How Close Is the Draft?

by Kathy Gilberd

On April 29, Ben Sasway surrendered to the federal District Court in San Diego, to begin serving a 2½ year sentence for refusal to register for the draft. He was sent to the federal prison camp at Lompoc, and it is hoped that he will soon be released on parole.

Ben's confinement culminated a three-year battle in which public resisters challenged the legal and political basis of the registration program and the draft itself. Sasway was the first of 17 young men to be indicted under a "passive" enforcement program, in which resisters were singled out for prosecution because they wrote to the government about their refusal to register, or made public statements which were brought to the attention of the government.

Defendants in these first cases raised a number of challenges to the legality of the registration program. In Ben's case, for example, appeal issues included selective prosecution, the government's refusal to permit testimony about his motives and reasons for not registering, and a technical argument about the working of the indictment.

Finally, this spring, the Supreme Court ruled on the issue of selective prosecution in David Wayte's case, ruling that the government was permitted to indict men on the basis of their public statements refusing registration. The court declined to hear the other issues raised in Ben's case and two other cases.

On the political front, the Justice Department and Selective Service lost a number of battles during these three years, as public sympathy shifted to the young people who had refused to comply with the registration program. With the Wayte decision, the sentencing of several other public resisters, and Ben's recent confinement, the government claims that they have won a significant victory. They point to increased registration rates as an indication that the prosecutions have had an impact on resistance and—in a conclusion that requires some suspension of logic—that this shows widespread support for registration and the draft.

Two-edged Sword

In some sense, the recent decision, and the lower court actions which followed, did provide the government with a limited victory; a demonstration of their power over non-registrants and a reminder of the growing conservatism of the Supreme Court. Yet the decision itself was a two-edged sword: many who did not necessarily support the resisters were offended by the Court's ruling. On a broader front, it is clear that the government has not succeeded in the battle over registration. The Supreme Court's decision has not shifted public opinion about resisters or about registration. Significant numbers of people continue to support those who do not register and to oppose registration or a return to the draft. If you believe the government's figures, registration has increased, but this seems principally the result of the Solomon Amendments, which deny some federal financial aid to non-registrant students and job training applicants. The same government figures, examined more closely, also show that 18-year-olds continue to resist registration in high numbers, and that virtually no one complies with the SSS requirement to provide address changes.

It is also apparent, on the other hand, that the anti-draft movement did not make a strong public showing nationally around the Wyate decision or the subsequent lower court actions. While San Diego opposition to Ben's imprisonment was vocal and visible, the level of national attention to the cases has declined—the issue of the draft seems less than immediate to many activists. This perception of the draft is inaccurate, as we are likely to see more prosecutions and significant moves towards reinstatement of the draft in the future.

Green Light for Indictments

The recent Supreme Court actions pave the way for additional indictments of resisters, and it is important that we be prepared for them, both locally and nationally. There were relatively few indictments during the last three years, in large part because of the political opposition they engendered, but also because of the legal problems inherent in the first prosecutions. The *Wayte* decision, and the Court's refusal to hear other issues in *Sasway* and other cases, cleared up some of the problems about which the government was most worried. And the Court's language in *Wayte*, which stressed national security interests and indicated support for both registration and the draft, must have seemed like a green light at the Justice Department.

We can thus expect a few more "passive" indictments in the future among the cases already under investigation, and also a move toward "active" enforcement cases, in which resisters are identified by computer cross-checking of DMV and registration lists. In fact, one "active" case reached the indictment stage before the *Wayte* decision—a Laotian refugee now living in Louisiana, who apparently refused to register because he did not know enough English to comprehend the warning letters he received and simply did not understand the registration program. (He has since registered, when the program was explained to him, and has been granted diversion.) Several public resisters, previously identified under the "passive" program, report that they have received FBI visits or warning letters since the *Wayte* decision. Some 158,000 non-registrants recently received new warning letters from the government, telling them that their names had been turned over to the Justice Department for investigation.

It is obvious that the government cannot prosecute any significant portion of these non-registrants. But it does seem likely that more prosecutions are ahead, in San Diego and elsewhere. For the most part, these resisters will be randomly chosen, and given a "last chance" to register before being indicted. Under the "active enforcement" program, we can expect greater diversity in the kinds of people who are indicted. We can expect, for example, more people who initially failed to register through ignorance of the program or indifference. We can expect a wider variation in the political and philosophical beliefs which lead to non-registration. And we can expect greater numbers of indictments in Third World communities, where public resistance has traditionally been less common than quiet refusal to register.

How will we respond to such cases? It is essential that the next round of resisters receive the same level of support that Ben Sasway received from this community, and that the government not feel that they can now prosecute resisters in peace. The local Draft Resisters Defense Fund is already making plans for the possibility of further indictments here, but it is

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Anti-Apartheid Protests

Students Mobilize in '85

by Scott Kessler

On Friday March 19th, six hundred protestors descended on the Chase-Manhattan Bank in New York City. The demonstration was organized by a group of students who wished to publicize the bank's collusion—and by extension, corporate America's in general—with the blatently undemocratic, racist government of South Africa. When the police ordered the area cleared, forty-nine people sat down, linked arms, and were subsequently arrested and dragged off to jail.

Although this event sounds as if it might have taken place a few months ago, the year was actually 1965. The huge surge of anti-apartheid activity that we have witnessed across America's campuses this year, in which over one hundred colleges and universities became involved, and 3,000 students arrested, is but the latest revival of an issue which has concerned American students for a quarater of a century. Yet the mass proportions of this Spring's protests are not simply the result of a constant stream of consciousness raising, or a heritage of research and action by various campus based groups. The mass outpouring of sentiment here in America is most importantly dependent on the heightened activities in South Africa. Once again, South Africa is on the front burner for college youth because the struggle in South Africa is heating up!

Conditions In South Africa

Not since the outlawing of the African National Congress (ANC) and the crushing of the Black Resistance movement in the 1950's have Black South Africans attained such a high degree of political activity and organizational unity. This is due, in part, to the failures of the "reform" process initiated by Prime Minister Botha's government. According to Bishop Desmond Tutu, "the Prime Minister who promised so much in his rhetoric about reform, is now saying that his policy means white domination." The new South African constitution illustrates exactly this.

The sixteen month old charter, which gave "coloreds", (people of mixed descent) and "Asians", (mostly Indians), partial representation in government, still leaves Blacks disenfranchised. Blacks, who constitute 73% of the population, still have no vote. The new constitution is viewed as an attempt to coopt the newly recognized constituencies into an alliance with the whites against the Black majority.

It is in the context of the new constitution, coupled with the increasing number of government sponsored labor-organizing crack downs, (arrests of organizers and passage of legislative regulations), forced relocations, (razings), pass law violations, detentions without trial, and police violence, that Blacks have mobilized. The formation of the United Democratic Front, and the National Forum attest to this fact; they are the largest coalitions of Black political, labor, community and student groups to form in almost three decades.

Sparks to the Student Protests

To say that the mass mobilizations of U.S. students is primarily dependent on conditions emenating from South Africa is not to imply a simple cause and effect relationship. There have been other forces at work that have played an intermediary, if not inspirational, role in sparking student involvement. The Free South Africa Movement (FSM) is one.

The U.S. Black congressional leadership, (founders of the FSM), initiated what was to become a slurry of arrests at the South African consulate in Washington last fall. The campuses did not begin to move in large numbers until six months later. The FSM helped legitimize protest of U.S.—South African ties through the barrage of media coverage they generated. Here were elected members of Congress, followed by every other profession under the sun; teachers, clergy, housewives, laborers, etc., each on their own "theme" days, all participating in non-violent civil disobedience. Members of the Kennedy Clan, and yes, even Amy Carter, got into the act. These actions helped to prepare the mass psychology of students.

Another important element in galvanizing student responses has been

the notoriety afforded Nobel Peace Prize winner Bishop Desmond Tutu. His recognition as an authority on Peace, and his subsequent disclosure to the American public of his support of divestment drives (though necessarily veiled), helped to foment protest. The massive audiences he has drawn on college campuses this year attest to the influence he has. The numbers he has drawn have elipsed gatherings at student initiated rallies and demonstrations even in hotbeds of activity, such as Berkeley.

It is also possible that Reverend Jesse Jackson's presidential bid last year had some effect on the surge of anti-apartheid activity. Most notably by assaulting the institutionalized racist mind set that white America holds in regard to Black leadership. His intelligent and cogent analysis of U.S. foreign policy, his victory in Syria, and trip to Cuba, perhaps even helped pave the way for Black legislators to exert their expertise in an area of foreign policy, when they embarked on the FSM campaign.