Now, that was the contention made. That is in the argument of Mr. Evarts and other counsel for Barney.

Now, what did the Court say about that? At the bottom of page 437, the Court said, beginning at the bottom of page 437:

Controversies over violations of the laws of New York are controversies to be dealt with by the courts of the State. Complainants' grievance was that the law of the State had been broken, and not a grievance inflicted by action of the legislative or executive or judicial department of the State, and the principle is—

Now, this is the Court talking—

and the principle is that it is for the State courts to remedy acts of State officers done without the authority or contrary to State law.

Now, at the bottom of page 438, the Court says, speaking through Chief Justice Fuller, for a unanimous Court—

that when a subordinate officer of the State, in violation of State law, undertakes to deprive an accused party of a right which the statute law accords to him, as in the case at bar, it can hardly be said that he is denied or cannot enforce, in the judicial tribunals of the State, the rights which belong to him. In such a case, it ought to be presumed the Court will redress the wrong. If the accused is deprived of the right, the final and practical denial will be in the judicial tribunal which tries the case, after the trial has commenced.

Now, Mr. Chairman, the most recent case is the case that I was trying to think of when we adjourned—the most recent case which touches on this subject is *Harrison* v. *the National Association for the Advancement of Colored People*, which was decided by the Supreme Court of the United States on June 8, 1959, by a divided Court. It is 360 U.S., and begins at page 167.

That case arose by a—a statutory three-judge Federal court construing certain laws of the State of Virginia which had to do with the controversy existing between the State of Virginia and the National Association for the Advancement of Colored People. And the three-judge Federal court held those laws unconstitutional, most of them.

Now, the Supreme Court of the United States, in a 6 to 3 decision, said—and I am reading from page 176:

According every consideration to the opinion of the majority below, we are nevertheless of the view that the district court should have abstained from deciding the merits of the issues tendered to it so as to afford the Virginia courts a reasonable opportunity to construe the three statutes in question. This now well-established procedure is aimed at the avoidance of unnecessary interference by the Federal courts with proper and validly administered States concerns, a course so essential to the balanced working of our Federal system. To minimize the possibility of such interference, a scrupulos regard for the rightful independence of State governments should at all times actuate the Federal courts—

citing cases—

as their contribution in furthering the harmonious relations between State and Federal authority. In the service of this doctrine, which this Court has applied in many different contexts, no principle has found more consistent or clear expression than that the Federal courts should not adjudicate the constitutionality of State enactments fairly open to interpretation until the State court has been afforded a reasonable opportunity to pass upon them.

Now, what is the application of that here?

Of course, what they were talking about here was State enactments, that is, legislative acts passed by the General Assembly of Virginia.