

**THIRTY YEARS OF SELECTIVE SERVICE RACISM**

by Ken Lawrence

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A report submitted by NATIONAL BLACK DRAFT COUNSELORS  
to the white house conference on youth  
April, 1971

To my friend Walter Collins

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## PREFACE TO THE 1981 EDITION

This is the fourth edition of this pamphlet. Nearly ten years have passed since its first appearance at the White House Conference on Youth, and it is sad to see that once again there is a need for it.

The research and writing were done in haste at the time, and the report cannot be considered a comprehensive study, but I believe it is sufficient to indict the Selective Service System. To this edition I have added two appendices not included previously.

Appendix D is a fact sheet, widely circulated and reprinted in Black and antiwar movement publications in the fall of 1970, but now long forgotten, to give a stronger picture of Black resistance to the Vietnam War and the draft. Even this flyer, probably the most comprehensive statement available at the time, is far from complete.

Three important examples from Mississippi alone are missing from it. SNCC organizer Charles Jenkins of Hollandale, whose draft board was headed by a member of the Ku Klux Klan, refused induction; as his case progressed, then-Senator James O. Eastland took a direct interest in seeing Jenkins punished, but the court failed to convict him. When, Jimmy Smith entered the race for mayor of Port Gibson, he was drafted, even though he had a bad back and had to be given a medical discharge soon afterward — but he was gone long enough to eliminate him from the campaign. A similar tactic failed to prevent Bennie G. Thompson from being elected alderman in Bolton; he successfully fought the induction order and won the election. Thompson later was elected the town's mayor and today is a Hinds County supervisor.

Undoubtedly there are dozens of other examples of the racist use of conscription, and Black resistance to it, that could be offered to document the case further. Some day a complete history should be written. Meanwhile, though, the problem is upon us again, as draft registration is back and actual conscription is surely just around the corner.

Appendix E, an article I wrote last summer, indicates that even during the years after the Vietnam War ended and conscription was repealed, the plans to reconstitute it, and particularly the most repressive and racist aspects, continued to occupy the attention of Selective Service officials. Perhaps we should now retitile this document *Forty Years of Selective Service Racism*.

Let us all join together to prevent the next war before it starts. The first necessary step, right now, is to oppose registration and stop all plans to restore the draft.

Ken Lawrence  
Jackson, Mississippi  
February 9, 1981

## I. INTRODUCTION

It would be slander to suggest that the racist practices of the U.S. military establishment began thirty years ago. Actually, they date back to colonial times. In July 1775, General Washington's headquarters issued an order (later rescinded) barring Black enlistments into the Continental Army.<sup>1</sup> Racial discrimination in conscription also originated in the same period. Virginia's statute of July 15, 1775, required that "free males, hired servants, and apprentices 16-50 . . . shall be enlisted. . . ."<sup>2</sup>

The period since the beginning of World War II is our focus for several reasons. It is the era which formed and developed today's Armed Forces and our special area of concern, the modern Selective Service System. Yet thirty years is a sufficient span of time to adequately demonstrate that the examples of racism which we offer are not isolated scandalous acts by a small handful of officers or bureaucrats. Rather, they represent a persistent, continuing policy of the Selective Service System. It is a long enough period to show clearly that in every instance when a particular racist policy was withdrawn or modified, it was the result of a strong, militant struggle by Blacks against the military's racism.

These racist practices naturally do not exist in isolation. They reflect the racist character of American society in general. Some may then wonder why we pick on Selective Service in particular. It would be sufficient to answer that we fight racism wherever we encounter it. But there is far more to it than that. First of all, unlike many other areas of institutionalized racism in the U.S., Selective Service is buttressed by the full weight of federal law. From the time he becomes 18 years old until he is either over age or in the Armed Forces, every young man is a compulsory victim of the Selective Service System. He cannot escape an encounter with Selective Service without risking severe reprisals from the FBI, the courts, and the military. Selective Service racism, then, serves as an officially sanctioned underpinning for the racism which pervades the rest of American society. It is for this reason that Selective Service deserves special attention.

One additional point should be noted. Our study is focused on the treatment of Black Americans by Selective Service. It is well known that

other minority groups have also been subjected to barbaric prejudicial treatment by the U.S. military. Undoubtedly the long history of routinely severe treatment of Blacks provided direction to the generals and politicians who conducted the repression of Japanese Americans during World War II, and other minority groups who have suffered similar treatment.

## II. THE WORLD WAR II EXPERIENCE

Laying the groundwork for U.S. entry into World War II, Congress passed the Burke-Wadsworth Bill on September 14, 1940, the first peacetime conscription law in American history. Two days later, President Roosevelt signed it into law as the Selective Service Training Act of 1940. It provided for the registration of all men between the ages of 21 and 35, and the induction of 800,000 draftees.

The law itself specifically prohibited discriminatory practices. Section 4(a) provided that:

in the selection and training of men under this act, there shall be no discrimination against any person on account of race or color.<sup>3</sup>

The Selective Service regulations echoed the working of the law itself:

There shall be no discrimination for or against any person because of his race, creed or color, or because of his membership or activity in any labor, political, religious, or other organization.<sup>4</sup>

and later,

In classifying a registrant there shall be no discrimination for or against him because of his race, creed or color, or because of his membership or activity in any labor, political, religious, or other organization. Each registrant shall receive equal and fair justice.<sup>5</sup>

Given the explicit wording of the law and the regulations, it is not immediately apparent how the discriminatory practices became part and parcel of the actual functioning of Selective Service. To find the truth we must examine the military itself. In 1940, virtually unchanged since World War I, all of

the U.S. Armed Forces discriminated against Blacks, each in its special way. The Army assigned Blacks to six separate, all-Negro regiments. The Navy accepted Blacks only as stewards. The Marine Corps allowed no Blacks at all.<sup>6</sup> By the end of the war, little had changed. 2,500 Negro volunteers were integrated into white army regiments (in segregated platoons commanded by whites) during the last two months of the war in Europe, then transferred back into their original segregated units for the trip home.<sup>7</sup> An order from the new Navy Secretary, James Forrestal, in 1944 stated that "the Navy accepts no theories of racial differences in inborn ability, but expects that every man wearing its uniform be trained and used in accordance with his maximum individual abilities." Despite this, when the war ended, 85% of the Navy's Blacks remained in the steward's branch.<sup>8</sup> The Marine Corps, which finally accepted Negro enlistments, assigned the 16,900 who served until the end of the war to segregated supply and ammunition units.

Thus from the time of the draft law's passage, 15 months before the U.S. entered World War II, until the war's end, Selective Service had as its job the securing of manpower for the rigidly segregated and discriminatory American Armed Forces. That it was told to do so in a non-discriminatory manner was simply a cruel Congressional joke, duly acknowledged in the regulations and then observed in the breach.

The first registration under the 1940 law was held on October 16, one month after the bill became law. Of the 16,565,037 men between ages 21 and 36 who registered, 1,765,917 were Black, 10.7 percent of the total.<sup>9</sup> In the whole population, the 1940 census reported 9.8 as the Black percentage. It might appear that one way to carry out the Congressional requirement that selection be non-discriminatory would be to represent Blacks proportionally in the selection apparatus. This was never done. In 1942, only 250 local board members were Black, a little over one percent of the total.<sup>10</sup> Since the nominations for local board members are made in each state by its governor, several governors were canvassed to find out why more Blacks were not nominated. It was found that the attitudes of the governors "were based entirely upon the probability of racial friction should Negroes be placed in positions where they might hold the balance in determining what might be life or death decisions regarding white registrants."<sup>11</sup> Apparently no similar consideration was

given to the problem of whites in position to make life or death decisions regarding Blacks.

Selective Service states that, in the haste to meet the national emergency, "the legal rights of Negroes and other racial minorities seemed somewhat overlooked through the exercise of 'administrative policy'."<sup>12</sup> This is attributed to War Department policy in regard to Negroes, released by the White House on October 9, 1940, whose last point begins:

The policy of the War Department is not to intermingle colored and white enlisted personnel in the same regimental organizations.<sup>13</sup>

The War Department held that separate calls were essential because of the policy of training whites and Blacks in separate Army units. It is interesting to note that the "national emergency" which necessitated that the "legal rights of Negroes" be "overlooked" was not war, but "the threat of war." The U.S. did not enter the war until after the Japanese attack on Pearl Harbor more than a year later.

Once the decision to overlook the legal rights of Blacks had been confirmed, the major problem faced by Selective Service officials seems to have been to determine just who was white and who was Black. Early in 1941, the general counsel at National Headquarters advised that "local boards, after thorough investigation in questionable cases, should classify as white all registrants except those who are Negro or part Negro."<sup>14</sup> Nonetheless, there were a considerable number of problems which ensued in determining race. "The most frequent disputes in determining race were those regarding American Indians, Portuguese, Puerto Ricans and Negro-White racial mixtures."<sup>15</sup> Also, "a large number of registrants patently of the Negro race belong to a religious cult which rejected the designation Negro and proclaimed its members Moorish Americans or Moslems. These men wished to be identified as a group in accordance with the teachings of their religious faith. The system, however, did not feel that it could interpret this as being consistent with the statute and the regulation."<sup>16</sup> The main reason for so much trouble about color designation was adequately summed up by Col. Johnson, Executive Assistant to the Director, on August 3, 1943: "The errors in this are unquestionably are numerous since, under our

present setup in the Armed Forces, there is a definite premium on being a member of any other race than the Negro race."<sup>17</sup> Selective Service and the War Department kept passing the buck back and forth, and by the war's end they still had not determined the responsibility for race determination to either's satisfaction.

One of the most outstanding examples of Selective Service racism is found in the treatment of war objectors. During World War II, "recognized" conscientious objectors were assigned to Civilian Public Service Camps. Others who refused to serve were imprisoned in the penitentiary. A combined total of 23,369 persons were sent to Civilian Public Service Camps as C.O.'s and imprisoned as Selective Service Act violators from 1941 through 1946. 2,330 of these, 10% of the total, were Black, closely resembling the proportion of Blacks in the whole population. But of the 11,896 in the CPS camps, only 122, 1% of the total, were Black. On the other hand, of 12,183 imprisoned violators, 2,208, 18.1% of the total, were Black.<sup>18</sup> Or, looking at the CPS camp and prison total another way, 45% of the white war objectors were imprisoned while 95% of the Black war objectors were imprisoned. While several predominantly white religious groups (e.g., Quakers, Brethren, Mennonites, etc.) have been recognized by Selective Service as legitimate claimants to conscientious objector status, Black religious groups have been singled out for persecution. When referring to the Temple of Islam, for example, Selective Service described the leaders as "cultists" and "petty racketeers," and the followers as "a handful of ignorant individuals."<sup>19</sup> On February 3, 1943, the General Messenger of a group of Black Hebrews in New Orleans was given a fifteen-year sentence for persuading members of his group to avoid military service on religious grounds.<sup>20</sup> This was probably the most severe sentence given to a draft law violator during World War II.

Opposition to all these discriminatory practices began right after the war preparations started. In the spring of 1941, A. Philip Randolph, president of the Brotherhood of Sleeping Car Porters, began to organize a National Negro March on Washington, a direct action by 100,000 Blacks scheduled for July 1. "We shall not call upon our white friends to march with us," said Randolph. "There are some things Negroes must do alone."<sup>21</sup> The demands, backed by an unprecedented show of Black unity, were for equality in defense industries,

the Armed Forces, and government apprenticeship programs. One week before the March was to take place, President Roosevelt capitulated and signed Executive Order 8802, banning discrimination in war industries and apprenticeship programs. On the day the order was issued — June 25, 1941 — Randolph called off the March.<sup>22</sup> The Armed Forces and Selective Service remained unchanged.

"Surprisingly enough," says Selective Service,<sup>23</sup> there was only one court case which seriously challenged separate calls. This was the case of Winfred William Lynn of New York. In 1942, Winfred Lynn decided that he could not accept induction into the United States Army because of its racial discrimination. He did advocate war against Hitler, and was willing to enlist in the Canadian Army to fight. He asked his brother, Conrad Lynn, to help with the case. Conrad Lynn, who was then the counsel for the Long Island Branch of the NAACP, asked that group to take the case. Both Lynns were expelled from the NAACP branch for being unpatriotic. When they next approached Roger Baldwin and J. H. Holmes of the American Civil Liberties Union about the case, Thurgood Marshall argued for the NAACP against the Lynns. Holmes and Baldwin, both embarrassed, explained to Conrad Lynn that they had agreed with the NAACP not to accept any Black cases refused by the NAACP for the duration of the war. Therefore ACLU couldn't defend Winfred Lynn. The Communist Party's *Sunday Worker* editorialized against the Lynns for being unpatriotic and hindering the war effort by stirring up dissatisfaction among Blacks in the army. With so many obstacles, perhaps it isn't so surprising that there was only one major legal test of Selective Service's discriminatory practices.

Finally, Arthur Garfield Hays agreed to take the case. Dwight Macdonald, C. L. R. James, and Norman Thomas established the Lynn Committee Against Racial Segregation in the Army, which succeeded in raising enough funds to take the case to the Supreme Court. The first habeas corpus petition was filed in December 1942, and the first hearing was held in January 1943. When the court ruled that in order to have a case, Lynn must have submitted himself for induction, he did so and then immediately filed a new petition for a writ of habeas corpus. The circuit court denied the writ, but on appeal Judge Charles E. Clark wrote a vigorous dissent. (See Appendix.) The case was then taken to the Supreme Court on a petition for a writ of certiorari. By the time the court heard the

case, approximately four months later, Winfred Lynn was overseas, and the court denied the writ on the technical ground that Lynn was not in the jurisdiction of the commander named in the petition. A petition for rehearing and a new application for a writ of habeas corpus, this time against the Adjutant General of the Army "and each of his successors in office," were denied without comment by the court. Throughout the hearings the government freely admitted its discriminatory practices in testimony by Col. Arthur V. McDermott, New York City Director of Selective Service. The Appellate Court upheld these practices as a necessary and permissible administrative procedure, and the Supreme Court allowed that opinion to stand.

"The Lynn case was not lightly regarded by the federal government, however, especially the legal division at National Headquarters of the Selective Service System and the office of the Judge Advocate General of the Army. There was considerable feeling that had the case been tried on its merits, the separate calls' procedure might have been found illegal."<sup>24</sup> But they did weather the storm, and their discriminatory procedures survived the entire duration of the World War II mobilization. Selective Service points to that period with pride: "The lack of adverse criticism directed toward the System was actually a tribute to the effectiveness of the public relations activities of Selective Service and the democratic spirit in which its uncompensated and compensated personnel carried on their functions. It can be stated unequivocally that despite the general lack of faith held by racial minorities in many things American, the System enjoyed their wholesome respect and confidence."<sup>25</sup>

### III. THE POSTWAR YEARS AND KOREA

But all good things come to an end sooner or later, even for Selective Service. In 1947, A. Philip Randolph and Grant Reynolds organized the Committee Against Jim Crow in Military Service and Training, and again, as with the march on Washington organizing drive, the support they received from other Black groups was massive and unified. Then, when President Truman prepared to follow his predecessor with the second peacetime draft in U.S. history, Randolph issued his warning. Testifying before the Senate Armed Services Committee on March 31, 1948, Randolph announced: "Today I would like to make clear to this committee and through you to Congress and the American people that passage now of a Jim Crow Draft may only re-

sult in mass civil disobedience."<sup>26</sup> This time the entire weight of the Black struggle was focused on the military. Two days later, General Eisenhower testified about the Army's position: "There is race prejudice in this country," he said. "When you pass a law to get somebody to like someone, you have trouble."<sup>27</sup> Congress apparently agreed with Eisenhower. Two anti-segregation amendments to the draft bill were defeated, and the bill was passed and signed the way the Army wanted it. When Randolph and Reynolds began organizing the mass civil disobedience they had promised (see Appendix), *Newsweek* reported that 71% of Black college students supported them.<sup>28</sup> On April 26, Secretary of the Army Kenneth C. Roy all told a group of Black leaders, "Any improvement must be made within the framework of segregation."<sup>29</sup> It appeared that a showdown was coming. But after the southern Democrats bolted the party convention in July, Truman found himself running an election campaign which needed minority support. On July 26, 1948, he signed Executive Order 9981, declaring that "there shall be equality of treatment and opportunity for all persons in the armed forces without regard to race, color, religion or national origin." Randolph and Reynolds claimed a victory. General Omar Bradley, Chief of Staff, feared that the move would jeopardize military effectiveness.

While the Navy and Air Force made attempts at complying with the executive order, the Army dragged its feet. The experience of Korea, however, finally brought about the long-sought change. The morale of Blacks in segregated units was so poor that they just didn't fight.<sup>32</sup> It was as if the civil disobedience promised by Randolph to be employed against Selective Service had instead spontaneously materialized on the Korean battlefield when the changes promised by Truman's executive order failed to appear. Contrary to General Bradley's opinion, it was the continuing discrimination which was jeopardizing military effectiveness. Finally, on July 31, 1950, General Matthew B. Ridgway, U.N. Commander in Korea, obtained authority to desegregate units in the combat zone.<sup>33</sup> Even with that, desegregation was relatively slow. In January 1954, 10,000 soldiers were still in segregated units, and in 1956, Eisenhower and Stevenson were campaigning for president with promises to desegregate the Armed Forces.<sup>34</sup> By now, however, the war in Korea had ended, and the focus of the Black struggle had shifted away from the military into the broader area of civil rights in civilian life.

Selective Service had again survived the entire duration of a war without a serious fight, this time saved by Truman's executive order. Once the fighting had stopped, draft quotas fell off, and few continued to pay much attention to Selective Service policies after the Korean truce.

#### IV. SELECTIVE SERVICE AND THE WAR IN VIETNAM

It is not surprising that interest in the draft declined following the Korean truce. Without an actual war to fight, military force levels decreased at the same time that the number of draft age youth increased. During the early 1960's, 95 percent of those between the ages of 18 and 35 were excluded from the I-A and I-A-O pools. During the years 1964 and 1965, between 5,000 and 10,000 men were being inducted. But when President Johnson escalated the war in Vietnam in 1965, monthly calls shot up to 20,000-30,000.<sup>35</sup>

President Johnson's National Advisory Commission on Selective Service reported on the character of Selective Service discrimination during this period:

The commission gave careful study to the effect of the draft on and its fairness to the Negro. His position in the military manpower situation is in many ways disproportionate, even though he does not serve in the Armed Forces out of proportion to his percentage of the population. He is under-represented (1.3 percent) on local draft boards. The number of men rejected for service reflects a much higher percentage (almost 50 percent) of Negro men found disqualified than of whites (25 percent). And yet, recent studies indicate that proportionately more (30 percent) Negroes of the group qualified for service are drafted than whites (18 percent) — primarily because fewer Negroes are admitted into reserve or officer training programs. . . . Negro soldiers have a high record of volunteering for service in elite combat units. This is reflected in, but could not be said to be the sole reason for, the Negro's over-representation in combat (in terms of his proportion of the population): Although Negro troops account for only 11 percent of the total U.S. enlisted personnel in Vietnam, Negro

soldiers comprise 14.5 percent of all Army units, and in Army combat units the proportion is, according to the Department of Defense, "appreciably higher" than that. During the first 11 months of 1966, Negro soldiers totaled 22.4 percent of all Army troops killed in action.<sup>36</sup>

Selective Service has played an especially important role in the procurement of Black manpower to fight the Vietnamese war. Only one third of the whites who were found acceptable for the military were inducted, while over half of the Blacks were.<sup>37</sup> It seems that once the U.S. got itself massively involved in a generally unpopular war. Blacks, instead of being excluded from the battlefield, would now be over-represented on it. The Army National Guard, however, was only 1.15 percent Black, and the Air National Guard only 0.6 percent.<sup>38</sup> The biggest change seems to have come in the form of discrimination, while the official releases from Selective Service try to indicate that it is less racist than in previous times.

For example, in 1967, of 17,123 local board members, 261 were Black, or 1.5% of the total and a net increase of eleven in 25 years.<sup>39</sup> By June, 1970 the number of Black local board members was 1,265 out of a total of 18,968 or 6.6%.<sup>40</sup> In other words, virtually all of the newly increased numbers of local board members were Black. And on December 16, 1970, Selective Service announced the appointment of "the first Negro ever to be appointed a Director of Selective Service in one of the 50 states."<sup>41</sup>

But even though the new system allows more Blacks to sit on local boards and to die on Vietnamese soil, there are some ways in which the racist practices haven't changed a bit.

For example, as we pointed out earlier, the heaviest sentence for a Selective Service law violation during World War II was given to a Black religious objector. History repeated itself on October 11, 1967 when Judge Frank M. Scarlett gave two consecutive five-year sentences and two \$10,000 fines to Clifton Thurley Haywood, a Black Muslim, even though Haywood told the court he was prepared to violate his religious beliefs by entering the Armed Forces.<sup>42</sup>

One of the most outrageous examples of Selective Service racism fully supported by the courts

is the case of Walter Collins. The following account is taken from a statement published by the Southern Conference Educational Fund as part of the struggle to free Collins:

Walter Collins, 26-year-old activist in the black liberation movement, was arrested November 27, 1970, at his home in New Orleans, to start serving a five-year sentence for refusing to be drafted. The arrest came just 11 days after the U.S. Supreme Court had refused to hear an appeal of his sentence — even though his lawyers were preparing a petition for reconsideration by the high court, which they had 25 days to file. Federal marshals came to Collins' home, handcuffed him, and refused to allow him even time to get a coat or a toothbrush. The normal procedure of arrest when an appeal is denied, especially in the case of white defendants, is to allow the person time to take care of personal affairs and surrender.

The issue in Collins' case is whether all-white draft boards, made up of people who live outside the areas where black people live, have a right to draft black men to die on foreign battlefields for a system that has continually oppressed them at home.

Collins' situation is similar to that of thousands of young black men across the country — for draft boards like his are operating everywhere. The only unusual thing about his case is that Collins had been organizing throughout the South and the country against racism, war, and the draft. At the time he was arrested, he was scheduled to speak in the following two weeks at colleges and high schools throughout Louisiana and to lead a national conference of black draft counselors in Chicago in early December. The government wanted to shut him up quickly.

Collins has been active in civil-rights movements since he was in high school and took part in the sit-ins of the early 1960's. He worked on voter-registration drives in the Deep South, and in 1966 he started organizing opposition to the

Vietnam War in the black community of New Orleans. For the last two years, he has worked on the staff of SCEF, a South-wide organization that is building coalitions between black people and poor and working class white Southerners. Along with young white organizers, he has been working to build such coalitions in Laurel, Miss., and elsewhere in the Deep South.

He is also Southern regional director for the National Association of Black Students (NABS) and has been setting up a Southern regional office for the Central Committee for Conscientious Objectors and organizing a network of black draft counselors throughout the South.

Collins lost his student deferment in 1966, soon after he began organizing against the Vietnam War. He was classified I-A by an all-white draft board — although two-thirds of the people in the area it served were black. Only one of the board members lived in that area. The chairman of the board lived in a different county. All this was in direct violation of the draft law.

He was given the wrong information when he tried to apply for conscientious-objector status. Twice, when he reported for induction and passed out anti-war literature, he was sent home. Collins was finally indicted on six counts of refusing induction — and convicted of five. He was sentenced to five years on each charge, to be served concurrently — and fined \$2,000.

Collins' appeal is based on the illegal make-up of his draft board. His lawyers contend that if he was not represented on the board, he should not have to obey its orders. The government says it doesn't matter if the board failed to comply with the draft law — it is a "de facto board."

"There should be only one law for the governors and the governed, binding both alike," says Robert Sedler, one of Collins' lawyers. "A draft board not constituted in accordance with the statute and regulations is a 'lawless board' without the power to classify at all or to issue valid orders

to report for induction." Sedler also noted that the federal courts in New Orleans were inconsistent in their rulings. Last April 24, the U.S. District Court in that city freed Oscar E. Clinton, a white man, on a draft charge because only two members of his draft board were residents of the area it served. Three days later, the U.S. Court of Appeals in New Orleans upheld Collins' five-year sentence — although only one member of his board lived in the area it served.

Sedler also asked the high court why black people should be expected to serve in the armed forces when they are not allowed to serve on draft boards — why they are expected to "accept decisions affecting their very life that are made by whites," but whites are not expected to accept decisions affecting their lives made by blacks. The attorney suggests that this may explain why 22 percent of the Americans killed and wounded in Indochina are black, although black people are only 10 percent of the U.S. population. "These questions," Sedler said in a brief to the Supreme Court, "relate to the very legitimacy of a system by which young Negro men are asked to give up their lives for their country. . . . They call into issue the prejudice and racism that are part of American society today."

Collins is only one of thousands of young black men who have been victimized by unfair and illegal administration of the draft law. He is only one of many who have been refused a hearing in the higher courts. Nowhere is the double standard of justice in this country — one standard for whites and one for blacks — more evident than in the application of the draft law.

In the last few years, the rights of draft refusers under the law have been widening — because of pressure from the peace movement. A number of important cases have been won and prison sentences set aside. But these were almost entirely in the cases of white men. Since 1965, the U.S. Supreme Court has decided 28 cases involving the rights of draft resisters. Twenty-four of these were won and four

were lost by the young men involved. But only three of those whose cases were accepted for review were black. Two of these were among the four cases that were lost.

Meantime, other black draft resisters have had their appeals rejected or have been unable to appeal to the higher courts. They are now in prison or on the way, or in exile in other parts of the world, convinced that they can get no justice in the U.S.A. Among those refused a Supreme Court review are Fred Brooks, Nashville black student movement leader, and Mike Simmons, SNCC leader who not only refused induction but took part in one of the first induction center demonstrations — in Atlanta in 1966; and thus far the Court has avoided hearing the central issues in the cases of heavyweight boxing champion Muhammad Ali and Cleve Sellers, a founder and leader of SNCC. These are some whose names are known. There are many others.

Especially singled out for long sentences under the draft law are young black men who are active in protest movements — in other words, those who are actively trying to change the system that oppresses them. Meantime, thousands of other black men who might have refused the draft have been convinced from the beginning that it is useless, or they lack the resources to make a major fight. So they have simply gone into the army — or disappeared.

As we protest the imprisonment of Walter Collins, we will be fighting for the rights of all these men. As we call the attention of government officials and the public to the way the draft system operated in Collins' case, it becomes clear what this system is doing to all black men. If we can win Collins' case, it can crack open the entire draft system as it relates to blacks. And as it cracks open for blacks, it will crack open for more whites, too — for a similar discrimination also operates against poor white men, who are also usually drafted by boards whose members live outside their areas.

On December 10, 1971 representatives of black liberation, human rights, and peace organizations met in Washington to present the issue of the Collins case to government officials. Included were leaders of the National Committee of Black Churchmen, the National Association of Black Students, Southern Christian Leadership Conference, SCEF, Republic of New Africa, Women's International League for Peace and Freedom, and several other groups.

They visited the Justice Department, Selective Service headquarters, and the White House, where they presented amnesty petitions signed by 12,000 people across the country. Three white draft resisters who recently won their cases in landmark decisions of the Supreme Court submitted an amicus brief to that court, urging that the Collins case be reviewed. The three — David Gutknecht, Joseph Mulloy, and Elliott Welsh — told the Court: "Our victories in the face of black defeats contradict everything we are trying to make our lives stand for."

On the same day, in Collins' home town of New Orleans, a delegation presented

the U.S. district attorney with amnesty petitions signed by 5,200 persons in that city. Other concerned citizens visited their local U.S. district attorneys in other parts of the country; some called on their congressmen for an investigation of the racist nature of the draft system.

Walter was also one of the people who played an instrumental role in exposing a Selective Service task force proposal to establish orientation centers for poor and Black conscientious objectors. This proposal, which reminded many of us of the World War II relocation centers for Japanese Americans, was defeated by an energetic campaign of organized opposition and public exposure and finally a vigorous confrontation between concerned Black draft counselors and Selective Service officials. The complete details of this episode are given in the documents in Appendix C.

Thirty years have now passed since conscription for World War II began in the United States. Over those years, the form has changed considerably, but the content remains the same. The Selective Service System is a racist system, and a major prop for the racism which pervades all of American society. It is a cancer which must be removed.

### Footnotes

1. Lerone Bennett, *Before the Mayflower: A History of the Negro in America* (Chicago: Johnson, 1962), p. 56.
2. Selective Service System, *Special Monograph No. 10: Special Groups* (Washington: Government Printing Office, 1953), Volume 1, p. 2f. I have heavily milked this book and its companion volume as a source. On page 5, it reads:

The coverage of this monograph is the story of attempts at fairness, justice, impartiality, and nondiscrimination in relationship to these special groups.

The fact that it has provided me with so much evidence of unfairness, injustice, prejudice, and discrimination is remarkably damning. Even the treatment of "prominent" Blacks in the text is racist. On page 31,

The president announced the appointment of a Negro Army Reserve officer as Executive Assistant to the Director of Selective Service.

His name, Major Campbell C. Johnson, is furnished in a footnote. Since he is the alleged author of this book (in General Hershey's foreword), one could mistake this for modesty were it not for the similar treatment accorded to Marian Anderson, Ralph J. Bunche, George

Washington Carver, Charles R. Drew, Lloyd A. Hall, Percy L. Julian, Ernest Everett Just, Booker T. Washington, Channing H. Tobias, Paul B. Comely, Lt. Col. Benson D. Mitchell, Lt. Col. William B. Bryant, Maj. Baxter S. Scruggs, Maj. Homer R. Lewis, Capt. Joel G. Adams, Lt. Col. Berkeley A. Mills, Capt. Lycurgus J. Conner, and Capt. Everett F. Morrow, all of whom are nameless in the text. Blacks who fought discrimination, however, are granted full manhood by being introduced by name in the text proper, along with the President, the Director of Selective Service, Congressmen, etc.

3. *Selective Training and Service Act of 1940* (Public Law No. 783, Seventy-Eighth Congress, approved September 16, 1940). Section 4(a) is reprinted in *ibid.*, Volume 2, p. 9.
4. *Selective Service Regulations* (First edition, Volume 3, Section XVIII, October 4, 1940). Paragraph 326 is reprinted in *ibid.*, Volume 2, p. 9.
5. *Selective Service Regulations* (Second edition, First, Second, and Third Printings; Pt. 623; February 1, 1942, February 1, 1943, and July 31, 1945, respectively). Paragraph 623.l(c) is as printed in *ibid.*, Volume 2, p. 9.
6. Richard J. Stillman, II, *Integration of the Negro in the U.S. Armed Forces* (New York: Praeger, 1968), p. 22.

7. *Ibid.*, p. 29.
8. *Ibid.*, p. 30.
9. SSS, *Special Groups*, *op. cit.*, pp. 30-31.
10. *Ibid.*, p. 34, Table 2. Benjamin Quarles, in his book, *The Negro in the Making of America* (revised edition, New York: Collier, 1969), states that:  
     By the summer of 1942, 1,800 Negroes sat on draft boards, (page 218)  
     He is in error. 1,804 Negroes comprised the entire uncompensated personnel of the Selective Service System. Of these, only 250 were local board members, in 17 states. The rest were distributed as follows: Government appeal agents, 30; registrants advisory board members, 624; associate members registrants advisory boards, 251; appeal board members, 14; examining physicians, and dentists, 486; medical advisory board members, 63; others, 86.
11. *Ibid.*, p. 33.
12. *Ibid.*, p. 45.
13. *Ibid.*, p. 46.
14. *Ibid.*, p. 71.
15. *Ibid.*, p. 72.
16. *Ibid.*, p. 72. In any case of conflict between the U.S. Constitution and the Selective Service Regulations, and especially as regards religious liberty, Selective Service feels that its regulations prevail.
17. *Ibid.*, p. 74.
18. *Ibid.*, p. 83, Table 2; and p. 100.
19. *Ibid.*, pp. 80-81.
20. *Ibid.*, p. 81.
21. Quarles, *op. cit.*, pp. 216-217.
22. Bennett, *op. cit.*, pp. 304-306.
23. SSS, *Special Groups*, *op. cit.*, p. 49.
24. *Ibid.*, p. 50.
25. *Ibid.*, p. 69.
26. *New York Times*, April 1, 1948.
27. *New York Times*, April 3, 1948.
28. *Newsweek*, April 12, 1948, p. 26.
29. Stillman, *op. cit.*, p. 40.
30. *Ibid.*, p. 43.
31. *Ibid.*, pp. 44-50.
32. *Ibid.*, pp. 50-55.
33. *Ibid.*, p. 54.
34. *Ibid.*, pp. 56-57.
35. *The Report of the President's Commission on an All-Volunteer Armed Force* (Washington: Government Printing Office, February 1970), p. 165.
36. *In Pursuit of Equity: Who Serves When Not All Serve?* (Washington: Government Printing Office, 1967), pp. 9-10.
37. *Ibid.*, pp. 158-160.
38. *New York Times*, August 11, 1967.
39. *In Pursuit of Equity*, *op. cit.*, p. 19.
40. *Semiannual Report of the Director of Selective Service January 1-June 30, 1970* (Washington: Government Printing Office, 1970), p. 56.
41. Selective Service System, *News Release* Number 70-19. December 16, 1970.
42. *News Notes of the Central Committee for Conscientious Objectors*, Volume 19, Number 5 (September-October 1967), p. 1.

**MINORITY COURT OPINION ON THE  
LYNN ARMY SEGREGATION CASE**

U. S. ex rel LYNN v. DOWNER No. 176, Circuit Court of Appeals, Second Circuit, February 2, 1944

CLARK, *Circuit Judge* (dissenting).

In a case of this kind, with such serious social implications, it seems to me peculiarly desirable that judges shall confine themselves to the legislative intent to the utmost extent possible. Here that intent does not seem to me disputable on the words of the statute itself; but if any doubt exists, I think it must be dispelled by a consideration of the legislative history. The statute presents a closely integrated system of selection to fit registrants according to State and local quotas based on the number of available men, with an overriding prohibition against any discrimination in selection for race or color; and the history of this prohibition shows just how overriding it was intended to be.

In stating the legislative history, the opinion stresses the fact that segregation had previously existed in the Army and that the Wagner and Fish amendments to the Selective Training and Service Act were made in the light of that fact. It argues, therefore, that the amendments, following cases dealing with discrimination claimed to be repugnant to the fourteenth amendment, require only equal, even if separate, treatment of Negro inductees while in the Army.<sup>1</sup> All that can be accepted without reaching our conclusion; that requires the further step which overlooks the expressed purpose of the proponents and nullifies the provision that in the *selection* of men for induction there shall be no discrimination against any person on account of race or color.

Thus, Senator Wagner explained his amendment as not an attempt to control the Army after it received the selectees, but a requirement of equal opportunity to serve; and he presented a letter from the Secretary of the National Association for the Advancement of Colored People asking for the amendment because Negroes had been allowed to enlist only in certain specified regiments (86 Cong. Rec. 10,789, 10,889). This amendment — which is not the important one here and which was passed only after long debate and determined opposition mainly on the ground that it was unnecessary (86 Cong. Rec. 10,888-10,895) — thus concerned the important matter of *choice* of men for the Army.

When the matter came up later in the House, the Fish amendment was supported to make assurance sure and to quiet the doubts of representatives of the colored people. Again there was a sharp debate, not in opposition to the principle expressed, but on the ground that the provision was unnecessary, as already incorporated in that act. Congressman Fish said he was not the originator of the amendment, but sponsored it by request of a group of prominent colored leaders "who are interested in and represent the interests of 11,000,000 Negroes in America" (86 Cong. Rec. 11,675, 11,676). And so at length after one vote wherein the amendment appeared to be lost, it finally passed the House by a fairly close vote (86 Cong. Rec. 11,680) and remained in the bill at all times thereafter.

In this debate on the Fish amendment, the Committee on Military Affairs, which had reported the bill, opposed the change. The Army letter to Congressman Thomason of Texas (86 Cong. Rec. 11,427), seems to me of quite a different tenor than as stated in the opinion;<sup>2</sup> but the intimation it contained that estimates of registrants were being made according to color may be one of the things which led to disquietude upon the part of the colored people and to the proposal of the amendment *2 days later*. It is significant, too, that Chairman May of the Committee on Military Affairs, in opposing the amendment as unnecessary, reported that the committee was adopting two provisions adequate to cover the matter — one the Wagner amendment to the Senate bill, and the other the proviso to Sec. 3(a) quoted in the opinion that no man should be inducted until he was acceptable to the land or naval forces. Then he explained that this proviso was not to be used to permit discrimination by the clear statement: "That latter provision merely means that he must stand the same kind of medical examination and physical test as any other man, regardless of race, color, or condition" (86 Cong. Rec. 11,676). The other similar proviso, also quoted from the same statute, that no man should be inducted until adequate sanitary and other facilities were available had just been adopted that same day after similar considerable debate as to its necessity and expressly to meet the condition asserted to have obtained in the First World War when men were said to have been inducted only to become sick or die because of lack of adequate sanitary and other facilities (86 Cong. Rec. 11,670).

It seems hardly doubtful that these provisos

added to Sec. 3(a) are but the protection thought necessary for the inductees and were not intended, and should not be construed, to nullify the anti-discrimination (Fish) amendment to the next section, Sec. 4(a), which in terms refers to and conditions the earlier section thus, "The selection of men for training and service *under section 3 \* \* \** shall be made in an impartial manner \* \* \*: *Provided*, That in the selection and training of men under this act, and in the interpretation and execution of the provisions of this act, there shall be no discrimination against any person on account of race or color." [Italics added.] And the Wagner amendment to Sec. 3(a) itself refers forward to and depends upon "the limits of the quota determined under section 4(b) \* \* \* for the subdivision in which he resides." Thus, all parts of the statute must be read together and the provision against discrimination in selection for color must be given meaning. In fact, I find it difficult to think of more apt language to express the congressional intent; the suggestion that Congress should have said something more, or amended the statute, means in effect that it should be watchful to see how a statute is violated and then expressly negative such violation or be assumed to sanction it.

Now it seems to me that the result stated in the opinion simply wipes out this provision so insisted upon as assurance to prevent this very result. For it is not seriously contested that white and colored draftees are not called according to their officially determined order numbers (established originally by the much publicized drawing from the gold fish bowl in Washington and later by similar impartial chance), but only according to the calls of the Army officials separately for whites and for Negroes. The dislocation occasioned by a single such separate call, intensified as these calls are repeated throughout the history of the draft, was frankly admitted by Col. Arthur V. McDermott, the New York City Director of Selective Service, who testified below. He said: "I will repeat — Generally speaking, both Negroes and whites are called according to their order numbers, but if the number of Negroes called is less than the number of whites called, then after the Negro quota has been filled, drawing by order numbers, then the board would proceed according to order numbers, but skipping the Negroes." To the question, "Then you do have a Negro quota and a white quota?" he answered, "Oh, yes." And to the question, "Am I not right in my statement that Negroes and white men are not called in turn or serially, but that the question of color has something to do with the time they

are called?" he answered, "That's right." This well-understood practice has led to rather bitter comment recently in Congress, where Congressman McKenzie of Louisiana has pointed out the disruption of a community caused by the taking of pre-Pearl Harbor white fathers, while single available Negroes are left uncalled (89 Cong. Rec. A-5268, A-5269).<sup>3</sup>

I do not see how such a result can be considered consistent with selection without regard to color. It is suggested, however, that, even if the statute is violated, this registrant cannot take advantage of it, for he has not shown that his call was not delayed, rather than accelerated, by the practice, with the further correlative supposition that delay must of necessity be an advantage. Even if this supposition is to be accepted, there was evidence in the record that Negroes might be called in advance of whites, that in fact a call for Negroes would be allocated "to those boards where Negroes are"; and since this was a matter peculiarly within the Government's knowledge, it would seem under the circumstances to have the burden of going forward with the evidence. But I do not think the supposition can be accepted as being in accord with the habits and thoughts of patriotic citizens during the present crisis or permitted by the statute, which requires that there be no discrimination for color, not that there be no legally disadvantageous discrimination. This registrant asserts his desire to serve and his willingness to do so if inducted according to law. I think it unsound to overlook a violation of law as to him on a premise which we ourselves would reject as patriotic citizens and which is contrary to the whole spirit of the act, namely, that avoidance of service is to be desired. But notwithstanding the fears expressed by the United States attorney, this cannot mean the release from the Army of large numbers of soldiers; alike with volunteers, those who have gone into service properly without immediately raising any objections they have, and relying upon them as steadfastly as did this registrant here, surely have no ground to approach the court.

It is to be noted that in final analysis the case for the validity of the call here rests upon the policy of segregation, where equal facilities are afforded, as sanctioned by various Supreme Court decisions. But actually these precedents call for the contrary result. It must not be overlooked that they do insist upon equal accommodations, *State ex rel. Missouri ex rel. Gaines v. Canada*, 305 U. S. 337, 59 S. Ct. 232, 83 L. Ed. 208; *Mitchell v. United States*, 313 U. S. 80, 61 S. Ct. 873, 85 L.

Ed. 1201, which here must mean equal calls to service. However undesirable the colored people may regard service in segregated units, they are justified in asserting that it is less degrading than

no service at all or service delayed, if not belittled, in the light of their available manpower. I think the judgment should be reversed, with directions that the writ be sustained.

#### Footnotes

1. Referring to this case, Prof. Robert E. Cushman, in *Some Constitutional Problems of Civil Liberty* (23 B. U. L. Rev. 335, 361), makes this same point of "the general policy of segregation" upheld in *Plessy v. Ferguson* (163 U. S. 537, 16 S. Ct. 1138, 41 L. Ed. 256); but he does not discuss the question of discrimination in *selection*.
2. The letter does not mention separate white and Negro quotas and calls: it does, however, attempt an estimate of the number of registrants, and, taking Texas, as an example, considers separately the white and Negro population and the white and Negro persons already serving in the Army. So far as appears, this method of estimating may be required by the nature and form of the available statistics.

It is easy to slip from the discrimination here, which

is based solely on Army calls for men, to that stated at the end of the opinion, viz, "separate quotas in the requisitions based on relative racial proportions of the men subject to call." Whether or not that would violate the quota provisions of Sec. 4(b), it is obvious that such a system, substantially following population trends, is more likely to come closer to calling the Negroes in their proper turn than does the one actually employed. The same is true of induction of Negroes "in accordance with the ratio they bear to the population," also referred to in the opinion.

3. The Congressman quotes from a Louisiana newspaper statement that from a certain parish in that State there have been called for military service a group of men with pre-Pearl Harbor children, while 267 Negro single men remain on the class 1-A list, and that both white and Negro citizens are disturbed by the discrimination.

## Appendix B:

### Statement by the League for Nonviolent Civil Disobedience Against Military Segregation, 1948

#### "IF WE MUST DIE ..."

The fight against Jim Crow in the armed forces has been going on continuously for more than twenty-five years. In World War II Negroes literally caught Hell — since that time those who have called for the end of segregation in the Armed Forces have met with official hedging, rebuffs and some outright opposition. On March 30th A. Phillip Randolph told the Senate Armed Services Committee: "... this time Negroes will not take a Jim Crow draft lying down. ... I personally pledge myself to counsel, aid and abet youth both white and Negro to quarantine any Jim Crow conscription system, whether it bear the label of universal military training or selective service. ... I shall call upon all veterans to join this civil disobedience movement."

This blunt, sober statement split the issue of army segregation wide open. Heated discussions began in pool-rooms and churches, bars and classrooms — even in Congressional halls. Senator Wayne Morse called it treason. P.M. Editor Max Lerner called it historic. Whatever they said, most people recognised that the Randolph proposal was a real expression of the deep resentment Negroes have to Army Jim Crow — but — what about "civil disobedience"? What about breaking the law?

Obviously such an extreme form of direct action as civil disobedience could never be justified until there had been a long-suffering campaign to wipe out military Jim Crow through *education, negotiation, arbitration and legislation*. Such campaigns have been waged for thirty years. Since before World War I Negro and white organisations, delegations and leaders have used these methods to little or no avail upon the Army brass hats, Presidents and Congresses. Even though the President of the United States instructed Mr. James Forrestal, Secretary of Defence, to remove segregation from the Army, Mr. Forrestal has refused to put the directive into operation. The Republican Presidential Platform said in 1944:

We pledge an immediate congressional inquiry to ascertain the extent to which mistreatment, segregation and discrimination against *Negroes who are in our armed forces* are impairing morale and efficiency, and the *adoption of corrective legislation*.

These same Republicans recently failed to support Senator Langer when he attempted to outlaw segregation and discrimination recently on the

Senate floor. Senator Taft and other Republicans fought to table civil rights amendments to the draft, this even after Taft had written A. Phillip Randolph that he would support such amendments. Thus again the Senate voted to continue Jim Crow.

As late as April the Government stated through Secretary Royall that it was the intention of the Army to continue Jim Crow. It is no wonder that the fifteen Negro leaders left after saying they could not act as advisers to such a programme. What is there left but direct action? So it would seem that after almost thirty years of almost futile dependence on Congress and various Presidents that direct action and civil disobedience are absolutely necessary to progress.

To take a civil disobedience stand against all segregation at once, no matter how desirable, would be an impossibility in practical terms. Therefore, even though we make it clear that we are unalterably opposed to Jim Crow everywhere, for tactical and strategic reasons it is necessary to select carefully those areas in which one can work successfully, and then to select one given area in which to concentrate. It seems that there are several reasons for concentrating on Jim Crow in the Army, as a means to eradicate Jim Crow widely:

- (1) *Surveys have shown that Negroes are more emotionally aroused about Army Jim Crow than by any other single issue.* This may seem strange, but during the war every Negro family was crushed by Army Jim Crow through the intense humiliation of their husbands, sons, brothers and sisters in the armed forces. This is an important fact, for in selecting the *area of concentration* it is essential that those encouraged to resist "*be keenly conscious of a flagrant wrong to them.*"
- (2) *The eradication of Jim Crow in the Army automatically moves towards eradication of segregation in many other areas of life.* The Army is now America's largest and most influential business concern. It touches almost every other economic, social and political *institution*. If the millions of Negroes and white people in the Army are in mixed units they will eat, travel and sleep together. They will have recreation together, work together and travel on boats about the world together. In the South they will live, sleep and

work together in and beyond Army camps. What could be a more revolutionary blow to the caste system? How under these circumstances could Jim Crow survive?

Civil disobedience is certainly not un-American. In American history the Boston Tea Party is an early example of civil disobedience. You will recall that the thirteen colonies were under the direct rule of England. England, the accepted and established government, determined and levied the taxes. The colonists refused to pay the taxes levied on the tea, which they then dumped into the sea. This was an outright act of non-co-operation and civil disobedience with the established government. Many of the contemporaries of these men called them "agitators" and "traitors"; but to-day our history books describe them as "defenders of liberty" and "true patriots."

The colonists argued "no taxation without representation." Today Negroes and white people who love freedom say "no first-class dying for second-class citizenship; no service without equality for all."

The Underground Railroad was non-violent and it was also non-co-operation with existing law. It was vigorous resistance to the Fugitive Slave Law. This law was passed by Congress and later upheld by the U.S. Supreme Court in the Dred Scott decision.

Nevertheless, thousands of white people, slaves and free Negroes *defied the U.S. Government and the U.S. Supreme Court* because they felt that freedom was the most important thing in the world. They knew that Congress and the Supreme Court were on the wrong side of the struggle for freedom, so they ignored the law and did what they felt to be right.

One of the outstanding resisters to the unjust Fugitive Slave Law was Theodore Parker of Boston. In 1848 he said:

I know that men argue . . . that the constitution of the United States is the supreme law of the land and that (the constitution) sanctions slavery. There is no supreme law

except that made by God; if our laws contradict that, the sooner they end or the sooner they are broken the better. . . . When rulers have inverted their function and enacted wickedness into a law which treads down the inalienable rights of man . . . I tear the hateful statute . . . to shivers; I trample it underneath my feet; I do it in the name of . . . justice and of man.

One has not only a right but a profound duty to urge and counsel resistance to a law which seriously violates the principle of equality and justice upon which real community and security depend.

When Theodore Parker refused to abide by the Fugitive Slave Law he was howled at in the Press and accused of treason on the streets. Although he knew that his act was not treason and although the Government never did try anyone connected with the Underground Railroad for treason, Parker replied:

I think lightly of what is called treason against a government; . . . treason against the people (the Fugitive Slave Law), against mankind, against God is a great sin and not lightly to be spoken of.

Commenting on segregated draft to-day, Donald Harrington, assistant minister of New York's Community Church, said on May 16th, 1948, "there are laws which it is man's duty to break."

A Jim Crow draft would violate the American ideals of equality and justice to such a degree that it is the duty of the people to maintain those ideals in spite of the law by refusing to register under a Jim Crow draft until racial segregation and discrimination are outlawed by congressional action or executive order. To follow this course may not be easy; there may be intimidation, mass arrest, possible physical pain, and for some, death. On the other hand, if thousands, both men and women, act together now and make it known that they will not submit to a Jim Crow draft, the government will be forced to listen. It's a gamble! But as Randolph stated, "If we must die, let us die as free men and not as Jim Crow slaves."

## INTRODUCTION TO APPENDIX C

These documents require a bit of elaboration. The first article, "New Racist Plot to Channel Black C.O.'s," was written by me. The article refers to a meeting which had originally been scheduled for Tuesday, October 13, at NISBCO headquarters. This meeting was cancelled, and a rescheduled meeting, held Wednesday, October 21 at Selective Service headquarters, became the subject of my second article, "Selective Service Keeps Pushing Racist C.O. Plan."

At this meeting, my first article was circulated to the participants. To the best of my knowledge, this was the first time that Selective Service officials became aware that their plans had been exposed, and, worse still, their racist implications discussed in print. Also distributed to participants in this meeting were copies of a seven-page outline of the task force proposal which included as its final point the orientation center idea. That paragraph read as follows:

### E. *ORIENTATION CENTERS*

If improvements recommended at state and national level are instituted, it is most unlikely that many *well-motivated* COs will go unplaced. However, there will continue to be COs who will not respond to reasonable work offers. The task force, in attempting to find an alternative to adjudication, considered the establishment of orientation centers.

The orientation center is not perceived as a punitive measure or as a detention center, but rather as a central location for testing, evaluating, counseling, and job placing for COs having difficulty.

The task force believes that this is the least desired course of action and should be avoided *unless all other methods are unsuccessful*. [Emphasis added. K.L.]

Realizing that public exposure presented a problem, Selective Service officials hastened to mend their fences. They invited themselves to the meeting which the Black group had called for October 30, described in the press release by Concerned Black Draft Counselors, to rebut the charge of racism. Again they handed out their seven-page outline, which was identical to the one used at the previous meeting in Washington, except for the final paragraph on orientation centers, which this

time read as follows:

### E. *ORIENTATION CENTERS*

If improvements recommended at state and national level are instituted, it is most unlikely that many COs will go unplaced. However, there will continue to be COs who will not respond to reasonable work offers. The task force, in attempting to find an alternative to adjudication, *briefly* considered the establishment of orientation centers.

The orientation center was not perceived as a punitive measure or as a detention center, but rather as a central location for testing, evaluating, counseling, and job placing for COs having difficulty in finding assignments acceptable to them.

The task force believes that this is the least desired course of action and should be avoided. [Emphasis added. K.L.]

Unfortunately for them, whatever advantages they had hoped to gain by the subtle editing changes were nullified by the fact that the Black draft counselors had received a copy of the earlier version and immediately took note of the alterations. The final document, a letter dated November 9 from Selective Service Director Curtis Tarr to the chairman on NISBCO withdrawing the proposal, implies that the withdrawal was motivated by the objection of the (white) CO organizations. The letter lays particular stress on the willingness of those groups to cooperate with Selective Service. Actually, it is likelier that the confrontation with the Black group motivated his decision. In a letter dated November 4, replying to an earlier criticism of the orientation center proposal, Tarr wrote:

... as persuasive as I find your arguments to be, I am not entirely swayed by them.

Six days later, he was swayed, presumably after having been briefed about the vigor with which the Concerned Black Draft Counselors were prosecuting their opposition to the proposal.

Appendix C: Documents concerning the Selective Service Task Force  
Proposal on Orientation Centers for Conscientious Objectors

**NEW RACIST PLOT  
TO CHANNEL BLACK C.O.'S**

by Ken Lawrence  
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*A press release from Southern Conference Educational Fund, "Black Draft Resisters" (Liberated Guardian, September 27, page 22) reported the overtly racist enforcement of Selective Service laws against blacks fighting the draft. It now appears that Selective Service intends to streamline its racism. The following story gives the details which have been uncovered so far. We hope that public disclosure of these plans will assist those who are working to forestall their implementation.*

Several meetings have been held recently in which Selective Service representatives have discussed with pacifist-oriented groups a proposal to revamp the civilian alternate service work program for conscientious objectors. The purpose for holding these meetings, according to Selective Service representatives, is to develop a program for civilian alternate service capable of handling an anticipated massive increase in the number of Conscientious Objectors approved in the wake of the Supreme Court's Welsh decision. (In the Welsh decision, the Supreme Court ruled that Conscientious Objector status should be granted a registrant whose opposition to war stems from "moral, ethical, or religious beliefs . . . held with the strength of traditional religious beliefs.") Apparently they expect 36,000 to 40,000 I-O (Conscientious Objector) applications to be approved in the next year alone, which is approximately equal to the total number of I-O's past and present.

At a conference sponsored by the National Interreligious Service Board for Conscientious Objectors (NISBCO), in New Windsor, Maryland, on September 28 & 29, Selective Service representatives presented their proposals to 40 or 50 representatives of major national draft counseling organizations, peace churches, and major religious denominations. Representing Selective Service National Headquarters were Colonel William Holmberg and Ensign Timothy Kelley, both public relations men for Selective Service assigned to a special task force on Conscientious Objection charged with revising the Civilian Work Program, Colonel Rankin, also of the task force, and Colonel Mueller.

Ensign Kelley's presence is particularly noteworthy, since he is the son of Roger Kelley, Assistant Secretary of Defense for Manpower — the man who gave Selective Service Director Curtis Tarr his job, and Tarr's present boss.

The official agenda was "Alternate Service Opportunities for C.O.'s," and the formal meetings were more or less routine. Kelley and Holmberg unfolded the task force's real plans in informal discussions. (They had previously revealed these plans to a smaller, more select group at a NISBCO meeting on September 21.) They propose to establish one or more "Orientation Centers" for Conscientious Objectors. Any C.O. without his own proposal for alternate service, or whose plan was found unacceptable by his local board, would be ordered to an Orientation Center. The Orientation Center itself would be staffed by C.O.'s. At the center a man would receive psychological testing, job testing, counseling, and training.

One of the SS men admitted that this plan was not intended for the traditional pacifist C.O.'s who already have well-established, acceptable civilian work programs, but that there will be a lot of people without good educations — poor blacks, etc. — who will need "help" before they can perform useful civilian work in the form of training and discipline. This, he said, would make Conscientious Objection non-discriminatory (!) by opening the doors to those who did not previously participate in the program.

Since Holmberg and Kelley had already pointed out that there will not be enough acceptable alternative service jobs to employ the number of objectors they anticipate, it is not unlikely in spite of their denials that they intend to keep men in the centers for their entire two-year hitch. Their insistence that not enough jobs exist for so many C.O.'s is a self-fulfilling fabrication, since many job applications which meet the legal requirements are denied under the present system. Sorely needed Black and community work, staffing day care centers, and similar jobs are out because they do not create "equivalent sacrifice" with men in the armed forces (even though Selective Service Regulation 1660.21(a) explicitly allows a local board to permit alternate service in a man's home community, and instructions on Form 152 state that "it will be the policy of the SSS whenever possible to order you to civilian work which will most fully utilize your experience, education, and training.")

There are several reasons for reading the worst into this proposal. First, the Selective Service has never allowed the presently used program to operate as intended. Second, the experience of Civilian Public Service Camps for C.O.'s during World War II and the Relocation Centers for Japanese Americans have already demonstrated that the government is perfectly capable of incarcerating war objectors and suspected enemies for years at a time if they deem it necessary. Another possibility, vigorously denied by Holmberg and Kelley, is that this will be used as a pilot project to test the liberal proposal for universal conscription into a National Service Corps, a massive, nationwide military-job corps-vista program to "educate" and discipline every young person in the country.

While none of the participants in the New Windsor Conference were sworn to secrecy, the aura of the smoke-filled room persists. The discussion has not been held in public, but privately, with a hand-picked few representatives of a few organizations. No blacks were present at the New Windsor conference even though the task force proposal is largely intended for blacks.

Selective Service is apparently proceeding in this fashion so that they can claim the most widely respected pacifist and draft counseling groups as collaborators in the proposal, even though the groups have fought every step of the way. Another meeting, which will probably be the last chance for anyone to protest before the task force plan is finalized, will be held on Tuesday, October 13 at the NISBCO headquarters, 550 Washington Bldg., 15th Street and New York Avenue, N.W., Washington, D.C. Invited to this meeting will be just one representative from each draft counseling organization, peace church, and major denomination. It is not yet known whether a black draft opponent will be invited.

Yet while all this planning is going on, the first step has been taken to channel antiwar blacks into Conscientious Objection. Until recently, one of the easiest ways for black men to avoid military service was to be medically disqualified, largely due to terrible health conditions in the ghettos. One large Freedom Physical for Blacks in the South found that two-thirds of the men examined were medically unfit for the military, even though half of those had passed their pre-induction army physicals. The next step in the appeal process has been to send evidence of disqualifying ailments to the Surgeon, U.S. Army Recruiting Command, who reviews, and most of the time allows, such claims. Since October 1, the Surgeon has refused to hear medical

appeals, presumably on orders from above. If the medical outs dry up, it is safe to assume that more and more blacks will apply for C.O. status. Ensign Kelley will have to hurry if he's going to open his Orientation Centers on time.

*Liberated Guardian /October 19, 1970*

## **SELECTIVE SERVICE KEEPS PUSHING RACIST CO PLAN**

*A previous article (Liberated Guardian, Oct. 19) described a new plan by a Selective Service task force to streamline its racist and repressive handling of COs and the methods by which the Selective Service had already begun to channel war opponents into seeking CO status. One particular aspect of the proposal, the establishment of "orientation centers," reminded us of the World War II civilian public service camps for COs and relocation centers for Japanese-Americans. The following story gives further details of the plan.*

by Ken Lawrence

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The Selective Service task force on the civilian work program for COs has completed its assignment. Its proposal for revising alternative service procedures has been drafted and now awaits only the approval and signature of Selective Service Director, Curtis Tarr, to be put into effect.

At a closed meeting held at Selective Service national headquarters in Washington, D.C. on Wednesday, Oct. 21, members of the task force outlined the final draft of their proposal to a select gathering of representatives from churches, peace groups and draft organizations. Ken Coffey, Public Information Officer of the Selective Service, chaired the meeting. He was accompanied by task force members Ensign Timothy Kelley, Col. William Holmberg, Col. Robert Rankin, General Counsel Jimmy Davis and Steve Felsenstein, a law student who works part time for the Selective Service and was once a member of the Selective Service Youth Advisory Committee.

In its presentation, the task force attempted to put its best foot forward by stressing the aspect of the proposal which would be most attractive to COs: they suggested that the minimum wage, plus fringe benefits for alternative service jobs be comparable to the minimum annual income plus veterans benefits of the lowest ranking enlisted man in the service.

Alternative service work would be judged suitable by meeting the following criteria: (1) that the job is in the national interest; (2) that the CO would not be depriving a non-CO civilian of a job opportunity; (3) that the CO's own skills would be used as much as possible; and (4) that the assignment would be as disruptive to a man's life as military service would be.

If a CO and his local draft board can agree on a job which fills these criteria, he would get it. But if not, a job would have to be found which fulfills the first two points (national interest and noncompetitive). Failing that, as a last resort the CO would be ordered into an orientation center.

Apparently, the Selective Service expects this "last resort" to be widely used, since Col. Holmberg has had several conversations with officials of the Department of Health, Education and Welfare about it. The task force wants HEW to set up WPA type public works projects to employ COs who get trained at the orientation centers.

While the task force's outline of its proposal asserts that "the orientation center is not perceived as a punitive measure or as a detention center, but rather as a central location for testing, evaluating, counseling and job placing for COs having difficulties," the exact opposite appears to be the intention in fact. Coffey, Davis and others on the task force repeatedly argued that the orientation center idea was an "alternative to prosecution" for recalcitrant COs. Thus, if a man and his draft board cannot agree on an alternative service job, his final choice would be either going to an orientation center or risking going to jail.

In addition, the requirements that COs not be allowed to take jobs where non-COs are available, and the "liberalizing" proposal for a minimum wage would both tend to reduce the number of acceptable alternative service jobs, and further contribute to channeling COs into the orientation centers.

The church and peace group representatives strongly opposed the entire plan, though many of them are abiding by the task force's request that the details of the plan be considered confidential.

The overtly racist aspects of the plan were not directly mentioned at this meeting, though it was reiterated that unskilled and uneducated COs who could not find other jobs would be ordered into orientation centers.

The Selective Service was stunned by the adverse publicity about the racism inherent in its plan, reported in the *Liberated Guardian* and in *Muhammad Speaks*, and probably will attempt to

meet with black draft counseling groups in order to rebut the charge of racism. Even if this happens, no one should expect that the plan will be substantially altered between now and the time when the Selective Service finally makes a public announcement of the new setup. Men considering applying for CO status should be forewarned about what may be in store for them. Movement people should publicize these plans as widely as possible and begin now to fight them.

*November 9, 1970 /Liberated Guardian*

## **CONCERNED BLACK DRAFT COUNSELORS**

On October 30, 1970, a group of Black Draft Counselors met in Chicago to discuss a new proposal by a Selective Service task force to revamp alternative service work programs for conscientious objectors. These plans had previously been revealed by Selective Service to representatives of peace groups, churches and draft counseling organizations. The meeting of Black draft counselors was called to decide how the new decisions affected their respective constituencies, how to combat the proposal's detrimental effects in Black communities, and how best to fight and expose Selective Service and its plans.

Selective Service found out about the meeting and asked the convenors if it could send representatives; after some discussions, the counselors agreed to allot time for Selective Service representatives to attend, speak, and be questioned. Col. William Holmberg and Joel Adams were the Selective Service representatives.

Of primary concern to the Black counselors at the meeting were the proposed orientation centers for conscientious objectors, and their implications for Black men who may be seeking the C.O. classification involving alternative service.

The orientation centers are intended for C.O.'s who have a hard time accepting jobs presently offered as alternative service, or C.O.'s who have a hard time finding any job at all because they are poor, Black and/or "unskilled". The gist of the plan is that such C.O.'s will be placed in these centers and kept there until such time as they convince their draft boards to accept certain jobs as alternative service, or until they accept jobs suggested by their boards, or until they are "properly trained" by Selective Service. (Since C.O.'s are not allowed, under current Selective Service regulations, to compete on the job market the proposed training would be of questionable value.)

All Blacks in attendance were and are opposed to the orientation centers. The primary opposition voiced by the counselors at the meeting was the fact that the orientation centers which are to be established are for men who cannot find suitable alternative service jobs. Minority group C.O.'s would most likely be people to whom the camps will cater. The World War II Civilian Public Service Camps for C.O.'s and the Relocation Centers for Japanese-Americans are concrete examples of how such proposals have been used to handle those elements within American society that have been labeled as dissidents, malcontents, or subversives. In the Civilian Public Service Camps, C.O.'s mandatorily were required to perform menial and meaningless tasks. The camps were no less than concentration camps.

Despite the repeated insistence of the Selective Service Task Force members that the orientation camp idea was probably dead, the proposal presented to Selective Service Director, Curtis Tarr, has not eliminated the probability of these camps becoming a reality tomorrow.

The orientation centers are a crude attempt on the part of Selective Service to evade the problem of finding adequate jobs for the large number of C.O.'s (the government expects anywhere from 36,000 to 40,000 additional C.O.'s in the coming year) because of the liberalized qualifications. These persons will be seeking alternative service work at a time when there is general and widespread unemployment. The problem of finding jobs is complicated because many of the new C.O.'s will be poor, Black, and poorly educated. These are the people most affected by the present unemployment situation. Clearly the orientation centers are intended to take care of this by evading the real problem.

Not only do the Black draft counselors, who received the Selective Service representatives in their meeting, reject the idea of the orientation centers, but they also reject other ridiculous parts of the present I-W (C.O.'s who are doing civilian work) regulations.

Selective Service policy has been to cause as much disruption in the lives of the C.O. as that of men in the military. This is Selective Service's theory of equivalency: a theory which has meant that 20% of those men on the front lines of Vietnam are Black; a theory which has meant that Black men have constituted a proportionately high percentage of men in the elite and combat units in Asia; a theory that means that Black C.O.'s should be taken out of their communities and made to

perform work elsewhere in the "national interest," which in this case appears to be work which won't further the interests of Black people in their struggle to eliminate the economic and social barriers existing in American society. Presently I-W's aren't even receiving the equivalent pay of E-I's (rank of most draftees) in the military. The move by Selective Service to improve the wages of C.O.'s, the move to place C.O.'s above the poverty level, the move to place the salary of C.O.'s on the same level as their counterparts in the army is a progressive move, a move in the right direction. For if ever there is a case where Selective Service has misused the doctrine of equivalency, it is in the case of its financial responsibility to and support of C.O.'s. As Col. Holmberg said: "Selective Service has always concerned itself with whether an alternative service job would pay too much, never if it paid too little."

The proposal, however, also works against the interest of the Black community. We cannot overlook the fact that the proposed new wage scale with its mandatory requirements will further insure that Black C.O.'s will be removed from their communities and prohibited from working with most Black community organizations. Even if this is not the intent of the new rules, it will be the result. There are few, if any Black organizations that can afford to pay C.O.'s or anybody else \$5,700 per year (the proposed annual pay for C.O.'s).

The proposed minimum pay scale also plays right into the hands of racist, reactionary draft boards. These boards will channel young men into horrible, boring jobs (a thing they now do) and justify their actions with a concern for the economic plight of C.O.'s. Jobs which boards rejected as a matter of course before will, with the new regulations, be rejected because they don't pay enough. These jobs which were rejected by boards because they were "too political" or because they exposed the work of community institutions (hospitals, clinics, and welfare agencies) to the people, will now be rejected because they don't pay the minimum wage.

The new work program is a classic example of a liberal reform (increased pay) compounding the problem it attempted to solve. Therefore, if the government wants to expand the list of job categories for C.O.'s and to give more opportunity to do meaningful and effective work in the "national interest" (improving the health and safety of the people) as it claims it does, then the government must find a way to pay the salaries of C.O.'s, especially Black and poor C.O.'s.

Black draft counselors in Chicago opposed the revised work program for C.O.'s, the I-W program, as being punitive and racist. The notion of equivalent disruption in the lives of C.O.'s as in the lives of draftees is nothing but punishment; punishment for having a conscience; punishment for opposing American military policy and by extension punishment for exposing American foreign policy to the people. As one draft counselor put it: "The whole notion of disruption, the whole disruption thing puts the blame for another man being drafted to fight a war on the population. Disruption seems to say that it is easy to get C.O. status. Selective Service has not taken into consideration all the hassles that a brother goes through from the draft board

and some elements in his community when he decides to become a C.O. By the time a brother is ordered to report for work his life has already been disrupted."

The meeting ended with Selective Service suggesting the Office of Economic Opportunity, O.E.O., as a possible agency to solve some of the problems of Black men and the draft. Without any elaboration let us say that this will not work. If after five years of trying O.E.O. has not made a dent in the poverty affecting millions of Black people in this country (an affliction which O.E.O. is an "expert" at handling), how can it possibly end the inequities of the draft, of which O.E.O. knows nothing.



OFFICE OF THE DIRECTOR

NATIONAL HEADQUARTERS  
**SELECTIVE SERVICE SYSTEM**

1724 F STREET NW.  
WASHINGTON, D. C. 20435

ADDRESS REPLY  
TO THE DIRECTOR OF SELECTIVE SERVICE:

PI

November 9, 1970

Dear Mr. Chairman,

It has been gratifying to learn that representatives from diverse groups have been willing to share their thoughts on alternate work assignments with members of my staff. I am grateful for this degree of cooperation which is undoubtedly difficult for those who are conscientiously opposed to any form of conscription.

As you know, in late August of this year I appointed a committee to consider ways of assisting conscientious objectors in locating acceptable jobs to fulfill their alternate service requirements. This group has spent a great deal of time studying the full range of issues in attempts to make the I-W program more responsive to CO needs.

I recently spent several hours discussing the progress of the committee with its chairman, Ken Coffey. Ken briefed me on the general recommendations of the group and gave particular emphasis to the adverse reaction of the representatives of CO organizations to the thought of a federally-sponsored orientation center or work force program.

After careful consideration, I agree with Ken that the subject of orientation centers and work force programs need not be pursued further.

Ken also told me of your willingness to meet again in the future to review other problems which may arise in attempting to improve the operation of the I-W program, especially in the area of assisting COs in finding suitable jobs. I welcome this offer, although I hope intended improvements will make such a meeting unnecessary. We are aware, of course, of cases currently before the Supreme Court which deal with selective conscientious objection and representation of registrants by counsel. It is our hope that should changes be made by the Court in either of these areas, you will be able to help us meet the resulting challenges.

In our attempt to structure programs that support the needs of COs while carrying but the laws and the intent of Congress, counsel from a wide range of CO oriented and draft counseling groups will be most helpful. Please accept this letter as an indication of our willingness to respond to your suggestions and a desire to cooperate to insure that the draft, as long as it is determined to be necessary by the Congress, is administered in the most equitable way possible.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Tarr", written in a cursive style.

Curtis W. Tarr

Chairman  
National Interreligious Service  
Board for Conscientious Objectors  
550 Washington Building 15th and New  
York Avenue, N.W. Washington, D. C.  
20005

Copies to:

Participants in recent meetings and conferences.

**BLACK DRAFT RESISTERS:  
Does Anybody Care?**

Just as the U.S. Government has escalated its war against the people of Vietnam to a war against the people of Indo-China, so too have progressive forces within the United States escalated their activities against their government's war. They have moved from protests against the war's occurrence to resistance to the institutions that make it possible.

Unfortunately, this escalation has not included active and visible support for black draft resisters. This is true even though black people are some of the worst victims of this war. It is true even though the peace movement in this country — and its counterpart, the draft-resistance movement — have from the beginning of this war encouraged young men to refuse induction into the U.S. Army.

Indeed, these two movements support, and have supported in the past, young men who do refuse. And, because of this support, respect for the rights of draft resisters has been growing in the court of public opinion and in the courts of law. This is partly because of the growing public disgust with the war and partly because of protests organized by the anti-war movement.

Within the past year, a number of important cases of draft refusers have been won and prison sentences set aside. These cases include certain landmark ones decided by the Supreme Court, and also many decided by the lower courts.

And with the recent victories in the cases of Joe Mulloy of Kentucky and Elliott Ashton Welsh, II of California, there is even a break in the pattern of using the draft to silence and remove young men who have been active in movements for social change.

Thus far, however, the breakthroughs that have been made in establishing rights under the draft law have occurred almost entirely in the cases of white men.

Since 1965, the U.S. Supreme Court has decided 28 cases involving the rights of draft resisters. Twenty-four of these were won, and four were lost by the young men involved. But only three of those whose cases were accepted for review by the Supreme Court were black; two of these were among the four cases that were lost.

Meantime, other black draft resisters have had their appeals rejected or have been unable to appeal to the higher courts. They are now in prison

or on the way or in exile in other parts of the world, convinced that they can get no justice in the U.S.A.

Many of these are young men who were active leaders of the movement against this society's oppression of black people; as with young white activists, the draft has been used as a weapon to silence them.

And meantime, other black men who might have refused the draft have been convinced from the beginning that it is useless, or they lack the resources to make a major fight. So they have simply gone into the Army — or disappeared.

This gap between the expanding rights of white men under the draft and those of blacks simply cannot be explained away. It is racism in a most poisonous form — a form that leads to prison or often to death on the battlefield.

White America must look at the facts about this gap.

The white peace movement must look at it. White draft resisters who have won their rights have won them mainly because of protest from the peace movement — and the same outcry has simply not been heard around the cases of black men.

Some may say that the gap is not real — that it only seems that white men are winning more draft rights than blacks, because there are more white men who resist. The draft resistance movement is a white movement, they say.

This is not so. One of the first mass calls to draft resistance during the Vietnam War came from Stokely Carmichael, then chairman of the Student Nonviolent Coordinating Committee (SNCC), when he made black campuses across the South and black ghettos in the North ring with the echoing cry of "Hell No, We Won't Go." Black leaders of SNCC were among the first to refuse the draft and to demonstrate against an induction center — in Atlanta, Georgia, in the summer of 1966. The people who took part in that demonstration are now in prison — and there has been virtually no outcry from the peace movement, or anybody else.

Listed on the reverse side are some of the black men whose names are generally known who have had draft cases in the courts. All of them at the time they were drafted were either organizers in the black liberation movement, or people who had publicly attacked the racist administration of the draft laws themselves. So far none of them have won their cases.

**1. Cleve Sellers**, a founder and leader of SNCC. Refused to be drafted in May, 1967. Convicted and sentenced to five years in April, 1968. His conviction was upheld by the Fifth Circuit Court of Appeals. The Supreme Court sent the case back to the District Court on the question of wire-tapping, thus passing over the central issue, at least for the time being. Sellers had also filed suit against Defense Secretary McNamara, challenging the racial make-up of draft boards in the South. This suit was dismissed and the Supreme Court refused a review.

**2. Fred Brooks**, leader of the black student movement in Nashville, Tenn. Was expelled from college because of his part in protest movements, lost his student deferment and was immediately drafted. Refused to go, sentenced to four years in March, 1968. The Sixth Circuit Court of Appeals upheld his conviction, and the Supreme Court refused in 1970 to review it. He is now in exile.

**3. Raymond DuVernay**, of New Orleans. Challenged the right of his draft board to call him. The central issue was lack of black representation on his draft board. His appeal was one the Supreme Court took for review. His conviction was upheld when the Court split 4-4. This meant the decision of the lower court stood, and he is now in prison.

**4. Eddie Oquendo**, of New York. He was active in Youth Against War and Fascism. Refused the draft in 1966. Sentenced to five years. His appeal refused by Supreme Court in 1968. Served 26 months and was released in July, 1970.

**5. J. O. Sumrall, Jr.**, active in civil rights movement in early and mid-1960's in Meridian, Miss. Numerous charges against him for civil rights arrests were suddenly dropped in 1967 and he was ordered to report for induction. He refused, was sentenced to five years and a \$2500 fine. The Fifth Circuit upheld his conviction and the Supreme Court refused to review. He is now in exile.

**6. Mike Simmons**, a SNCC leader. Took part in demonstration at Atlanta induction center on day he was supposed to report for induction in August, 1966. He was sentenced to three years for draft refusal and six months for malicious destruction of government property in connection with the demonstration. (A policeman's club knocked out glass in a revolving door.) The Supreme Court refused to review both sentences, and he is now in prison.

**7. Mickey Booth**, a SNCC leader in Memphis. Charged with draft refusal. A jury *acquitted* him in the fall of 1969 — and the federal government then charged him with perjury during the trial. He faces another trial in the fall of 1970.

**8. Muhammad Ali**, heavyweight boxing champion

who had the same Louisville, Ky., draft board with which Joe Mulloy (white) won an important draft case in 1970. The board refused Ali's claim that he should be exempted because he is a Muslim minister. He refused to go, was sentenced to five years. Despite his fame, the U.S. Supreme Court thus far has not heard his case on its own merit. Instead, the Court sent it back to the lower courts on a subsidiary issue of wire-tapping.

**9. Walter Collins**, New Orleans, Deep South organizer for SCEF. Had his 2-S deferment revoked while he was still a student after he organized against the Vietnam War in New Orleans ghetto. Refused induction, sentenced to five five-year terms to run concurrently. The Fifth Circuit upheld his conviction in a recent decision. Now on appeal to Supreme Court.

In addition to the above cases our preliminary research has revealed a dozen similar ones in the South and East. It is reported that many more such cases are pending in other parts of the country. In 1966, when SNCC was under heaviest attack from state, local and federal officials, 17 SNCC activists faced prosecution under the draft law.

And in addition to the young men whose names are relatively well known, there are thousands more whose rights are being denied and whose names will never be known beyond their own circle of family and friends. Most of them never reach the courts because they feel they can't win — or don't have the resources for a long legal battle.

We urge you to use any resources you may have available to make the facts of this situation known. Publicize the facts of the cases listed here and register your protest — with draft boards, with the courts, with the Justice Department. The lives of the men involved in these cases — those with the known "Names" — are no more important than those of black men who have decided there is no hope of fighting the draft. But if the rights of some of these who are known can be established, if we can win some of these cases — or free those now in prison — it will set a precedent.

It will establish the fact that black objectors to the war and the draft do have rights that must be respected. Then more and more black men will be able to fight back instead of being turned into mass cannon fodder.

Just as the oppression of black Americans generally is the measure of this nation's sickness, so the particular oppression of black draft resisters is the measure of the weakness of the nation's peace movement. This situation *can* be changed — if there is the will to change it.

### THE C.O. 'CAMPS'

Senate passage of the draft registration bill may have set in motion a process that could threaten the civil liberties of thousands of young men — those who may declare themselves conscientious objectors in the event conscription becomes a reality again. If past experience is any guide, this could be as many as half of all registrants.

Senator Mark Hatfield, an opponent of registration, had introduced an amendment to the bill that would have allowed registrants to state, on the registration form, that they are conscientious objectors. Although the amendment was reported favorably by the Appropriations Committee, it was defeated on the Senate floor. While sparing the Pentagon the embarrassment of revealing the strength of anti-military sentiment among draft-age youth, the Senate action also makes it less likely that the consequences of reinstating conscription will be properly studied at a time when careful reflection and anticipation are still possible.

In March, Representative Robert Kastenmeier released to the press an internal Selective Service report, dated September 21, 1979, anticipating that "enormous problems" would be presented by future conscientious objectors and recommending "complete rescission of the conscientious-objector exemption" or at least limiting it to "practicing members of religious sects that specifically prohibit participation in military service." (As a result of court challenges during the Vietnam War, conscientious objection on moral, as well as religious, grounds is permitted.) In the latter case, the decision of Selective Service would be final, not subject to appeal or review by any "agency, official, or court."

Selective Service officials disavowed the memorandum, stating that the recommendations "represent the personal opinions of the author," Maj. Donald Guritz, and "have not been acted on nor have they been used in our current planning." Actually, there is reason to believe that Selective Service has been preparing various kinds of harsh treatment for conscientious objectors for nearly a decade. Documents I obtained under the Freedom of Information Act reveal that Selective Service had in fact considered ways to implement one such plan without the knowledge or approval of Congress.

In October 1970, a Special Task Force on the problems of the C.O. Alternate Work Program, headed by Public Information Officer Kenneth

Coffey, reported to Selective Service Director Curtiss Tarr that the number of conscientious objectors due to be given work assignments had risen sharply, from approximately 4,000 per month in January of that year to nearly 7,000 in August, yet the number of available, approved, alternate service jobs had remained constant at about 400 per month. (The number of applications for C.O. status was skyrocketing during this period of the Vietnam War. The National Interreligious Service Board for Conscientious Objectors [NISBCO] estimates that about half of the 740,000 draft registrants from 1970 to 1972 applied for C.O. status, but only 10 percent of the 740,000 received the C.O. classification.)

The task force proposed a greatly expanded program of alternate service employment and a series of tighter administrative procedures. But these reforms would not solve the problem of "the ever-increasing number of non-cooperating C.O.s," i.e., those resisting Selective Service's efforts to place them in alternate service. For them the task force proposed, first, "a motivational/orientation center, for which non-cooperating C.O.s and any others which the improved System is unable to place *could volunteer*. The purpose of the Center would be to test and evaluate, counsel, motivate and, hopefully, place in a position in the private economy."

What about the ones who wouldn't volunteer? The report says that even after setting up these centers, "there nevertheless should remain a residue of unplaceable young men, most of whom are still 'bucking the system,' yet willing to do the minimum activity necessary to avoid being referred for prosecution." For these men, the task force recommended "Work Force Programs." The first consideration for these was that they "should be located in areas with favorable judicial climates."

"The Committee recognizes the high political interest in such a work force program. Further, the Committee was reminded of rather severe Congressional opposition to this concept when last it was discussed, which was approximately 20 years ago. Nevertheless, the manpower of this group could represent a potential of significant value to the Nation if there are opportunities to utilize their skills in projects of high national priority."

The task force then considered the problem of how to fund the motivational/orientation centers and work force programs. Four methods were discussed: a system of "kickbacks" by well-paid C.O.s;

selling the services of the C.O. work force to interested employers, such as other government agencies; cost sharing with other agencies or with groups outside government; or Congressional funding. The task force recommended the second option, selling the C.O. labor. They recommended that no approach be made to Congress, with the possible exception of a request for money to cover overhead and administrative expenses, and "if there is no other alternative [than to go to Congress], then the Committee recommends that the work force concept be abandoned and non-placeable C.O.s be referred to U.S. attorneys for possible prosecution."

These proposals, particularly the one to establish the work force program with little or no advance notice to Congress, and with the ominous note of locating "in areas with favorable judicial climates," posed a grave threat to civil liberties. The first opposition was voiced when task force members discussed some of the details in an off-the-record meeting at Selective Service headquarters with NISBCO representatives. In private conversations later, members of the task force attempted to reassure leaders of pacifist religious denominations that these contingencies were not intended for their members, but rather for the "new" C.O.s, mainly black and poor, who did not share the religious pacifist tradition.

Shortly after the task force reported to Tarr, some details of the plan leaked to leaders of a Chicago-based national organization called Concerned Black Draft Counselors. They arranged to publicize the information, then confronted Selective Service representatives in a stormy meeting on Chicago's South Side. In a news release following that meeting, the black group charged that the orientation centers "were no less than concentration camps." (No documents about the "work force" part of the program had leaked out at that time, but the gist of the plan was clear from the admissions given by the Selective Service spokesmen, Col. William Holmberg and Capt. Joel Adams.)

Despite the growing opposition to the plan, the Director of Selective Service apparently planned to accept the initial task force report. On November 4, 1970, Tarr wrote to the American Friends Service Committee, defending it. He added, though, "I have not yet accepted the Task Force report. But I am not sure what should be done about alternative service, and as persuasive as I find your arguments to be, I am not entirely swayed by them." But by then word was spreading in the black community and anger was growing among civil rights forces. A

few days later, Tarr backed down. On November 9, he wrote to NISBCO that "the subject of orientation centers and work force programs need not be pursued further." Coffey's revised report, dated November 25, 1970, is virtually identical with the initial report except for the deletions of those two programs.

Eventually the war ended and the draft was replaced by the all-volunteer army. The work force plan went no further than a small-scale pilot project in California. If the story had ended there we could all breathe a sigh of relief that one more Nixon-era scheme, spawned as a byproduct of the war in Indochina, happily aborted and was never heard from again. Unfortunately, that isn't so. Another Selective Service study of alternate service was prepared on August 18, 1977, by Col. David Mueller. Mueller proposed alternate service "stations" for conscientious objectors, generally along the lines of the original 1970 task force proposal.

Commenting on Mueller's 1977 plan, Guritz's 1979 report states, "It was seriously recommended that the Selective Service System establish ten regional alternate service 'stations' for conscientious objectors. It was felt that use of the word 'station' would avoid a mental association with concentration camps. However, this writer personally disagrees and recommends that Selective Service reject the notion of operating labor camps or stations for conscientious objectors." Instead he argued for "complete rescission" of C.O. status.

When Representative Kastenmeier released Guritz's report to the press, he noted that the Carter Administration has not specifically repudiated its recommendations. Nor, it should be added, has the Administration repudiated proposals for alternate service stations, or motivational/orientation centers, or work force camps. If a debate on the merits of these plans is postponed until the next wave of war hysteria, it may very well be too late to prevent Selective Service from enacting one of them.

KEN LAWRENCE

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