I really cannot remember that. In fact, I did not know it until he brought it up. I had forgotten it.

Now, the reason why that order was amended was as follows: The first order, as you will see, was void, absolutely void. Under the state law it was void without any constitutional questions. I had to redevelop that in my petition to Justice Fulton. So Justice Fulton said -- Justice Fulton had taken jurisdiction -- they couldn't change the order. They couldn't have changed that order, so he would not take jurisdiction.

"You go to the appellate court."

That took an entire proceeding and four or five days, and I had used my four or five days, so they took me out to the jail, and while I was in the jail they amended it.

I had no lawyer. Whether I got out and went to the court, I don't remember. When a man is in jail, he just doesn't remember. It has an effect on him that he never gets over, you see. What went on was all confusion.

Now, I went to the appellate court. The appellate court said, "By coming here you have lost your rights." I asserted them. I asserted them in the answer. I asserted them in the trial court.

The appellate court got rid of me by saying I had waived them. I went to the supreme court, and they just pushed them aside and said, "You waived them down in the appellate court."

I came down to this Court, not on whether it is an order or amended order -- What difference does it make? The supreme court said I should go to jail because I misconceived the order. Is justice that kind of a maze, that a man can misconceive an order and he goes to jail? Are the courts a trap for the unwary?

Justice Rutledge: Mr. Parker, I would like to ask one question and I would like to state it very carefully and have you answer it just as I put it.

Mr. Parker: Yes, sir.

Justice Rutledge: Does the record show -- I don't want yes or no to anything else -- does this record show whether you are a member of the bar or not?

Mr. Parker: I am not. The record shows I am not.

Justice Rutledge: All right.

Mr. Parker: The record shows I am not. Oh, no, I am not a lawyer.

The Chief Justice: Mr. Parker, is there included in the record the paper that you filed with Judge Fulton?

Mr. Parker: No, sir.

The Chief Justice: And did you have a copy of it?

Mr. Parker: No, sir. That was removed from the files of the State of Illinois.

Justice Black: Is that the paper that Mr. Wines told us about in regard to a certain constitutional question?

Mr. Parker: Yes, sir, he has described some of the contents of it.

Justice Black: And that paper is not in the record, he was discussing a paper that was not in the record?

Mr. Parker: It has been removed from the archives of the state. It is not in this record, and it is not in the archives of the state, although it was filed there.

Justice Reed: Is that the paper Mr. Wines now wants to file here?

Mr. Parker: No, that is not the paper. He has referred

to some of the contents of it, but it is not the paper he wanted to file.

Justice Frankfurter: And it is not the order from which this review is had?

Mr. Parker: No. Now, Mr. Wines has referred to the shocking charges in that church document. In my State of Illinois libel is a crime. It is a crime, and it is good for a year in the Cook County jail, better than six months, but in libel in my state there is a defense of the truth, and the people whom he says were libelled there, including certain judges and certain newspaper owners, have always had the courts open. I have never run away.

There is no use of contempt of court, because I am not entitled to a jury by contempt of court. What they are trying to do is punish libel by contempt. I have no jury.

But in a libel case, where I can assert the truth, I am before a jury. No one has sued me for libel. I have not been arrested for libel. This has been going on for a great many years.

He said that I said to hang certain judges. I never said that, your Honors. I said they should be tried and if found guilty they should be hanged. I say that any judge who violates the Constitution should be hanged. Constitutions are precious things. They are obtained by bloodshed, and violations of constitutions bring on more bloodshed. I say

that any judge -- I don't care who he is -- who violates a state constitution should be hanged, if he is found guilty. That is what I said.

I didn't say it -- it was the Council of the Church that said it. They had a right to say it. It is what they believed. My church believes that the law should be upheld, that constitutions are sacred things.

My sires spilled their blood all the way from Lexington to Valley Forge, and from Valley Forge to Yorktown, with Washington, to establish that Constitution. Wouldn't I be a puny thing, the tenth man of that family of men, born on American soil, if I didn't defend that Government with the best of my power?

What do I care about jail in the defense of my country? I am a little thing. I am nothing. But we have before this Court an important principle. I happen to be just part of it, that is all.

Now, I had told the court that certain archives of the Puritan Church had been removed to Canada for safekeeping. I made it under oath, and in the examination before trial I produced all I had. I had no objection to it. If they all had been here, we would have produced them. We didn't want to fight.

I have cleared up that there were two sentences. Justice Reed asked on that point. There were two sentences, one for

filing after the court had ruled that they were material, and the second one for the answer.

In their petition for sentence for contempt of court they had said that my charges were untrue, so I thought the best way to answer that was to slap them on again under oath, which I did -- under oath. My answer was under oath, and I reiterated every charge under oath.

He did not touch on where the supreme court had ruled that I had to produce those documents. He did not touch on the fact that the Sixth Article of the Constitution says that the Constitution and the law are the supreme law of the land in every court. That means the police court, that means the municipal court, that means the appellate court, that means the supreme court. None of them, I claim, can deny me my rights when I assert them. I do not care what their practice is.

I say my rights as an American citizen are sacred when I observe the law.

The City of Edwardsville case, which Justice Frankfurter referred to, provides that that practice is O.K., provided it does not convey jail. I think it was written by Chief Justice Taft. Jail is involved here, three months.

I think I have answered everything. If there are any questions, I have a lawyer here, the lawyer who defended me in the Supreme Court. He is here, if there are any questions

about these orders, and so forth, that you want to ask him about.

The appellate court recommended his disbarment because he defended me, and the Bar Association did not continue with it.

Now, if there are any questions that I have not answered, the Attorney General may not have understood all the law and the facts in this case, and if you desire, he will answer them.

The Chief Justice: If you have concluded, the case is closed.

(Whereupon, at 2:10 p.m., oral argument in the above-entitled causes was concluded.)

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