

Federal Judge Overrules SS

Decides That Court Alone Has Jurisdiction of Probationers

LOS ANGELES—In a decision that may have far-reaching effect, U. S. District Court Judge Harry A. Hollzer ruled last month that Selective Service boards can not re-assign COs under the custody of the court on probation.

The decision settled the long-pending cases of David Walden, Alex Kasimoff, and Russell Eddy. All three had originally been denied CO classification, and following their arrests for non-compliance with Selective Service directives, had been sentenced to probation at civilian jobs by the court.

The government, in bringing the cases into court, argued that it merely wanted to have the men conform to national policy in regard to COs, particularly in respect to such matters as restricting their movement and prescribing their compensation. Leaving them in their probationary status would be in effect to grant the men occupational deferment from military service.

Reason for Decision

Defending his decision, Judge Hollzer stated: "Obviously it is not for the court to pass upon the wisdom or the propriety of policies adopted by governmental agencies. However, the question whether the policy of such an agency shall be allowed to control one who has come under the court's exclusive jurisdiction and who is under the supervision of one of its officers; in other words, the question whether that tribunal should surrender its jurisdiction and thereby, in effect, avoid, if not evade, its responsibility, is a matter with which we are gravely concerned.

"The circumstance that they are no longer at the camp to which they were originally assigned cannot be attributed to any dereliction on their part. . . . Indeed, the work they are now performing is so urgently needed—in the one instance, by a governmental agency, and in the other, by a quasi-public institution—that to deprive these bodies of the services they are now rendering may well cause public injury.

"The particular governmental policy here proposed to be applied, we believe, was devised to meet conditions radically different from the circumstances shown to exist in the cases now under consideration. What is now asked is that we run the risk of causing public harm, in order to pursue what in effect is an experiment which not only may end in failure, but also may bring about a miscarriage of justice."

The American Civil Liberties Union, which defended the three probationers, said the action is significant in that it may halt what seems to be an organized program on the part of draft officials to induce federal judges to set aside favorable terms of probation for objectors.

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Special to The C.O.

LEWISBURG, Pa.—Protest actions by COs and non-COs against revocations of "good time," racial segregation, censorship of mail, release procedures, imprisonment and conscription are all included in last month's activities of inmates at the Federal Penitentiary here.

A major strike action started over an incident involving four non-COs. The men, assigned to a construction job laying a cement walk, were among a group asked to volunteer for extra work. They refused to "volunteer" and were thrown into solitary confinement for insubordination.

The men were brought to trial before the disciplinary committee and charged with mutiny and strike. Two received suspended sentences, but the other two had 30 days "good time" taken away from them. In the past, statutory time off the sentence for good behavior has been taken away from non-COs only as punishment for extraordinary acts of an illegal nature, such as stabbing, arson, or escape.

COs Protest

Immediately, the majority of the conscientious objectors at Lewisburg protested this arbitrary and unusual punishment to the warden, but he replied that the affair was none of their business. The COs replied that it was their business and backed up their concern with the threat of strike. But on the day before the strike was scheduled to start, Warden William Hiatt sent the men to the segregation block of the prison, where there were already eight COs on strike against conscription, imprisonment of COs and discriminatory parole procedure against them.

The strikers included four men from the Lewisburg Farm Camp, outside the walls of the Penitentiary and not supposed to be in contact with activities within the walls.

George Peters joined the strike a day late and went into the "hole" voluntarily. After he fasted for five days, however, he was allowed to join the other strikers in their more moderate confine-

ment. The others who went on strike were Bernard Abosh, Irving Schwartz, Harvey Corcoran, Alexander Lang, Marle Safford, Theodore Maytsik, Joseph Reilly, Norman Gesner, and Bill Sutherland. Six of these men have been called to trial for their parts in the strike action and have also had 30 days "good time" revoked.

The first non-CO, all-Negro demonstration against racial discrimination by men in prison also occurred in Lewisburg last month. In the protest against partiality in job assignments and against segregation in the dining hall, 30 men one day refused to go to breakfast, 15 to lunch, and nine to supper. The following day, three were continuing indefinitely. Two of them refused also to work and were thrown into the "hole." The third, William Mitchell, continued working and was finally called in for a conference by Warden Hiatt, who ended the strike by promising more equitable job distribution and the eventual elimination of segregation from the dining hall.

Refuse to Sign Papers

Gordon Goley, twice sentenced religious absolutist, and Estaban Caban, Puerto Rican Nationalist, were both refused conditional release because they wouldn't sign the official papers relevant to their release.

Lester Lermond, twice imprisoned and on work strike for nine months against authoritarianism, won a 17 day hunger and thirst strike against censorship of his mail when a disputed letter finally was sent out, with minor changes in the wording made to "save face" for the officials, who had stated emphatically that the letter would not go out.

"Sneak" Attack on Pearl Harbor Was Expected, Reports Disclose

The full story of the Japanese attack on Pearl Harbor was made public by President Truman last month in a series of reports which clearly show that the attack by the Japanese was expected.

The Army Board disclosed that President Roosevelt accurately forecast Japan's "sneak" attack thirteen days in advance.

This disclosure came from Secretary of War Stimson's diary. On Nov. 25, 1941, Stimson wrote: "He (President Roosevelt) brought up the event that we were likely to be attacked perhaps as soon as—perhaps next Monday, for the Japs are notorious for making an attack without warning, and the question was what we should do."

That an attack was expected is further shown by the "war messages" sent to Short and Kimmel of the Pacific Fleet, on Nov. 27. The beginning of one such report read:

Warned of War

"Consider this dispatch a war warning. The negotiations with Japan in an effort to stabilize conditions in the Pacific have ended. Japan is expected to make an aggressive move within the next few days."

General Marshall on the same day sent the following information to General Short:

"Negotiations with the Japanese appear to be terminated to all practical purposes with only the barest possibilities that the Japanese government might come back and offer to continue. Japanese future action is unpredictable but hostile action is possible at any moment. If hostilities cannot be avoided, the United States desires that Japan commit

the first overt act."

The Army Pearl Harbor Board report, however, described the 10-point memorandum dispatched to Japan on Nov. 26, 1941, as "the button that started the war."

The report said the memorandum was dispatched to the Japanese after Secretary of State Hull decided not to go through with earlier proposals which contained a plan for a three month truce.

The Japanese regarded this memorandum as an ultimatum and, consequently, made the attack upon Pearl Harbor.

Vote to Quit CPS

Special to The C.O.

PHILADELPHIA—The American Friends Service Committee voted late last month to entirely withdraw their sponsorship from the Civilian Public Service system six months after the signing of the Japanese surrender September 2. It was learned that the Brethren Service Committee and the Mennonite Central Committee are not expected to take similar action.

Meanwhile, Selective Service recently agreed to begin the release of CPS men on the previously announced point plan on October 1 unless Congress has passed the Winstead Bill by that date.

Suicide Theory Gains Credence

Lawyer Says Letter Indicates Despondency Over Ruling in Summers Case

Special to The C.O.

ELKTON, Ore.—Credence was added to the theory of suicide in the recent death of John Victor Byas, Jr., 30, Civilian Public Service assignee here, with the disclosure last month of a letter written three weeks before his death to Julian Cornell, New York attorney.

Cornell, who released the letter, said it indicated "Byas may have killed himself in despondency over the difficulty of becoming a lawyer in the face of the Summers decision, added to the problems which face a Negro entering a professional career."

Byas's body was recovered from a river in Portland four days after his disappearance from camp and assignees here said he had left notes suggesting suicide.

In his letter to Cornell he wrote:

"I read the report of the ruling of the U. S. Supreme Court upholding the Illinois Bar Association in denying admittance to an otherwise qualified conscientious objector. . . . the decision has brought a question to my mind which I must answer very soon. . . .

"The question is whether or not I should continue studying law. I am a conscientious objector and was inducted in September of 1943 at which time I was studying at Howard University. . . .

"Since I've been in CPS I've retained a firm desire to continue my studies. . . . But if I am to be frank, I must admit that the Supreme Court's ruling has caused me quite a bit of concern. . . . I would like to know what you think are the chances of the bar associations . . . discriminating against a conscientious objector in the future. . . .

Pointing out that "exclusion or admission of pacifists will be determined by the authorities of each state," Cornell wrote a reply urging Byas to continue the study of law. He said he was "confident that many states will refuse to follow the lead if Illinois."

Earlier, it was reported that camp records showed that the objector, who led his class at Howard University, had never made a satisfactory adjustment to CPS life and that "he apparently knew his discharge was on the way but felt despondent about facing the problems of the outside world."

A native of Memphis, Byas received his B.S. degree from LeMoyne College. His father and brother are physicians and his fiancée recently received her medical degree and is interning at a Harlem hospital.

Explosion Burns 2

CLOVER VALLEY, Calif. — Two members of the Colville spike camp here, John Wetherill and Andrew Bihun, sustained first degree burns recently when one of the men attempted to pour oil into a hot lantern. The oil exploded setting fire to clothing, bedding and other property in the tent. Prompt first aid attention by the camp nurse, Paul Woodard, and treatment by a physician prevented serious complications from developing.

Transfer Follows Strike

AUGUSTA, Me. — Five men at CPS No. 88 here were transferred to government camps last month when they went on a work strike in protest of the transfer of a fellow camper, William Hart, to another camp. Hart's transfer was due to difficulties with the hospital supervisor.

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