

Resistance Remains Widespread

Government continues efforts to enforce registration

Fifth Estate Collective

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During October, two non-registrants in contact with the *Fifth Estate* received warning letters from the Selective Service System (SSS) regarding their failure to report. This broke an almost two year silence on the part of the government during which the two men had heard nothing on their status. Both initially assumed that the government was now on to their "delinquent" status and that, due to the recent prosecution of resisters taking place, a confrontation was in the making. This seemingly purposeful notification is probably due to the expanded efforts of the SSS to identify those who have failed to register by matching up registration forms with social security numbers, Internal Revenue Service computer printouts and some state Motor Vehicle Department lists. Still, other resisters known to the *Fifth Estate* have yet to receive any notification whatsoever, which indicates that the SSS process for identifying offenders remains haphazard.

According to local draft attorneys, this increased effort has been intentionally undertaken on the tail of a number of publicized prosecutions in order to augment the fear and intimidation of those who have not registered. Clearly, it is plausible for the government to threaten and menace thousands of young men by mail and thus intimidate some of them into complying with the law; however, it remains impossible for them to bring legal action against more than a mere fraction of the non-registrants.

If the Justice Department continues its strategy of selective prosecution of those who have publicly identified themselves as resisters (a strategy which, due to the recent trial of David Wayte discussed below, it may be forced to at least pretend to abandon) draft lawyers maintain that the odds that any particular silent non-registrant will be prosecuted will stay at one-tenth of one percent.

According to a 17 November article in the *Wall Street Journal*, there have been thirteen indictments and four convictions of resisters to date. A spokesman for the Justice Department stated that 150 to 200 additional cases are presently under investigation. SSS officials claim that 8.9 million men have registered and that 585,000 have failed to comply.

On November 15th in Los Angeles the charges were dropped against David Wayte, a 21 year-old former Yale University philosophy student from Pasadena. As a result, government officials lost a major battle in their fight to enforce registration and were obviously caused a great deal of consternation. Wayte's lawyers argued that the government's strategy of seeking out and selectively prosecuting publicly prominent or vocal offenders who were exercising their first amendment rights was discriminatory and illegal. U.S. District Court judge Terry J. Hatter ordered the government to disclose its procedure for undertaking prosecutions and demanded that Special Council to the President Edwin Meese take the witness stand.

It was the administration's refusal to cooperate with these requests, coupled with a seemingly minor aspect of Wayte's defense which led Judge Hatter to dismiss the charges against him and in so doing to essentially rule the current registration program invalid.

Hatter, in agreement with Wayte's lawyers, declared that the registration program was initiated as a regulation (not a proclamation, as the government contended) and that regulations required a thirty day waiting period

for public comment and education before implementation. But the registration program began just twenty-one days after it was announced, which led Wayne's defense to charge that the administration was attempting to disguise a regulation as a proclamation (although we suspect that their mistake was more likely a result of the usual governmental ineptitude).

Only lawyers could so cleverly catch the government at this tricky game of language manipulation. Government officials were quick to insist that Judge Hatter's ruling, which will be appealed to the federal appeals court in San Francisco, applied only to Wayne and that prosecutions will continue.

The irritated reaction of the Justice Department to the surprise decision indicated that it was a serious setback to the registration program. The intended success of the program, according to government logic depends on the swift conviction of a select number of resisters.

An October 1981 memorandum from Lawrence Lippe of the U.S. Justice Department's Criminal Division stated that "the manner in which the department handles these cases is likely to have a great impact on the continued viability of the registration scheme. If we handle the cases well, then registration is likely to increase. If we handle them poorly, then registration is liable to decrease." (quoted in the *Guardian*, 12/1/82)

Wayne's case was handled very poorly in the eyes of Justice Department officials; it even led one chagrined government lawyer, deprived of his pound of flesh, to remark, "It makes me wonder about our legal system sometimes." (*Detroit Free Press*, 11/19/82)

Another resister, Paul Jacob, who was indicted in Little Rock, Arkansas on September 23, 1982, has refused to involve himself at all in any such legal battle with the government. Instead, after receiving a threatening letter from the SSS sometime in 1981, he went underground, prompting the FBI to initiate a nation-wide search for him.

Jacob, a member of the Libertarian Party and a publicly defiant opponent of the draft, explains his reasons for resisting: "I didn't register for the draft because I didn't want to be drafted. The draft is mandatory service to the government, which is complete government control of the individual. Irregardless of whether that's for war; or building bridges; or chopping trees—the government has no right to force young people into slave labor. The real reason I won't register is that the draft is state ownership of my life. No free man will register for slavery." (quoted in *Contact*, Fall 1981, produced by the Libertarian Student Network, 339 8th St. NE, Washington, DC 20002—see sidebar for Paul Jacob's statement.)

While the SSS suffers setbacks in its attempts to enforce registration, the military is gloating over the unprecedented success of its ROTC programs. According to columnist Colman McCarthy (*Detroit Free Press*, 12/3/82), enrollment for Army, Navy and Air Force ROTC programs is up 25 percent from 1977.

There are presently 1,315 schools with such programs (only 679 in 1973), and enrollment stands at 72,000, which is more than double the 1973 enrollment of 33,000. The country is turning unabashedly militaristic by transforming its high schools and universities into centers of recruitment.

The ROTC scholarship programs blatantly take advantage of a generation of young men and women who have no memory of Vietnam and who find themselves in economic need, luring them into the war machine with promises of a "profession," a "skill" and "financial security."

McCarthy mentions the efforts of a couple of professors, one at Georgetown and another at Berkeley, to oppose the military's invasion of the university by establishing Peace Studies programs. These and other opponents of the ROTC are actually forced to justify their positions to supporters of the military programs who see them as just another academic option for students and a good one at that.

In spite of the admirable attempts by pacifist professors to counter the enormous wave of militarism on their campuses, it is clear that universities have ceased to be the centers for the opposition of war that they once were in the past and have become neatly integrated into the larger complex of domination and control.

The need for the regeneration of a generalized spirit of resistance to the intervention of the state in our lives increases daily. The decision of young men like Ben Sasway, the first convicted draft resister, and Paul Jacob to oppose the Administration's war preparation symbolizes a profound opposition, not only to militarism, but to all state authority and bureaucratic control, an opposition which goes beyond professors' efforts to institutionalize peace as an academic concern and beyond the specialized focus of various reform efforts.

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