

ARTHUR GARFIELD HAYS CIVIL LIBERTIES PROGRAM  
ANNUAL REPORT

1968-1969 (Re-created)

Frank Jones and Douglas Kramer were Graduate Fellows and Marcia Robinson Lowry was the J.D. Fellow. For the most part, the pattern of work was similar to that of previous years -- a certain amount of litigation, scholarly publication, and work with the ACLU and other public interest organizations. There were, however, two developments of a rather different sort.

The first was the wind-up of the Project on Social Welfare Law, which as noted in the Introduction to this history functioned for four years as a pioneer in the development of legal services for the poor, particularly in public assistance. By almost any yardstick the Project was a success in terms of its major objective -- the stimulation of an important new legal field. Its Welfare Law Bulletin (edited by Carol Katz) and other publications made important contributions, as did its litigation and other services. But with the coming to maturity of the welfare law area, including better financed projects and publications, we concluded that our job was done and the work could be carried forward by others. The staff report for this year from the Project's senior lawyer James Graham, is appended. Staff lawyer Lois Sheinfeld participated in many aspects of the Project's work, as did Traute Mainzer when she was on the staff.

The second new development this year was that, more than ever before, the Fellows worked directly for organizations in the field. While they continued to receive some supervision from Norman, all the Fellows worked at least part of the time with practicing lawyers. Turning now to the areas of work as described by the Hays Fellows:

**Frank Jones** performed research for the President's Commission on Study of Violence in the U.S. and prepared a "kit" for the ACLU for litigation under 42 USC 1983, 1985 and 1988, including pleadings, interrogatories and voir dire, among other topics.

He also engaged in litigation for the NAACP LDF on several criminal cases, and he researched and helped to prepare a petition for certiorari to the Supreme Court in *In Re Fletcher*, Misc. 1754.

Finally, Frank acted as staff counsel for the equality committee of the ACLU. He prepared a memoranda on equal educational opportunity and the concept of compensatory treatment, state financial apportionment formulas for aid to education, and whether the voting age should be lowered to 18.

**Marcia Robinson Lowry** worked on the Violence Commission report, including violence in the American labor movement from the turn of the century to the present, and on the suppression of free speech and assembly rights by right-wing political groups. She also conducted research for Roy Lucas, a leading pro-choice lawyer, on a brief challenging the

constitutionality of state anti-abortion laws as well as the procedure for initiating a challenge to the New York abortion statute, and on a reply memorandum in a criminal prosecution under the California abortion statute. Marcia also did research for a model brief on whether a state may constitutionally confine a mentally ill person who is not dangerous to society but only to himself.

Frank and Marcia also worked on the 1969 supplement to Political and Civil Rights in the United States, in particular the voting rights and educational discrimination chapters.

**Doug Kramer** worked on a range of matters, notably on the ACLU brief in a leading First Amendment case, *Brandenburg v. Ohio*, 395 U.S. 444 (1969), which considerably strengthened protection for speech advocating violence that is neither imminent nor likely to occur.

In addition, Doug prepared a memorandum setting forth a model Ombudsman bill for NYCLU. He assisted in preparation of a brief in *Law Students Civil Rights Research Committee v. Wadmond* in the Southern District of New York, involving a constitutional attack on certain practices of the New York Committee on Character and Fitness of the Bar Association of the City of New York. Judge Motley granted the relief sought, but on appeal to the Supreme Court, some of that relief was cut back or limited on a 5-4 ruling (Norman argued the case). 401 U.S. 154 (1971).

Doug also did research on criminal trials based on student demonstrations at City College of New York, the 1968 "Armory" anti-war demonstrations, a spring 1969 anti-war parade, and an underground Staten Island college newspaper. He also prepared a memorandum for distribution to high school students on the impact of *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503 (1969), which expanded the free expression rights of students protesting on school grounds. Doug also drafted a memorandum concerning the Treasury Department's seizure and confiscation of Dick Gregory's campaign literature in his bid for the presidency. Finally, Doug contributed to the annual supplement to Political and Civil Rights in United States and assisted in the preparation of materials for Norman's seminar.