holding hearings whether or not he should honor a rendition demand for an alleged fugitive from justice are absolutely privileged. *Brown v. Globe Printing Co.* (1908) 213 Mo. 611, 112 S. W. 462 (even though the governor is under no legal duty to act no matter what he find. *Kentucky v. Dennison* (1861) 24 How. 66). The courts have disagreed whether the same doctrine should be applied to pardon proceedings. *Andrews v. Gardiner* (1918) 224 N. Y. 440, 121 N. E. 341 (not applied); *Connellee v. Blanton* (Tex. Civ. App. 1914) 163 S. W. 404 (applied). The announced test in all these cases is whether or not the official or board in question has the attributes of a court even though it is not part of the regular judicial hierarchy. As was pointed out in the principal case it is not enough that the official be empowered to hold hearings and commanded to exercise judicial discretion. His decisions must be such that they directly affect individual rights.

The decision in the present case seems justified. If absolute privilege is essential to the administration of justice in regular courts, it is just as essential in proceedings before administrative officials when their decision affects individual rights just as directly and bindingly as the decision of a court. G. W. S., '33.

SEARCH AND SEIZURE—WARRANT BASED ON INFORMATION OBTAINED BY FRAUD.—Two prohibition agents were admitted to a lodgeroom of the Fraternal Order of Eagles on the representation that they were members in good standing of a distant lodge of the same organization. This was false. The cards and receipts produced on request prior to admission had been taken from other lodges without the consent or knowledge of any of the officers or members thereof. After the agents were admitted they were served with intoxicating liquor for which they paid. No physical search was made of the rooms at the time, the agents contenting themselves with observing all that could be seen from their table. Several days later they applied for a search warrant, using what they had seen to constitute the probable cause necessary for its issuance. A search warrant, regular on its face, was issued and the liquor then in the lodgerooms seized thereunder. *Held,* the information secured by the deceptive entry was illegally obtained and therefore the subsequent search and seizure was in violation of the Fourth Amendment to the Federal Constitution. *Fraternal Order of Eagles v. U. S.* (C. C. A. 3, 1932) 57 F. (2d) 93.

It has become settled that evidence obtained in an illegal search and seizure by Federal officers cannot be used if timely objection is made. *Weeks v. U. S.* (1913) 232 U. S. 383; *Silverthorne Lumber Co. v. U. S.* (1919) 251 U. S. 385; *Gould v. U. S.* (1921) 255 U. S. 298; *Amos v. U. S.* (1921) 255 U. S. 313. The majority in the present case cite these four cases alone as supporting their decision. Unfortunately their fact situations are so different that they should give but little comfort to the Court. In all four of these cases the original search and seizure was without any attempt to procure a warrant of any kind. The *Silverthorne* case is the most analogous, for in that the officers took the papers, made copies, and then returned them.

Later a subpoena duces tecum was issued to the corporation to force the production of the papers to be used against its officers. Under such circumstances, it is not surprising that the Supreme Court considered that the whole thing was a mere scheme to evade the restrictions of the Fourth Amendment. These cases decide that the officials must not gain entry to make an immediate search and seizure by means of force, fraud, or the like. The principal case expands this doctrine by ruling that the affiants of probable cause must not gain entry to secure their knowledge by such means. However, the majority should not be blamed too severely for citing cases which do not prove as much as they desire, since there seem to be no prior cases which have gone as far as this case. The court bolsters its reasoning from the authorities by arguing that although there was no seizure after the illegal entry, there was a search. The agents "searched with their eyes" and thus the liquor was "illegally seen". This view merely assumes the point under dispute, i. e. that an officer who is in a place where he would not be had he disclosed his identity cannot use anything he sees as the basis for a search warrant. The Court also urges that the subsequent search and seizure under the warrant was based on the fraudulent entry and that the whole transaction is to be considered as a single act.

Judge Buffington in his dissenting opinion presented all the arguments which can be used against the position of the majority. Historically, the Fourth Amendment was inserted as a result of the fear and hatred of the searches and seizures made by the British revenue officers in the colonies under warrants issued to them in blank and without hearing, to be filled in by them as their whim or malevolence might direct. The Fourth Amendment must be interpreted in the light of the evils which it was designed to remedy. *Carrol v. U. S.* (1925) 267 U. S. 132. The basic vice of the earlier system was that the warrants were issued without probable cause shown to the magistrate. "On the point as to where and how the affiants of probable cause should get their information, the Constitution is silent, so that the protection of the Eagles Clubs thus sought is, so to speak, not intraconstitutional but extraconstitutional." Such a holding as that of the principal case is a great boon to the criminal classes. It confers on them a great measure of immunity from such federal statutes as can only be enforced by evidence secured by under-cover agents. True the agents themselves might testify on the trial of the accused, but the government would be forced to do without the far more convincing evidence afforded by producing the liquor itself before the jury. It would seem that the present case carries the protection of individual rights to such an extent as seriously to hamper the enforcement of the rights of the general public. S. M., '34.