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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

-0-

RICHARD B. SOBOL, et al

Civil Action

vs

No. 67 243 E

LEANDER H. PEREZ, SR., ET AL

-0-

Transcript of excerpt of proceedings had January 22,
1968 in Open Court. The HON. ROBERT A. AINSWORTH,
HON. FREDERICK J. R. HEEBE, HON. FRED J. CASSIBRY,
Judges presiding.

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1 BY MR. SESSIONS:

2 Before Mr. Bronstein calls his first witness,
3 may it please the Court, we should like to solicit
4 a stipulation from all parties relative to the Dis-
5 covery pursued by the United States under its motion
6 granted by Judge Cassibry. In examining the records
7 under the Rule 34 Motion granted by the Court, the
8 United States attorneys have seen the records of the
9 Louisiana State Bar Association pertaining to the Bar
10 examinations given as to the names of both successful
11 and unsuccessful candidates for admission by the
12 Louisiana Supreme Court. And, insofar as the records
13 of the Unauthorized Practice of Law Committee is con-
14 cerned, they have seen many files involving the names
15 of third persons involved in complaints or matters
16 within the jurisdiction of the Unauthorized Practice
17 of Law Committee, which are not pertinent to the issues
18 in this case. We feel an obligation and duty to
19 those persons as to whose identity is known to Government
20 counsel, or in the event that copies have been made,
21 known to others, in lieu of a Rule 30 (b) Order by the
22 Court to protect those third parties, both unsuccessful
23 Bar Candidates, or persons as to whom complaints have
24 been made or who have been involved in proceedings or
25 matters within which the Unauthorized Practice of Law

1 Committee has jurisdiction, that all parties stipulate
2 that any information obtained by any attorney pertain-
3 ing to persons not directly involved in this law suit,
4 whether business firms or other associations of a
5 partnership nature, whether corporate or individual,
6 be held to be confidential and to be used only for the
7 purposes of this case and are not to be disclosed for
8 any other purpose or to any other person.

9 BY THE COURT:

10 Is that agreeable, Mr. Fiss?

11 BY MR. FISS:

12 As long as it is understood that for the purposes
13 of this case they could be disclosed as necessary on
14 the record, I have no objection.

15 BY THE COURT:

16 Is that acceptable?

17 BY MR. SESSIONS:

18 Yes, sir.

19 BY THE COURT:

20 Did anyone else have any access to those records
21 other than Mr. Fiss?

22 BY MR. SESSIONS:

23 Or who Mr. Fiss may have let see them.

24 BY MR FISS:

25 None other than two letters that Mr. Sessions

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agreed Mr. Bronstein have.

BY THE COURT:

As far as you are concerned or have any knowledge,
Mr. Bronstein, I assume the stipulation is agreeable.

BY MR. BRONSTEIN:

It is.

BY THE COURT:

It will be so noted.

BY MR. SESSIONS:

I would assume that all other parties so stipulate.

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C E R T I F I C A T E

I certify the foregoing pages numbered 2 thru 4 contain
a true and correct transcript of an excerpt of the proceedings
taken January 22, 1968 in the above entitled and numbered
cause, all as will be more fully seen by the title page
hereof.

Joseph H. Echezabal
Official Reporter
United States District Court

-0-

1 January 22, 1968

2 BY THE COURT:

3 We will call the case.

4 BY THE CLERK:

5 Civil Action Number 67-243, Robert Sobol, et al
6 versus Leander H. Perez, Sr., et al.

7 BY THE COURT:

8 Are the parties ready?

9 BY MR. BRONSTEIN:

10 The Plaintiff is ready.

11 BY MR. FISS:

12 The United States is ready.

13 BY MR. SESSIONS:

14 Intervenor Defendant, Bar Association, State
15 of Louisiana, ready.

16 BY THE COURT:

17 I think we all should state appearances.

18 BY MR. BRONSTEIN:

19 Alvin J. Bronstein, 603 N. Farah Street, Jack-
20 son, Mississippi, Attorney for Plaintiff. If the
21 Court pleases, there are attorneys who are Plain-
22 tiffs and have been admitted by order of this
23 Court as counsel for Plaintiff. Do you want me
24 to introduce other counsel?

25 BY THE COURT:

1 Yes, proceed.

2 BY MR. BRONSTEIN:

3 Mr. Robert Collins, New Orleans, Louisiana,
4 344 Camp Street. Mr. Lolis Elie, 344 Camp Street,
5 New Orleans, Louisiana. Nils R. Douglas, 344
6 Camp Street, New Orleans, Louisiana, all members
7 of the Bar of this Court. Mr. Anthony Amsterdam,
8 3400 Chestnut Street, Philadelphia, Pennsylvania.
9 Robert B. Sobol, 606 Common Street, New Orleans,
10 Louisiana, a member of the Bar of this Court.

11 BY MR. FISS:

12 Owen W. Fiss for the United States, Plaintiff-
13 Intervenor, Washington, D.C., Department of Justice.
14 My co-counsel will be Hugh Fleischer, also of the
15 Department of Justice, New Orleans, Louisiana,
16 333 St. Charles Street.

17 BY MR. PROVENSALE:

18 Sidney W. Provensal, Jr., 1014 Whitney Bank
19 Building, New Orleans, Louisiana, representing
20 the 3 Defendants.

21 BY MR. BRAHNEY:

22 Thomas M. Brahney, III, Room 104, Supreme Court
23 Building, New Orleans, Louisiana, Representing
24 the State of Louisiana, Defendant-Intervenor.

25 BY MR. DOWLING:

1 John P. Dowling, President of the Criminal
2 Courts Bar Association, Representing the Criminal
3 Courts Bar Association.

4 BY MR. SESSIONS:

5 Cicero C. Sessions, Alvin R. Christovich, Sr.,
6 Wood Brown, III, Representing the Louisiana State
7 Bar Association, Intervenor-Defendant.

8 BY THE COURT:

9 Are those all of the appearances?

10 Now Gentlemen, we first have set for this
11 morning the Motion to Dismiss filled by the In-
12 tervenor-Defendants, Louisiana State Bar Association
13 and for a Judgment on the pleadings, and a Motion
14 of the Intervenor-Defendants, State of Louisiana
15 for a summary judgment and in the alternative to
16 dismiss the suit.

17 The Court has considered the briefs and memoranda
18 filed by the various parties. Before ruling, how-
19 ever, we will offer you an opportunity, if you
20 feel that you have not covered everything in your
21 brief, to make some extra remark, any extra re-
22 mark that you want to make, that you desire to
23 make.

24 You may waive that right if you desire because
25 the Court is going to rule very shortly on these

1 motions.

2 Now, does the Intervenor-Defendant, Louisiana
3 State Bar Association wish to say anything?

4 BY MR. SESSIONS:

5 We would like to make an oral submission, if
6 Your Honor please.

7 BY THE COURT:

8 You may proceed.

9 BY MR. BRAHNEY:

10 I would like to waive mine, Your Honor.

11 BY MR. SESSIONS:

12 May it please the court: The Louisiana State
13 Bar Association, as a predicate for its appearance
14 here wishes to make it clearly understood that we
15 are intervening in this case for the primary pur-
16 pose and limited purpose of protecting the con-
17 stitutionality of the Acts which the Louisiana
18 legislatures have passed and are under attack here.
19 Those Acts are Section 213 and 214 of Title 37 of
20 the Revised Statutes of Louisiana.

21 Our posture as an intergrated bar association
22 is that of the administrative agency of the Supreme
23 Court of Louisiana in the Judicial Branch of
24 Government in regulating the practice of law which
25 involves not only the qualification and admission

1 by bar examination but also insofar as visiting
2 non-admitted attorneys are concerned. And, in
3 filing our Motion, our Motions which are before
4 this Court today and out other pleadings, we wish
5 it specifically understood that we cast no per-
6 sonal aspersions whatsoever upon the public of-
7 ficials of the Parish of Plaquemines, either its
8 District Attorney or sitting judge and we merely
9 take the situation as we find it, factually, based
10 upon the depositions and documents which were here
11 before we were allowed to intervene.

12 In respect thereof, we rely, in support of our
13 Motion upon the depositions of Judge Leon, Mr.
14 Sobol and the District Attorney, Lee R. Perez, Jr.
15 We offer those depositions in evidence in support
16 of our Motion and we also include in that offer
17 the exhibits attached to the different depositions,
18 one of which includes the Bill of Information.

19 BY THE COURT:

20 Are you arguing your Motion for Summary Judgment?

21 BY MR. SESSIONS:

22 The Motion to Dismiss under Rule 12(b).

23 BY THE COURT:

24 Now, the difficulty the Court has there is that
25 there are disputed questions of fact between the

1 parties and the Court cannot grant a Summary
2 Judgment if there are such disputed facts.

3 Now, on questions of law, that's another thing.
4 We have not heard you out but if there are questions
5 of fact I don't think you are going to get very
6 far.

7 BY MR. SESSIONS:

8 I think the basis, the gravamen of our Motion
9 presented undisputed or undisputable questions of
10 fact at the time. I shall briefly summarize those
11 facts which we consider not to be disputed, pre-
12 dicated upon the deposition, the depositions which
13 I have already mentioned.

14 Mr. Sobol, in his deposition says that he first
15 went to Jefferson -- went to Plaquemines Parish
16 accompanied by Mr. Douglas, a qualified Louisiana
17 attorney, was introduced to Judge Leon as a visit-
18 ing attorney from Washington, D.C., to be associat-
19 ed with Mr. Douglas in representing Mr. Duncan in
20 the transaction involving a push-around in a
21 school yard.

22 Judge Leon, in his deposition, does not dispute
23 this, he cannot recall and cannot confirm that the
24 introduction was made to him in that way. So,
25 there is no denial or contradiction of the testi-

1 mony of Mr. Sobol as to the manner in which he
2 was introduced to the Court.

3 Now, the Bill of Information in this case,
4 charges before the Court, does not specify any
5 Statute of the State of Louisiana in which respect
6 I invite the Court's attention to the provisions
7 of Article 463 and 464 of the Louisiana Code of
8 Criminal Procedure. The form of the Bill of In-
9 formation is set forth in 463, the form of the
10 Bill of Information here follows generally that
11 short form statutorily approved.

12 BY THE COURT:

13 He is charged with practicing law without be-
14 ing licensed to do so.

15 BY MR. SESSIONS:

16 No, sir. He is charged with practicing law.
17 This is the whole gravamen of the case. He is
18 charged with practicing law without having been
19 qualified and licensed by the Louisiana Supreme
20 Court.

21 BY THE COURT:

22 I don't see the words Supreme Court, but, where-
23 in does what you say differ from what I say?

24 BY MR. SESSIONS:

25 Because Section 213, Title 37, provides generally

1 for qualification by and licensing by the Supreme
2 Court and Section 214, the constitutionality of
3 which Plaintiff attacks is an exception to 213
4 because it provides for visiting attorneys who
5 are temporarily present in the State to be
6 authorized and qualified to practice by the Judge
7 before whom they appear in specific cases.

8 BY THE COURT:

9 He was charged with practicing law without
10 being admitted to practice. You are contradicting
11 the Court and I don't see anything for you to
12 contradict the Court about.

13 BY MR. SESSIONS:

14 No, sir.

15 BY THE COURT:

16 Without the words Supreme Court of Louisiana,
17 how is the Court in error.

18 BY MR. SESSIONS:

19 Because, the Supreme Court of Louisiana has
20 nothing to do with this as far as our Motion is
21 concerned. That is the graviment of our complaint.
22 Section 214 does not require qualification and
23 licensing by the Louisiana State Supreme Court.

24 It is implicit in the requirements of the Code
25 of Criminal Procedure that the State shall -- that

1 charge shall be spelled out and stated in the Bill
2 of Information or the Indictment. And, that was
3 not done here. So that we take the position here
4 today that Mr. Sobol is charged with violating the
5 provisions of Section 213 only because he was not
6 qualified and licensed by the Louisiana Supreme
7 Court, which puts him in the category of one not
8 temporary within the State but one permanently
9 present and who has to take a bar examination.
10 Whereas, the indisputable facts and it is con-
11 tained in the many depositions before the Court
12 that Mr. Sobol -- Mr. Sobel's deposition states
13 that he was only temporarily present within the
14 State and that the Judge was told that he was
15 an attorney from Washington, D.C.

16 BY THE COURT:

17 It seems that Mr. Provensal would dispute
18 that.

19 BY MR. SESSIONS:

20 That's why Mr. Provensal eliminates Section
21 214, by his judicial confession, by his admission
22 that the domicile of Mr. Sobol is in Louisiana
23 instead of Washington, D.C. That eliminates any
24 consideration of Section 214 as a basis for the
25 Bill of Information which plainly, on its face,

1 does not indicate that it was based upon a vio-
2 lation of 214 at all, but 213.

3 BY THE COURT:

4 And, you think that we can rule on this with-
5 out hearing the case.

6 BY MR. SESSIONS:

7 Yes, I think on the depositions which are be-
8 fore this Court.

9 BY THE COURT:

10 You see, Mr. Provensal does not dispute the
11 question of whether Mr. Sobol is temporarily in
12 the State of Louisiana.

13 BY MR. SESSIONS:

14 I say that Mr. Provensal, by his affirmative
15 pleadings, that Mr. Sobol is a domiciliary of
16 the State of Louisiana has eliminated this question
17 from any consideration.

18 BY THE COURT:

19 How do you understand the facts that have been
20 developed by the deposition, that he is or is not
21 here temporarily?

22 BY MR. SESSIONS:

23 That he is temporarily in the State of Louisi-
24 ana as of January 25, 1967, not today.

25 BY THE COURT:

1 And that would not be the same thing as domiciled.

2 BY MR. SESSIONS:

3 That is correct. I am speaking of the depositions
4 already taken. There is no dispute. There is no
5 question, at least in the depositions, there are
6 pleadings, but there is no controversy in the
7 depositions.

8 BY THE COURT:

9 You say that there is no state of facts under
10 which this Plaintiff could prevail in this case.

11 BY MR. SESSIONS:

12 Yes, I say there are.

13 BY THE COURT:

14 Then, if that is true, then your Motion must
15 be denied because the Fifth Circuit has ruled
16 time and again that if there is any state of facts
17 upon which the Plaintiff might prevail then the
18 Motion must be denied.

19 BY MR. SESSIONS:

20 I suggest that there is one proposition in our
21 Motion that the judgment may be rendered on the
22 pleadings and the judgment may be rendered plead-
23 ing our Motion as a Motion for Summary Judgment
24 as one and the Court could enjoin the further
25 prosecution of this Bill of Information.

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BY THE COURT:

Well, let's see. Perhaps I missed that. You say that a judgment can be rendered on the pleadings. I would assume that you mean pleadings, depositions and so forth which have been offered.

BY MR. SESSIONS:

Yes, sir.

BY THE COURT:

You mean that the Plaintiff can prevail under the existing state of the record.

BY MR. SESSIONS:

In a limited way, in the sense that the Plaintiff has sued, attacking the constitutionality of 214 and that is not a real issue before this Court because the plain allegations of fact of the Bill of Information exclude any pertinents to Section 214. So, its constitutionality today does not have to be reached by this Court.

BY THE COURT:

Do you seek a dismissal of the suit or a disposition of the case by way of Plaintiff getting a limited judgment?

BY MR. SESSIONS:

A dismissal of the suit except in one respect, only.

1 Let me reiterate. Section 214 has passed
2 completely out of the case because the pleadings
3 of the Defendant exclude any possibility of the
4 averment of facts and the Bill of Information
5 excludes any possibility of Section 214 being the
6 basis for the Bill of Information, any possibility
7 whatsoever.

8 So that, no attack upon the constitutionality
9 of Section 214 is presently present or available
10 insofar as this Court is concerned on the basis
11 of the particular Information before this Court,
12 the prosecution of which is sought to be enjoined.

13 As far as 213 is concerned, there is no dispute,
14 there is no contradiction except in Mr. Provensal's
15 answer. There is no contradiction in Plaintiff
16 Sobol's deposition, his testimony under oath, he
17 is a domicilliary of the District of Columbia and
18 also only temporarily is present in the State of
19 Louisiana. Now, temporarily present is an antonym
20 of permanently present. This is completely ex-
21 cluded by Mr. Sobol's own testimony.

22 I believe under Dombrowsky versus Pfister a
23 proper analysis is involved there under the
24 circumstances of this case in view of the fact of
25 the ambiguity of the Bill of Information in that

1 it does not specify which statute is proceeded
2 under. Concededly the Code of Procedure of the
3 State of Louisiana, under the Code that would
4 not be grounds for dismissal in the State Court
5 on a Motion to Quash a Bill of Information but
6 it would be grounds for a Motion to Supress.

7 BY THE COURT:

8 What judgment do you think the Court could
9 render?

10 BY MR. SESSIONS:

11 I think the Court could render, since there
12 is no question of fact disputed before this
13 Court, that as of January 25 and not speaking
14 of today, but as of January 25, 1967, Mr. Sobol's
15 testimony is not disputed, that he was only
16 temporarily present in the State. And, based
17 upon his undisputed testimony he was intro-
18 duced to the Court under Section 214 to appear
19 representing Duncan before Judge Leon. That is
20 not in dispute.

21 BY THE COURT:

22 You think that the prosecution, in the present
23 state of the record, should be enjoined.

24 BY MR. SESSIONS:

25 Yes, we submit the matter on that basis.

1 There is no necessity for this Court to ever
2 reach the question of constitutionality of
3 Sections 213 or 214.

4 BY THE COURT:

5 I understand your argument about the Bill
6 of Information with respect to 213 and 214 but
7 I don't quite understand what your authority is.
8 What authority do you say there is under these
9 circumstances to enjoin this State procedure?
10 Do you say that it is under the Dombrowsky ruling?

11 BY MR. SESSIONS:

12 Yes, I think that Dombrowsky has brought us
13 under these circumstances to enjoin the prosecution
14 under that Bill of Information or under any other
15 bill because I believe that under the 1964 Civil
16 Rights Statute, Mr. Sobol, once he acquires the
17 franchise of the State of Louisiana which is
18 a privilege, once that is acquired, once he
19 acquires that franchise to appear and represent
20 Mr. Duncan, then he had a right to be recognized.

21 BY THE COURT:

22 You don't feel that he had to have associate
23 counsel with him each time he went to Court?

24 BY MR. SESSIONS:

25 No, sir. All that 214 requires, as an

1 analogy to General Rule 1 of the Court...

2 BY THE COURT:

3 Well, is there to be any limitation on the
4 number of associates that he may have?

5 BY MR. SESSIONS:

6 There is none in the Statute. It is simply
7 a question of whether he is temporarily present
8 within the State and shall be presented in each
9 case, case by case.

10 BY THE COURT:

11 Well, is this setting a trap for Mr. Sobol
12 so that in all or any of the Parishes, the 67
13 Parishes of the State of Louisiana that the
14 prosecutor may determine for himself whether
15 Mr. Sobol is temporarily present and prosecute
16 him from time to time and harass him if he gets
17 into his representation of negroes in the pur-
18 suance of their Civil Rights? Is this a trap
19 which is set deliberately or inadvertantly in
20 which he would be subjected to such situation.

21 BY MR. SESSIONS:

22 The Bar Association is setting no trap in
23 our presentation of this situation and I want to
24 make that very clear.

25 As far as the other 63 Parishes are concerned,

1 we contend that the sole and only issue before
2 this Court concerns Mr. Sobol and Plaquemines
3 Parish and what Mr. Sobol has done since Jan-
4 uary 25, I don't know and this Court does not
5 know. If Mr. Sobol had passed the point where
6 he is temporarily present then the antonym of
7 that presence is permanently present in the
8 State of Louisiana and it would seem to me that
9 this is for another Court and another occasion.

10 BY THE COURT:

11 Mr. Bronstein argues in his brief that the
12 State Statute is vague and indefinite and has
13 interpreted it a trap, if I paraphrase his
14 language correctly so that Mr. Sobol is unable
15 to tell at what point he has crossed the line
16 between temporarily and permanently present and
17 that, therefore, the Statute is unconstitutional
18 on its face.

19 BY MR. SESSIONS:

20 I don't think that that is a valid or legiti-
21 mate argument. I see no unconstitutionality on
22 its face.

23 It might well be unconstitutional if the
24 Louisiana legislature in its inherent and im-
25 plicit authority to control the practice of law

1 should seek to amend or if the Supreme Court should
2 adopt a rule or corollary to 213 or 214...

3 BY THE COURT:

4 Has that been offered in any way as one of the
5 exhibits?

6 BY MR. SESSIONS:

7 I propose, at the proper time to offer the
8 entire Articles and By-laws. They have the effect
9 of law and are in Volume 21A West Revised Statutes.
10 I consider that the Court may take Judicial Notice
11 but I will offer and file it now.

12 BY THE COURT:

13 It would strike me that we would take Judicial
14 Cognizance if it was necessary.

15 BY MR. SESSIONS:

16 But, let me finish my analogy. If the Louisiana
17 Legislature should amend Section 214 or the Supreme
18 Court should modify its own mandate as to the
19 qualifications for the practice of law, say that
20 a non-resident attorney is considered by way of
21 comparison to the new Rule in the United States
22 District Court for the Southern District of
23 Mississippi where a non-resident attorney may be
24 qualified in that state for only one appearance,
25 rather one would be associated in one case for

1 every 12 month period, then I think this would be
2 plainly unconstitutional on its face.

3 Also, I believe that any limitation put on the
4 number of cases might well be unconstitutional on
5 its face.

6 I don't believe there is any necessity for the
7 legislature or the Supreme Court in its exercise
8 of its control of this provision which has not
9 been deligated to central government and is still
10 reserved to the State under the Tenth Amendment
11 needs any constitutional refinement as far as
12 ambiguity is concerned on its face.

13 If that would be so then every Statute that
14 depends upon domicile or residence, and there are
15 many of them, Tax Statutes and otherwise, then all
16 of those Statutes would also be unconstitutionall.

17 BY THE COURT:

18 It depends upon whether any of these Statutes
19 infringe on a federally constitutionally protected
20 right.

21 BY MR. SESSIONS:

22 I would have to concede that.

23 BY THE COURT:

24 Do any of you gentlemen here wish to say any-
25 thing in connection with what Mr. Sessions has

1 just offered?

2 BY MR. PROVENSAL:

3 May it please the Court, I will be kind of
4 brief.

5 When the Bar Association attempted to intervene,
6 I understood that they were intervening on my side.
7 I didn't know that they were going to ask the Court
8 to enjoin my client.

9 To begin with, the deposition of Judge Leon is
10 quite clear. He says that he was introduced in
11 the proceedings which is a Juvenile Court pro-
12 ceedings in the manner, this is Mr. Sobol, how
13 are you Mr. Sobol period. No one other than Mr.
14 Sobol appeared in the proceedings of Simple
15 Battery. The juvenile proceedings were nolle
16 prosced. At no time did anyone appear in the
17 Simple Battery proceedings.

18 BY THE COURT:

19 Mr. Sobol says they did in his deposition. Is
20 there a dispute on that?

21 BY MR. PROVENSAL:

22 The record of the two proceedings revealed by
23 the minutes of the clerk who was present and who
24 was not present.

25 BY THE COURT:

1 It seems to me that I read somewhere that
2 Mr. Collins went with him in connection with the
3 Criminal Prosecution, other than the juvenile
4 proceedings.

5 BY MR. PROVENSAL:

6 No, sir. The only time Mr. Collins was present
7 was at the trial of the Juvenile Court proceedings.
8 At that time Mr. Collins requested a Bill of
9 Particulars and a Motion to Quash.

10 BY THE COURT:

11 Who hears juvenile proceedings?

12 BY MR. PROVENSAL:

13 The same judge, the judge recesses the Twenty-
14 fifth Judicial Court and then goes into a different
15 room and...

16 BY THE COURT:

17 It is the same judge?

18 BY MR. PROVENSAL:

19 The same judge and he convenes the Juvenile
20 Court and the juvenile proceedings were nolle
21 prosed, as I have mentioned to you. Then the
22 criminal proceedings were brought charging this
23 person with Simple Battery. At this time Mr. Sobol
24 and Mr. Sobol alone appeared. Judge Leon said that
25 the first time he knew that Mr. Sobol was not an

1 attorney admitted to the practice of law in
2 Louisiana was when he had a conversation with one
3 member of the firm of Collins, Douglas and Elie,
4 right before sentencing, the day before sentencing.

5 BY THE COURT:

6 I take it that you don't agree that I may issue
7 a judgment against you in these proceedings under
8 the pleadings. Now, what about the Motion to
9 Dismiss, I would assume that you will go along with
10 the Motion to Dismiss.

11 BY MR. PROVENSAL:

12 I filed a Motion to Dismiss on different
13 grounds.

14 The Bar Association is incorrect in what it
15 says. The Bill of Information was filed in the
16 Court. A bench warrant was issued prior to the
17 time of the arrest and prior to the institution
18 of proceedings on this Bill of Information. All
19 of this is in the records. And, we contend that
20 purely and simply this Court doesn't have to de-
21 fine what is temporary in the State. It is for
22 the Twenty-fifth Judicial District Court to deter-
23 mine whether or not Mr. Sobol was temporarily with-
24 in the State. It is a question of whether or not
25 any evidence can be adduced at that time to show

1 his subsequent activities within the State to
2 determine whether he really intended to stay in
3 the State and that he was not here temporarily.
4 All of that would have to be passed upon. Was he
5 temporarily in the State or wasn't he temporarily
6 in the State.

7 We disagree with the Bar Association that the
8 opposite of temporary is permanently domiciled,
9 we disagree, that's not so by any stretch of the
10 imagination. It is a pure and simple contention
11 of here is a man who moved into the State in July,
12 moved his family with him and his wife and child-
13 ren and are renting a house and has credit cards
14 which are used throughout the State, filed
15 Louisiana Income Tax Returns, obtained a Louisiana
16 driver's license, receives all of his mail here,
17 opened up an office, obtained a telephone in his
18 office, a telephone at his home.

19 BY THE COURT:

20 If not temporarily, what is it? What term
21 would you use?

22 BY MR. PROVENSALE:

23 I don't think you have to have an opposite.
24 The Statute doesn't say domiciled. It just says
25 that he must be temporarily within the State,

1 temporarily.

2 BY THE COURT:

3 You say that he was not temporarily within
4 the State. That's what I said to Mr. Sessions
5 during his argument. I read that in this great
6 mass of papers that was handed me for reading.

7 BY MR. PROVENSAL:

8 Well, may I make a short statement. The
9 issue for all practical purposes, and my trial
10 brief, in my trial brief, I raise each issue that
11 I think is before the Court and in there one is:
12 Is Mr. Sobol temporarily within the State or was
13 he temporarily within the State on January 25,
14 1966.

15 Thank you.

16 BY THE COURT:

17 Mr. Bronstein.

18 BY MR. BRONSTEIN:

19 Your Honor, Mr. Amsterdam will respond.

20 BY THE COURT:

21 I just ask you that we move along on these
22 things because we have considered your briefs.

23 BY MR. AMSTERDAM:

24 We recognize the imposition of a long three
25 judge trial and I will be very brief.

1 I think the only important statement or po-
2 sition or new matter that Mr. Sessions has raised
3 is and, we agree with Mr. Sessions on the facts
4 of the case that Mr. Sobol is not in violation of
5 the Statute and I would like to speak particularly
6 to Judge Cassibry's point. We also agree that
7 under the law in Dombrowsky an injunction could
8 issue on that ground and not simply because he
9 is not violating a Statute because if he is not
10 violating a Statute then this is a case of
11 harassment which is one ground for injunction.

12 We do not agree with Mr. Sessions' interpre-
13 tation of the Statute nor with Mr. Provensal's.
14 In deed, our whole contention is and the reason
15 for our disagreement is that the Statute is mean-
16 ingless. What is temporary, what is Association,
17 in an exercise of this vagueness Statute is
18 meaningless and as such has a deterrent effect.

19 BY THE COURT:

20 You had trouble with your word Association in
21 your brief. You wrote the brief?

22 BY MR. AMSTERDAM:

23 Yes, sir.

24 BY THE COURT:

25 I don't understand why you have a problem there.

1 I could understand a problem with temporary or
2 permanent but the word association, everybody
3 knows what association is.

4 BY MR. AMSTERDAM:

5 In this case I think so, where one is intro-
6 duced by another attorney. But, our complaint
7 seeks injunctive relief. Now, in the other case,
8 the Dombrowsky Case...

9 BY THE COURT:

10 Well, I noticed that counsel for the Bar
11 Association also said that he didn't think there
12 was any limitation on the number of associations.
13 He didn't urge the question of when temporary
14 runs out and permanent takes over. Of course,
15 that is a matter of construction. This is the
16 matter that you labored hardest on in your brief.
17 Did I use the words correctly, that it would be
18 a trap for an unwary attorney in not knowing
19 when he had crossed over from temporarily to
20 permanently.

21 Could the Court issue a decree in your favor
22 without passing on the constitutionality, either
23 on its face or as applied?

24 BY MR. AMSTERDAM:

25 This is one thing I would like to say in con-

1 clusion since Mr. Sessions' Motion is directed
2 toward this permanency proposition. I would like
3 to call the Court's attention to a decision of
4 the United States Supreme Court in connection with
5 Mr. Sessions' argument, because Mr. Sobol is not
6 in violation of the Statute and Mr. Sessions is
7 doubtfull that the Statute doesn't apply and
8 therefore this Court can't reach any of those
9 constitutional issues. Last week in the matter
10 of James versus Gilmore, 36 Law Week, 3285. That
11 decision was affirmed by a per curiam a three
12 judge court decision, the matter of Gilmore versus
13 James, 274 Fed. Supp. 75, the Northern District
14 of Texas, August of 1967. That was the case in
15 which the Plaintiff was a tuba instructor at a
16 junior college and challenged the State loyalty
17 oath on the grounds that the oath was vague and
18 over broad.

19 The Attorney General intervened for the State
20 of Texas and said that the Statute never applied
21 to this Plaintiff because he was not a member of
22 a faculty of a school, a State school or a school
23 wherein funds are paid out of State Funds. The
24 junior college, the Defendant, agreed that he was
25 not covered by the Statute and therefore he had

1 no standing in challenging this statute on the
2 question of constitutionality.

3 The Court held, and we submit rightly, that
4 since the Statute had been applied to him, even
5 erroneously, it gave him a right to challenge it
6 and the Court the right to entertain the con-
7 stitutionality objection to the Statute in view
8 of its application to him and threatened further
9 application.

10 Two judges signed the opinion, I don't know
11 the disposition of the third judge, Goldberg,
12 Circuit Judge and William M. Taylor, District
13 Judge.

14 What is significant in that case is that the
15 Defendant in that case took a direct appeal to
16 the Supreme Court of the United States and the
17 Supreme Court of the United States, last week
18 affirmed the ruling below.

19 BY THE COURT:

20 And the Statute was declared unconstitutional?

21 BY MR. AMSTERDAM:

22 The Statute was declared unconstitutional.

23 BY THE COURT:

24 How, as applied?

25 BY MR. AMSTERDAM:

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On its face.

I think, therefore, it is plain that although I agree with Mr. Sessions, I say we are entitled to an Injunction, as sought. I think in light of the Supreme Court's recent decision we are entitled to the relief we seek of a declaration of unconstitutionality on its face and that the application is unconstitutional and we are entitled, we believe, to an Injunction against Enforcement in this case.

Thank you.

BY THE COURT:

Mr. Fiss.

BY MR. FISS:

The interest of the United States in this case is essentially that the negroes in Plaquemines Parish, we don't feel, get adequate representation in Civil Rights cases.

When the prosecution of Richard Sobol was commenced in February of 1966 and for the following, I believe 6 or 8 months, until the United States moved to intervene, we understood two things. First, that the prosecution of Richard Sobol was a form of harassment and a form of intimidation. We also understood that the

1 Defendants, the District Attorney of Plaquemines
2 Parish, the Constitutional Enforcement Officer
3 of the State, sought to inforce 214 through a
4 certain construction and understanding of 214.

5 We understood then at that time that they
6 placed very restrictive limitations not only
7 upon the word Temporary but also upon the word
8 Association.

9 We understood that they required in the term
10 Association that counsel be present in the Court-
11 room at all times, the associated counsel. We
12 believed at that time that that was the con-
13 struction of the Statute and that was the
14 application of the Statute and as such was un-
15 constitutional. It threatened and had the
16 threat of deprivation of negroes in the parish
17 of adequate representation.

18 BY THE COURT:

19 You are referring to an unconstitutional
20 application rather than to unconstitutional on
21 its face?

22 BY MR. FISS:

23 Yes, sir.

24 BY THE COURT:

25 In your view, is a three judge court required

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under the present circumstances?

BY MR. FISS:

We do not believe a three judge court is required under the harassment issue. We do believe that to enjoin a three judge court is appropriate, to enjoin the application of the Statute.

BY THE COURT:

Any injunction upon constitutionality, whether on its face or by application is a three judge court?

BY MR. FISS:

Yes, sir. That is the Poindexter Case.

BY THE COURT:

On the simple issue of harassment it is not necessary that the courts pass upon the constitutionality and could issue an injunction without a three judge court.

BY MR. FISS:

That's right.

BY THE COURT:

But, you seek a further ruling, you don't seek only on harassment but you seek something else, an injunction against further harassment for similar practice in the State of Louisiana.

1 BY MR. FISS:

2 It is not so much for an injunction against
3 further arrests but it is an injunction or a
4 limitation upon the Statute of a State being
5 construed by law enforcement officials in a
6 certain way, the way it had been construed by
7 the officials in Plaquemines Parish. We seek
8 that injunction not only against the officials
9 in the State -- against the officials of Plaque-
10 mines Parish but we are trying to ask the Court
11 to enjoin not only the prosecution of Richard
12 Sobel by injunction but asking that the Statute
13 is not construed in the future in the same way
14 it had been in the past, as in this case.

15 BY THE COURT:

16 I think we might as well be prepared, if
17 we should go ahead with the trial of the merits
18 of the case, to develop this further. It is not
19 necessary to go into it at great length right
20 now. But, what of the Motion of the Bar Associ-
21 ation, which is now converted, as I see it,
22 to a Motion for Summary Judgment?

23 BY MR. FISS:

24 What I would like to do, Your Honor, is just
25 to point out that all I was trying to develop

1 was our understanding of the case. Now, subsequent
2 to the intervention of the United States things
3 have moved along and our understanding as far as
4 our pre-trial conferences and investigation showed,
5 we were, and understood that this was more an old
6 construction of the Statute. Now, subsequent to
7 the intervention of the State Bar Association and
8 subsequent to an exhaustive investigation of
9 documents in the possession of the State Bar
10 Association we understand that they take a dif-
11 ferent view of the meaning of that Statute. They
12 take the view which is still contradicted by the
13 Defendant District Attorney. Also we take the
14 view that one introduction by an attorney licensed
15 to practice in Louisiana is sufficient for purposes
16 of the Statute.

17 BY THE COURT:

18 On each particular case or does one intro-
19 duction to the Court by an associate, in the
20 future on all Civil Rights Cases, cover this
21 entire situation?

22 BY MR. FISS:

23 Not at all, case by case. We have a problem
24 here of defining what a case is. For the first
25 time I have heard the argument and maybe it was

1 due to my error, that we were dealing here with
2 two separate cases. We are dealing with a Juvenile
3 charge and we are dealing with a Simple Battery
4 charge. And, that these being separate cases
5 require the introduction by an associate in each
6 instance. We would like to show that that type
7 of construction of the Statute is also too restrict-
8 ive. What we are dealing with is the same factual
9 transaction, the same judge, the same prosecutor
10 and all it was was an attempt to avoid a dismissal
11 of the Juvenile charge and to substitute in its
12 place the Battery charge.

13 BY THE COURT:

14 Summarize, what type judgment does the United
15 States seek in the case?

16 BY MR. FISS:

17 It seeks two things, first the United States
18 seeks to enjoin the prosecution of Richard Sobol
19 because it poses a threat to the negroes of the
20 parish.

21 BY THE COURT:

22 In this case, all right. Proceed.

23 BY MR. FISS:

24 No, from getting adequate representation.

25 BY THE COURT:

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You seek an injunction against this prosecution.

Now go on.

BY MR. FISS:

That's right. The second thing we seek is a limitation on the Statute, on 214 so that people, attorneys that are not domiciled in the State of Louisiana and that act in association, in the sense that they are introduced to the Court the first time to represent negroes in Civil Rights Cases and Civil Rights workers in Civil Rights Cases...

BY THE COURT:

But, that does not require a ruling on the constitutionality, does it, the second point that you have raised?

BY MR. FISS:

It requires a ruling on the constitutionality of the Statute as construed by the Defendants because the Defendants take a different and a more expansive construction of the Statute.

As an example, if the State Bar Association had control of the State law, of the limiting of the Statute, 214, which they disclaim and have disclaimed and they said that this is exactly what the Statute means and it was read we would not ask

1 for a ruling on the constitutionality of the
2 Statute, the United States would not. But, we
3 have a different situation here. This is a sit-
4 uation where the District Attorney within the
5 State takes a different interpretation and asked
6 that his interpretation, his construction prevail.
7 This may or may not prevail in the rest of the
8 State and we ask that that be limited.

9
10 BY THE COURT:

11 Well, I am just trying to formulate in my own
12 mind a decree such as you suggested may be written
13 in this case. I would assume that you mean that
14 at the conclusion of the evidence a decree, is
15 ordered that there be a judgment in favor of the
16 Plaintiff enjoining the prosecution of Richard
17 Sobol under Information number so and so filed
18 at such and such a time.

19 BY MR. FISS:

20 That's right.

21 BY THE COURT:

22 And, how would you word paragraph number 2?

23 BY MR. FISS:

24 Paragraph 2, Defendants would word it this way,
25 that the Defendant, District Attorney, do not
~~arrest or threaten to arrest or prosecute any~~

1 attorney licensed to practice law in another State
2 who is not domiciled in the State of Louisiana and
3 who had been introduced to the Court for the pur-
4 poses of that case. In those circumstances we
5 would ask the Court to enjoin the Defendants from
6 enforcing 214. So, you see it is a second, a
7 separate paragraph.

8 BY THE COURT:

9 All right, you have not reached the constitution-
10 ality yet. You haven't mentioned the word.

11 BY MR. FISS:

12 The second paragraph would constitutionally
13 limit 214.

14 I might say that you could word it another
15 way, that Section 214 not be construed by the
16 Defendants, the District Attorney, so as to prevent
17 an attorney who is licensed to practice law in
18 another State and who is not domiciled in Louisiana
19 and who had been introduced to the Court by an
20 attorney licensed in Louisiana. We would then
21 ask an injunction by enjoining them from con-
22 struing 214 so as to prevent this individual from
23 practicing law.

24 BY THE COURT:

25 Do you have a similar case where a Court gave

1 this type of remedy? I am talking now relative
2 to the second part of your relief. In other
3 words, do you have a case where the Federal Court
4 held that the State District Attorneys are to
5 interpret this Act within these limits and not to
6 exceed those limits?

7 BY MR. FISS:

8 We believe that there are such cases.

9 BY THE COURT:

10 Do you have any that you may refer to?

11 BY MR. FISS:

12 Not at this moment. I would get a brief on
13 that.

14 BY THE COURT:

15 I think I understand your position. Mr. Dowl-
16 ing.

17 BY MR. DOWLING:

18 May it please the Court. Since each of the
19 parties, Intervenors, the Primary Party and Inter-
20 venors have somewhat slightly different approaches
21 and appreciations of the issues of this thing and
22 the thing that ought to be protected about which
23 the Court is to be concerned, the Criminal Court
24 Bar Association is of the vehement opinion that it
25 is absolutely essential to protect the rights of

1 the minority groups to due process. However,
2 we think the best way to do this is not by practice
3 of test tube law by an attorney who is from out
4 of the State where counsel, themselves had a par-
5 ticular case that they just happened to choose,
6 who have none of the responsibility for accepting
7 representation of an indigent defendant as due
8 members of the Criminal Courts Bar Association,
9 and where such attorneys are not subject to the
10 grievances and discipline of the State Bar Association
11 and who pay no dues.

12 As a matter of fact, it seems rather anomalous
13 when arguing about the issues presented by this
14 petition, when Mr. Sobol or somebody like Mr.
15 Sobol could not be qualified to practice before
16 this very Court, at this time, according to the
17 rules of this Court and I am looking at the Rules
18 of the United States District Court for the Eastern
19 District of Louisiana dated the 12th day of
20 November A.D. 1965 wherein it reads that any member
21 in good standing of the Bar or of the Supreme
22 Court of Louisiana who resides in or maintains an
23 office for the practice of law in the State of
24 Louisiana is eligible for admission to the Bar of
25 this Court. Therefore, before he can practice in

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the United States District Court, according to these rules...

BY THE COURT:

That is not exclusive. There are many attorneys that are not licensed to practice in Louisiana that do practice here.

BY MR. DOWLING:

I am aware of that.

BY THE COURT:

What that means is that if you are licensed to practice by the Supreme Court of Louisiana you can get licensed to practice here. It is not exclusive. I am going to try to defend that. I used to be a member of that Court and if it does what you are saying then we have not been following the rules.

BY MR. DOWLING:

He can practice before this Court with local counsel.

BY THE COURT:

Mr. Fiss is not licensed to practice in Louisiana. We have an attorney right here, Mr. Bronstein, who is not licensed to practice in the State of Louisiana.

BY MR. DOWLING:

1 I understand that. None of these gentlemen,
2 as far as I know, practice law in the State of
3 Louisiana continually on a permanent basis. I
4 think you can have a self-serving declaration of
5 how the State law should be defined, whether or
6 not he is temporarily or permanently practicing.
7 I think this is a question of fact. I think you
8 would find yourself with a situation where you
9 would have men who handled numerous cases. We
10 can't have them then contend and say we are here
11 only temporarily. We have rules that you say
12 that out of state lawyers can practice before
13 this Court in a particular case, but, to practice
14 continuously, continuously practice without the
15 necessity of association, without the necessity
16 of being specifically permitted to do so, this
17 is an entirely different thing.

18 However, we feel in the case of Mr. Sobol,
19 whether it came about as a mistake of fact or
20 whether it came about because of a mistake of
21 law or whether somebody didn't hear something
22 that was said, the fact remains that he was
23 allowed to and he did practice in the Parish of
24 Plaquemines all the way to the point where we
25 are taking a misdemeanor on Certiorari to the

1 United States Supreme Court. But, be that as it
2 may, we think in this particular prosecution the
3 State would be estopped from prosecuting Mr. Sobol.

4 We feel that there is no other issue at all
5 and we believe that this Court, as a Court of
6 equity, in its exercise of equitable jurisdiction
7 can say that you cannot prosecute Richard Sobol
8 in this case, in this particular cause and dis-
9 miss everything else from the case.

10 BY THE COURT:

11 You think on the basis of depositions that
12 have been offered and the facts of record at
13 this point that the Court could and should enter
14 an injunction enjoining this prosecution.

15 BY MR. DOWLING:

16 But, **not** on the basis of constitutionality of
17 the Statute.

18 BY THE COURT:

19 I didn't say that.

20 BY MR. DOWLING:

21 Yes, it should enjoin the prosecution of
22 Richard Sobol in this particular cause.

23 Right now what it boils down to is the question
24 of credibility between Judge Leon and Mr. Sobol.

25 I don't think it's a question of credibility at

1 all. It may be just a question of mistake. I
2 would just prefer to believe that it is a question
3 of mistake. I believe Mr. Sobol was in good
4 faith. I don't think he was in bad faith. I
5 think he thought that he had a right to do what
6 he was doing but I don't think that he did have
7 that right and I don't think that the Court gave
8 him that right.

9 I think that this Court should say, we enjoin
10 the prosecution of Mr. Sobol.

11 I think it would be rather a simple matter to
12 make a defense of entrapment or estoppel in the
13 State Court and go to the Supreme Court and come
14 back here with writs of habeas corpus and the
15 whole matter could be resolved. I don't think
16 the labels that are placed upon the pleadings
17 by counsel govern the action of this Court. I
18 think this Court in its inherent power has the
19 right to declare in this particular instance and
20 in this particular instance alone that Mr. Sobol
21 was a victim of estoppel or entrapment and they
22 can enjoin this prosecution and dismiss the
23 remainder of the suit.

24 Thank you.

25 BY THE COURT:

1 I understand that Mr. Brahney waives his
2 argument.

3 BY MR. SESSIONS:

4 Briefly, in rebuttal may I invite the Court's
5 attention to the provisions of the Articles of
6 Incorporation of the Louisiana State Bar Associa-
7 tion which has the effect of law. It is approved
8 by the Supreme Court. Section 9, the second
9 paragraph of Article 12 of the Articles of In-
10 corporation and I shall paraphrase, but it has
11 an entirely different language than Section 214.
12 This part of the Article reads: A person licensed
13 and qualified to practice as an attorney-at-law
14 or as an attorney and counsellor-at-law in
15 any other state and temporarily present in this
16 State -- and this is not in the Statute -- (herein
17 after termed a visiting attorney) may practice
18 law in this State if such visiting attorney acts
19 in association with some attorney duly and legally
20 licensed and admitted to the practice of law by
21 the Supreme Court of Louisiana.

22 This is within the judicial power of the
23 Supreme Court and is not involved in this law
24 suit but is within the power of the Louisiana
25 State Bar Association to ascribe a meaning for

1 214 and you could go into the Civil Court if
2 you differed, with an injunction suit or an
3 action in quo warranto.

4 BY THE COURT:

5 We will take it under submission, the Motion
6 of the Bar Association of the State of Louisiana.
7 The Court is going to take a 10 minute recess
8 and come back and rule on the Motion.

9 (RECESS)

10 BY THE COURT:

11 The Court is of the belief as to the Motions
12 filed by the Louisiana State Bar Association to
13 Dismiss by judgment on the pleadings and as to
14 the Motion of the State of Louisiana for a Sum-
15 mary Judgment, in the alternative, to Dismiss,
16 that there are issues of fact which can only
17 be determined after a trial on the merits and
18 that we are unable to say as to the Motion to
19 Dismiss that there are no sets of facts under
20 which the Plaintiff could prevail.

21 Under the circumstances, both Motions are
22 denied.

23 You may proceed with the case, Mr. Bronstein.

24 BY MR. SESSIONS:

25 Before Mr. Bronstein calls his first witness,

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may it please the Court, we should like to solicit a stipulation from all parties relative to the Discovery pursued by the United States under its motion granted by Judge Cassibry. In examining the records under the Rule 34 Motion granted by the Court, the United States attorneys have seen the records of the Louisiana State Bar Association pertaining to the Bar examinations given as to the names of both successful and unsuccessful candidates for admission by the Louisiana Supreme Court. And, insofar as the records of the Unauthorized Practice of Law Committee is concerned, they have seen many files involving the names of third persons involved in complaints or matters within the jurisdiction of the Unauthorized Practice of Law Committee, which are not pertinent to the issues in this case. We feel an obligation and a duty to those persons as to whose identity is known to Government counsel, or in the event that copies have been made, known to others, in lieu of a Rule 30 (b) Order by the Court to protect those third parties, both unsuccessful Bar Candidates, or persons as to whom complaints have been made or who have been involved in proceedings or matters within which the Unauthorized

1 Practice of Law Committee has jurisdiction, that
2 all parties stipulate that any information obtain-
3 ed by any attorney pertaining to persons not
4 directly involved in this law suit, whether busi-
5 ness firms or other associations of a partner-
6 ship nature, whether corporate or individual,
7 be held to be confidential and to be used only
8 for the purposes of this case and are not to be
9 disclosed for any other purpose or to any other
10 person.

11 BY THE COURT:

12 Is that agreeable, Mr. Fiss?

13 BY MR. FISS:

14 As long as it is understood that for the pur-
15 poses of this case they could be disclosed as
16 necessary on the record, I have no objection.

17 BY THE COURT:

18 Is that acceptable?

19 BY MR. SESSIONS:

20 Yes, sir.

21 BY THE COURT:

22 Did anyone else have any access to those re-
23 cords other than Mr. Fiss?

24 BY MR. SESSIONS:

25 ~~Or who Mr. Fiss may have let see them.~~

1 BY MR. FISS:

2 None other than two letters that Mr. Sessions
3 agreed Mr. Bronstein have.

4 BY THE COURT:

5 As far as you are concerned or have any know-
6 ledge, Mr. Bronstein, I assume the stipulation is
7 agreeable.

8 BY MR. BRONSTEIN:

9 It is.

10 BY THE COURT:

11 It will be so noted.

12 BY MR. SESSIONS:

13 I would assume that all other parties so
14 stipulate.

15 BY MR. PROVENSALE:

16 May I say something in order that the record
17 might be complete? We had taken discovery given
18 by the Defendants, the discovery deposition of
19 Mr. A. P. Tureaud and there was correspondence
20 between the United States Department of Justice
21 and the attorney for the Plaintiff in connection
22 with that deposition proposing certain corrections.
23 For that reason Mr. Borello had not signed the
24 original and that deposition is of record in
25 the Court. He gave it to me the other day, the

1 original of that deposition with a proces verbal
2 that he made as the court reporter enclosing the
3 letter of the Lawyers' Constitutional Defense
4 Committee and the letter of the United States
5 Department of Justice and he asked me to file this
6 in the proceedings. I am not introducing the
7 deposition but under the Rule we are required to
8 file the original of the deposition.

9 BY THE COURT:

10 Any objection?

11 BY MR. BRONSTEIN:

12 No objection.

13 BY MR. FISS:

14 No objection.

15 BY THE COURT:

16 You are not offering it in evidence you are
17 just asking that it be filed with the clerk.

18 BY MR. PROVENSALE:

19 Yes, sir.

20 BY MR. FISS:

21 With the letter of corrections.

22 BY MR. PROVENSALE:

23 The proces verbal and the letter are attached.

24 BY THE COURT:

25 The Court orders it filed with the clerk and it

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is not a part of the record.

BY MR. FISS:

Before the Plaintiff calls his first witness,
the United States would like to invoke the Rule.

BY THE COURT:

Is there any objection to invoking the Rule in
this case?

BY MR. BRONSTEIN:

No objection.

BY THE COURT:

All witnesses in this case will please stand.
This would not include parties. Anyone who is
a party is not going to be excluded.

BY MR. BRONSTEIN:

Is it also correct that it does not include
attorneys of record?

BY THE COURT:

In this case?

BY MR. BRONSTEIN:

In this case.

BY THE COURT:

Does anybody have an objection to an attorney
of record remaining who is going to testify?

BY MR. PROVENSAL:

On behalf of Judge Perez who is a party I would

1 mention to the Court that he has no interest in
2 the proceedings.

3 BY THE COURT:

4 He has a right to stay in the Courtroom. You
5 may remain in the Courtroom, Judge Perez.

6 BY MR. DOWLING:

7 Do we understand that lawyers who are witnesses
8 have to be excluded? Mr. Kelly, for example, is
9 a witness and is not an attorney of record in this
10 case.

11 BY MR. BRONSTEIN:

12 I would strongly urge that since as I under-
13 stand it most of the Defendant's witnesses are
14 attorneys, almost all of them, who would be direct-
15 ly involved in rebutting the Plaintiff's proof,
16 that they be excluded unless they are parties or
17 attorneys of record in this case.

18 BY MR. FISS:

19 The United States would take the position that
20 the attorneys who are not counsel be excluded.

21 BY THE COURT:

22 Ordinarily, we would not like to exclude the
23 lawyers but since we will have a lot of testimony
24 of lawyers and since the Plaintiff and Plaintiff-
25 Intervenor insists, we would have to excuse them.

1 BY MR. DOWLING:

2 My associate in this case, Mr. Wessel, who is
3 ill today and since Mr. Kelly is a member of the
4 Criminal Courts Bar Association, with the Court's
5 permission, I would like to have Mr. Walter Kelly
6 enrolled as my associate.

7 BY THE COURT:

8 Any objection?

9 BY MR. FISS:

10 None.

11 BY THE COURT:

12 It is so ordered.

13 BY MR. BRONSTEIN:

14 I would have no objection as long as Mr. Dowling
15 and the other Intervenors do not move to enroll
16 all of the other attorney witnesses in this case.

17 BY THE COURT:

18 We would meet that later.

19 All witnesses in this case who are not counsel
20 of record or parties will have to leave the Court-
21 room. The Court instructs you not to discuss this
22 case with anyone while waiting your turn to testi-
23 fy. However, you may discuss this case with
24 attorneys for any party. But, while waiting your
25 turn to testify, do not discuss this case with

1 others.

2 BY MR. SESSIONS:

3 Your Honor, Mr. John Pat Little, President of
4 the Louisiana Bar Association, I'm not even sure
5 that he is going to testify, but I would like to
6 have him present and I might also say that I might
7 also move that all members of the State Bar
8 Association are parties since, apparently, Mr.
9 Bronstein has associated all of his witnesses.

10 BY THE COURT:

11 Well, there is nothing before the Court on
12 that so there is no ruling needed.

13 You may proceed, Mr. Bronstein.

14 BY MR. BRONSTEIN:

15 We would like to call Mr. Lolis Elie.

16 LOLIS EDWARD ELIE, called on behalf of the Plaintiff,
17 after first being duly sworn, testified as follows:

18 BY THE COURT:

19 I might say that counsel, since we have no
20 jury, we will give you the option of going to
21 the podium to ask your questions or remaining
22 at your seat, which ever is more convenient.
23 However, if you gentlemen determine or choose
24 to use the podium you will be permitted to use
25 the podium but we ask that all counsel select