

NEW YORK Herald Tribune

FOUNDED BY HORACE GREELEY, APRIL 10, 1841

Tuesday, January 21, 1964

Agnostic Escapes the Draft

Non-Believing 'Objector' Upheld

By Albin Krebs

Of The Herald Tribune Staff

It is not necessary to acknowledge a belief in God to obtain draft exemption as a conscientious objector, the U. S. Court of Appeals ruled yesterday.

The far-reaching opinion ruled unconstitutional a section of the Selective Service Act requiring that conscientious objection be based on religious beliefs, including existence of a supreme being.

The three-judge court unanimously voted to reverse the conviction of Daniel Andrew Seeger, 28. He had been sentenced to prison for a year and a day for refusing to be inducted into the Army. War, and preparation for it, Mr. Seeger claimed, are immoral.

The appeals court decision could open a sizable loophole in the nation's draft laws. If upheld, it means a draft board cannot induct a man who merely states it would hurt his conscience to become a fighting member of the armed forces—no matter what his religion or whether he has one at all.

The government has 15 days to petition for a rehearing, or it may simply let the decision go on to the Supreme Court. There is an automatic appeal to the highest court whenever a lower court holds a Federal law or part of it unconstitutional.

The court's opinion was written by Judge Irving R. Kaufman, who noted that Mr. Seeger, of 400 Central Park West, comes from an "exceptionally religious" Roman Catholic family. Two of his uncles are priests.

"We feel compelled to recognize that a requirement of belief in a supreme being, no matter how broadly defined," Judge Kaufman wrote, "can-

not embrace all those faiths which can validly claim to be called 'religious.'

"It has been noted that, among other well-established sects, Buddhism, Taoism, Ethical Culture and Secular Humanisms do not teach a belief in the existence of a supreme being.

"We are convinced that the believer in a supreme being is not for that reason alone more entitled to have his conscience respected by a draft board than is Daniel Seeger . . ."

Mr. Seeger described himself yesterday as a "religious agnostic." He is employed by the American Friends Service Committee, a Quaker group, with headquarters at 2 W. 20th St., where he is in charge of the committee's college students program.

In September, 1953, when he was 18, Mr. Seeger registered for the draft and obtained deferment as a student. He attended Queens College, where he majored in physics, and during that time, he said, "I became aware that although I could not be sure of the existence or non-existence of a supreme being, I possessed a religious faith in a purely ethical creed."

In 1957, finally fully aware he was a conscientious objector, Mr. Seeger said, he wrote his draft board:

"As a result of the resolution of a number of problems of conscience . . . I am bound to declare myself unwilling to participate in any violent military conflict, or in activities made in preparation for such an undertaking.

" . . . I have concluded that war, from a practical standpoint, is futile and self-defeating, and that from a more important standpoint it is unethical."

The government's case against Mr. Seeger stemmed from the manner in which he filled out a routine form for claiming draft exemption from either combatant or non-combatant training or service.

One statement in the form reads ". . . by reason of my religious training and belief, conscientiously opposed to war in any form." Mr. Seeger crossed out the words "training and" and put quotation marks around "religious."

To the form he attached a statement saying "the existence of God cannot be proven or disproven . . . skepticism or disbelief in the existence of God does not necessarily mean lack of faith in anything whatsoever. . . ."

Convicted last May by

Special to The New York Times
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Federal Judge Richard H. Levet, Mr. Seeger was released on his own recognition pending appeal.

Judge Kaufman noted in his 22-page opinion yesterday that the FBI and the Justice Department had furnished the court with reports placing heavy emphasis on Mr. Seeger's "unquestioned integrity and sincerity."

As for the Selective Service Act, which was amended in 1948 to include reference to a conscientious objector's required belief in a supreme being, Judge Kaufman wrote:

"A line such as drawn by the 'supreme being' requirement between different forms of religious expression can-

PART OF DRAFT ACT IS UPSET BY COURT

Judges Hold Conscientious Objector Need Not Believe in a Supreme Being

Excerpts from judge's ruling are carried on Page 26.

By EDWARD RANZAL
The section of the Selective Service Act dealing with the deferment of conscientious objectors was declared unconstitutional yesterday by the United States Court of Appeals.

The court held that the section violated the Fifth Amendment because it discriminated against religions not based on belief in a Supreme Being.

The section requires that a conscientious objector seeking deferment prove that the basis of his religious belief is a Supreme Being.

Because the decision strikes down a section of Federal law, the Government will automatically appeal to the Supreme Court. Should the decision be upheld, Congress would have to enact a new law covering conscientious objectors.

Conviction Reversed
The court's 22-page opinion was written by Judge Irving R. Kaufman; Chief Judge J. Edward Lumbard and Judge Paul R. Hays concurred.

The decision reversed the conviction of Daniel Andrew Seeger, 28 years old, who heads the college counseling section of the American Friends Service Committee, 2 West 20th Street. Last May, Judge Richard H. Levet found Mr. Seeger guilty of having violated the Selective Service law by refusing to be inducted into the armed forces.

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By LEONA
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not be permitted to stand consistently with the due process clause of the Fifth Amendment."

He added that the court wished "to make clear that we are not passing on the validity of legislative classifications in terms of religion in any other context."

Mr. Seeger said yesterday that although he and his wife belong to no religious denomination, they attend Quaker meetings. "Religion is a search," he said. "I believe in a continuing revelation and I have a religious concern for life."

PART OF DRAFT ACT IS UPSET IN APPEAL

Continued From Page 1, Col. 7

Mr. Seeger was sentenced to a year and a day in prison but was released pending appeal and has spent no time in prison.

Mr. Seeger, who comes from an "exceptionally religious" Roman Catholic family—two of his uncles are priests—contended that he was a conscientious objector, but was unable to assert categorically that he believed in a Supreme Being.

An exhaustive investigation was made by the Federal Bureau of Investigation and a Justice Department hearing officer. All agreed that Mr. Seeger was sincere in his beliefs and that he would have qualified as a conscientious objector had he said he believed in a Supreme Being.

The Justice Department decided, however, to prosecute Mr. Seeger because he failed to meet the requirement of belief in a Supreme Being.

Refusing to assert a simple belief or disbelief in a deity, Mr. Seeger had said that "the existence of God cannot be proven or disproven, and the essence of His nature cannot be determined."

In further explanation, he said that "skepticism or disbelief in the existence of God does not necessarily mean lack of faith in anything whatsoever. . . . Such personages as Plato, Aristotle and Spinoza evolved comprehensive ethical systems of intellectual and moral integrity without belief in God, except in the remotest sense."

War Held Futile

Mr. Seeger said he could not participate in actions that betrayed the cause of freedom and humanity. He said he had concluded that war was futile, self-defeating and, "more important. . . unethical."

The Government conceded that Mr. Seeger's abhorrence of war was both sincere and predicated on religious training and belief.

In his opinion, Judge Kaufman said:

"We feel compelled to recognize that a requirement of belief in a Supreme Being, no matter how broadly defined, cannot embrace all those faiths which can validly claim to be called 'religious.'"

"Thus it has been noted that, among other well-established religious sects, Buddhism, Taoism, Ethical Culture and Secular Humanism do not teach a belief in the existence of a Supreme Being."

Judge Kaufman said this country had long prided itself on the diversity of religious beliefs that had been able to find acceptance and toleration. He wrote:

"When Daniel Andrew Seeger insists that he is obeying the dictates of his conscience or the imperatives of an absolute morality, it would seem impossible to say with assurance that he is not bowing to 'external commands' in virtually the same sense as is the objector who defers to the will of a supernatural power."

Entitled to Respect

The Court said it was not convinced that Mr. Seeger was any less entitled to have his conscience respected by a draft board than was a believer in a Supreme Being.

Judge Kaufman concluded: "It has often been noted that the principal distinction between the free world and the Marxist nations is traceable to democracy's concern for the rights of the individual citizen, as opposed to the collective mass of society.

"And this dedication to the

Agnostic Pacifist

Daniel Andrew Seeger

WHEN he reported on that crucial morning in October, 1960, to the induction center at 39 Whitehall Street, Daniel Andrew Seeger submitted to the mass physical examination with the other young men.

But when he was led into the swearing-in room, he refused to take

Man the one step forward that ultimately separates the military con-

script from the pacifist. He just stood there, rooted as it were, to restraining ethics and beliefs. "They told me to go home," he recalled. "I realized I was bucking the Federal Government and I felt nervous, but I knew that what I was doing was right. I felt it was something that had to be done rather than collaborate in the destruction of other people's lives."

From that day on, he and the young woman who was then his fiancée and is now his wife lived in the expectation that he would be arrested. For two years, nothing happened. Then he was indicted. He was tried, convicted and sentenced to a year and a day in prison. Yesterday he won an appeal that may, if it stands, keep hundreds of young men like him out of jail.

Most conscientious objectors do not have to take their stand as dramatically as Mr. Seeger took his. They are allowed to put in two years of alternative service in, perhaps, hospital or welfare work in lieu of military service. What made Mr. Seeger's case different was that he did not base his refusal to serve on a belief in a Supreme Being.

Attends Quaker Meetings

He is not an atheist. Every Sunday morning at 11, he and his wife, Betty-Jean, join about 60 other people for the Morningside Heights Meeting of Friends (Quakers) in Earl Hall on the Columbia University campus. The meeting gathers in silence and most of the hour is spent in silent meditation, though occasionally someone speaks briefly. There is no minister.

Though Mr. Seeger was brought up as a Roman Catholic and attended a parochial school, he considered the Friends' meeting more congenial "because Friends believe that God speaks to man as an individual and not necessarily through a hierarchy or clergy." He finds the silent hours "tremendously meaningful" as a pause in a "hectic and pell-mell" society, but is not a formal member of the Friends.

"I don't like labels," he said, "but I would consent to being called a religious agnostic."

Mr. Seeger, who is 28 years old, was born in the Bronx on Sept. 3, 1935, but was raised in what he laughingly calls "the lush wilds of Auburndale, Queens," in a small home on Pigeon Meadow Road. He went to St. Kevin's Roman Catholic School, Bay-side High School and Queens College, graduating with a major in physics in 1959.

He lived for a time in a student-filled tenement brownstone at 328 West 89th Street. Often, when entering or leaving the building, he heard the appealing voice of a lyric soprano singing in a first-floor apartment. Finally, the superintendent, a discerning man, introduced his fifth-floor tenant to his first-floor tenant. On summer nights he and she and several students



The New York Times
He doesn't like labels
(Mr. Seeger during interview at home yesterday.)

and the superintendent had kaffee-klatsches on the front stoop. Romance bloomed and the two were married in January, 1960.

They now live in a small apartment, dominated by a long L-shaped room, in a modern brick building at 400 Central Park West, at 100th Street. The room is decorated with charcoal sketches, oil paintings and a mobile that Mr. Seeger made. A picture window overlooks Central Park and along one wall, five 17-foot-long shelves are filled with books of a serious nature, including volumes on Nehru and thermonuclear war.

Mr. Seeger, who is saving money to buy a grand piano, now accompanies his wife on an old Harvard upright piano. Since the Seegers in one of those buildings in which the sounds of one apartment carry into the next with striking fidelity, the couple sometimes provide musical entertainment for their neighbors, several of whom have said they enjoy it.

Interested in Full Scope

After college graduation, Mr. Seeger worked for three years as a research assistant in nuclear physics. He found, however, that he was "interested in the sweep and scope of science but was not interested in burrowing—in learning more and more about less and less." Problems of "human conflict and reconciliation" seemed more important and challenging to him than even the problems of physics.

When he found himself "entangled in bureaucratic red tape" over his pacifist stand, he got help from the Central Committee for Conscientious Objectors in Philadelphia, a group that helped to get financial support for his court battle.

Now Works With Objectors

The committee works closely with the American Friends Service Committee, and that is how Mr. Seeger was drawn into the circle of Friends.

He now works full-time with the service committee as college secretary here. He takes students from 103 colleges within 50 miles of the city on field trips to the United Nations, mental hospitals and other places that help awaken social concern.

In dress and manner, Mr. Seeger looks much like a promising young businessman. Slightly wavy dark hair tops a trim 6-foot frame. He likes to swim, hike in mountains upstate and go canoeing in the Raritan Canal in central New Jersey.

DRAFT RESISTANCE AN OLD PROBLEM

But Modern War Has Made It More Prominent

BY ALEXANDER BURNHAM

Although even in antiquity there were those who refused to bear arms, the conscientious objector military service became most prominent in this century, when nations raised armies for wars on a global scale.

Conscription in the modern sense began with the French Revolution and was furthered by Napoleon. In this country both the Union and Confederate sides used the draft in the Civil War, but it was not until World War I that conscription became an acute problem to those who firmly objected to military service on the ground of conscience.

During World War II more than 70,000 men filed claims as conscientious objectors under the Selective Service Act of 1940. Of this number, 25,000 were assigned to noncombatant service and 12,000 to civilian work camps.

About 5,000 conscientious objectors were imprisoned during World War II; from 1948 to 1960, after the postwar Selective Service Act was passed, about 1,400 were imprisoned.

Under the 1940 act, members of recognized pacifist religions were allowed to substitute for military service either noncombatant military service, nonmilitary activity related to the war effort or activity considered socially valuable.

The 1948 act, amended in 1951, stated that conscientious objectors status could be achieved only if the applicant based his objection on religious belief and training that included a belief in a Supreme Being. The conscientious objector could then choose between noncombatant service or a public-service activity.

Mulford Q. Sibley and Philip E. Jacob, the authors of a study published in 1952 by the Cornell University Press, said it was not easy to define a conscientious objector. They stated, however, that the objector was "an individual whose scruples will not allow him to assist in the waging of war, and his refusal to assist inevitably leads to a clash between the conscientious claims that he supports and the demands of the state that professes to believe that it is fighting to protect social values and ideals."

Dug Ditches During War

The resistance of the conscientious objectors was perhaps most widely publicized during World War II, when many engaged in a host of activities in substitution for active military service. They worked on soil conservation experiments, dug irrigation ditches and acted as guinea pigs for medical and scientific research.

One of the most famous objectors was the actor Lew Ayres, who starred in the anti-war film "All Quiet on the Western Front." Declining to bear arms, he enrolled instead at an Oregon camp operated by the Brethren and Mennonite churches. Later he entered the Army as a noncombatant, serving in the Medical Corps.

Asked how Private Ayres was doing, an officer replied: "I wish I had a whole battalion of men just like him."

Not all objectors win public sympathy, particularly those whose objections may be non-religious. Such objectors have been criticized as self-centered, egotistic and ignorant of the world about them.

At one time the conscientious objector's scruples were considered for inclusion in the Federal Constitution. In 1789 James Madison proposed that the Bill of Rights provide that

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freedom of the individual, of which our Bill of Rights is the most eloquent expression, is in large measure the result of the nation's religious heritage. "Indeed, we here respect the right of Daniel Seeger to believe

what he will largely because of the conviction that every individual is a child of God; and that Man, created in the image of his Maker, is endowed for that reason with human dignity."

Mr. Seeger expressed deep satisfaction with the court's decision. He said: "The experience has been an education for me in the American system of justice, for which I am very grateful."

"no person religiously scrupulous of bearing arms shall be compelled to render military service in person." However, the Congress decided not to include the exemption.

Excerpts From Ruling on Conscientious Objector

Following are excerpts from the decision written by Judge Irving R. Kaufman of the United States Court of Appeals, reversing the conviction of Daniel A. Seeger:

In this regard, the Government attempts to justify the "Supreme Being" definition by asserting the propriety of a distinction between beliefs which are solely the result of individual reflection and those which the believer assumes to be the product of divine commands.

Congress would be justified, or so it is argued, in refusing to defer to those individuals who merely invoke their own fallible judgment in opposition to that of the Legislature; it would be less so with respect to those whose refusal to serve is based upon obedience to a power higher than that exercised by a mortal Congress.

But while we find this argument persuasive, we are unable to consider it dispositive of the case before us. For we feel compelled to recognize that a requirement of belief in a Supreme Being, no matter how broadly defined, cannot embrace all those faiths which can validly claim to be called "religious."

Pride in Diversity

Thus it has been noted that, among other well-established religious sects, Buddhism, Taoism, Ethical Culture and Secular Humanism do not teach a belief in the existence of a Supreme Being. Indeed, our country has long prided itself on the enormous diversity of religious beliefs which have been able to find acceptance and toleration on these shores.

In this regard, Mr. Justice Brennan has recently explained the development of

judicial attitudes toward the First Amendment by observing that our religious composition makes us a vastly more diverse people than were our forefathers.

They knew differences chiefly among Protestant sects. Today the nation is far more heterogeneous religiously, including as it does substantial minorities not only of Catholics and Jews but of those who worship according to no version of the Bible and those who worship no God at all.

In the face of this vast conglomeration of differing ideas and ideals, it is not surprising that no single concept may be found which is common to all.

'Stern' Voice of Conscience

The "Kauten" test represent an acknowledgment that for many in today's "skeptical generation," just as for Daniel Seeger, the stern and moral voice of conscience occupies that hallowed place in the hearts and minds of men which was traditionally reserved for the commandments of God.

And if the distinction between internally derived and externally compelled beliefs raises serious theoretical problems, the practical difficulties which it engenders are no less perplexing.

When Daniel Andrew Seeger insists that he is obeying the dictates of his conscience or the imperatives of an absolute morality, it would seem impossible to say with assurance that he is not bowing to "external commands" in virtually the same sense as is the objector who defers to the will of a supernatural power.

Indeed, we would create an impossible task for draft boards and courts alike were we to insist upon a distinction between Arno Sascha

Jakobson's devotion to a mystical force of "Godness" and Daniel Andrew Seeger's compulsion to follow the paths of "goodness."

It is to be emphasized once again that there is no question in this case . . . as to the sincerity of Seeger's beliefs or the tenacity with which they are held.

With commendable candor, the Government has fully conceded that Seeger's views fall squarely within the definition of "religion" announced for this circuit [an earlier decision].

While we are, therefore, most reluctant to find that Congress, in a sincere attempt to balance the personal rights of a minority with the insistent demands of our national security, has transgressed the limits imposed by the Constitution, we are compelled so to hold.

This is not to depreciate the enormity of the Congressional burden; we fully appreciate the duty and powers of Congress to ensure peace and stability in these unstable times by recruiting citizens for the armed forces.

We further recognize the concern for personal liberties and religious freedom which led to the enactment of the conscientious-objector exemption in the face of the perils which confront us throughout the world.

Discrimination Barred

At the same time, however, we cannot conclude that specific religious concepts, even if shared by the overwhelming majority of the country's organized religions, may be selected so as to discriminate against the holders of equally sincere religious beliefs.

Especially when considered in the light of *Torcaso* [an earlier decision] and the still more recent teachings of the

Supreme Court, a line such as drawn by the "Supreme Being" requirement between different forms of religious expression, cannot be permitted to stand consistently with the due-process clause of the Fifth Amendment.

We are convinced that the believer in a Supreme Being is not for that reason alone more entitled to have his conscience respected by a draft board than is Daniel Seeger.

We wish to make clear, moreover, that by holding the "Supreme Being" requirement to create an impermissible classification under the circumstances present here, we are not passing upon the validity of legislative classifications in terms of religion in any other context.

Concern for Individual

We feel it the soundest course to deal with such problems as they are presented to us, and not to lay down hard and fast rules which may be inappropriate to some of the many and varied interactions between government and religion.

It has often been noted that the principal distinction between the free world and the Marxist nations is traceable to democracy's concern for the rights of the individual citizen, as opposed to the collective mass of society.

And this dedication to the freedom of the individual of which our Bill of Rights is the most eloquent expression, is in large measure the result of the nation's religious heritage.

Indeed, we here respect the right of Daniel Seeger to believe what he will largely because of the conviction that every individual is a child of God; and that Man, created in the image of his Maker, is endowed for that reason with human dignity.

Philadelphia Evening Bulletin, January 20, 1964

Court Rules Draft Objector Need Not Believe in God

New York, Jan. 20—(AP)—The U. S. Court of Appeals here unanimously declared unconstitutional today a section of the Selective Service Act requiring that a conscientious objector believe in a supreme being to obtain deferment.

A conscientious objector, Daniel Andrew Seeger, 28, convicted and sentenced to a year and a day in May, 1963, based his objection to military service on personal principles without claiming affiliation to any particular religion.

In its decision, the court said in part:

"We feel compelled to recog-

nize that a requirement of belief in a supreme being, no matter how broadly defined, cannot embrace all those faiths which can validly claim to be called 'religious.'"

The court then said:

"It has been noted that, among other well established sects, Buddhism, Taoism, Ethical Culture and Secular Humanism, do not teach a belief in the existence of a supreme being. Indeed, our country has long prided itself on the enormous diversity of religious beliefs which has been able to find acceptance and toleration on these

shores."

Seeger is an employe of the American Friends Service Committee here. He is in charge of the organization's College student programs.

He registered with his local draft board in September, 1953, and indicated he believed he was entitled to a student deferment.

However, in July, 1957, he wrote his local board and for the first time disclosed his conscientious objections to military service.

He filled out a form but failed to assert a belief or disbelief in a supreme being.

Seeger wrote that the existence of God cannot be proven or disproven."

The court's opinion was written by Judge Irving R. Kaufman and concurred in by Chief Judge J. Edward Lumbard and Judge Paul Hayes.

Conchie Needn't Profess God

By NEAL PATTERSON

The U. S. Court of Appeals, using a scalpel on an Act of Congress, ruled here yesterday that a conscientious objector need not profess belief in God in order to be deferred from military service.

The court, in reversing an objector's conviction and his sentence of a year and a day, held unconstitutional a section of the Selective Service Act that made the recognition of a conscientious objector's status dependent on his belief in "a relation to a Supreme Being."

The ruling was handed down on the appeal of Daniel Andrew Seeger, 28, an employe of the American Friends Service Committee and in charge of its college student program.

Personal Principles Only

Seeger had refused to accept military service on grounds of personal principles but he claimed no religious affiliation and refused to affirm belief or disbelief in a deity.

His position, as quoted by Judge Irving R. Kaufman in the court's decision, was that "the existence of God cannot be proven or disproven, and the essence of his nature cannot be determined. I prefer to admit this and leave the question open than to answer 'yes' or 'no.'"

Judge Kaufman, in a 22-page decision concurred in by Chief Judge J. Edward Lumbard and Judge Paul Hays, said in part

"We feel compelled to recognize that a requirement of belief in a Supreme Being, no matter how broadly defined, cannot embrace all those faiths which can validly claim to be called 'religious.'"

"It has been noted that, among other well-established sects, Buddhism, Taoism, Ethical Culture, and secular humanism do not teach a belief in the existence of a Supreme Being. Indeed, our country has long prided itself on the enormous diversity of religi-



(NEWS photo by John Campbell) Daniel A. Seeger talks of favorable court ruling over telephone.

ous beliefs which have been able to find acceptance and toleration on these shores."

The Selective Service Act provision which the court ruled against had set up deferment for persons objecting "by reason of religious training and belief" to "participation in war in any form." It specified, however, that this category did not include "essentially political, sociological or philosophical views or a merely personal moral code."

Yesterday's decision held that Congress, though making a "sincere attempt to balance the personal rights of a minority with the insistent demands of our national security," had "transgressed the limits imposed by the Constitution"

SAN FRANCISCO CHRONICLE, January 21, 1964

A Key Ruling on God and the Draft

United Press

New York

A Federal Appeals Court ruled yesterday that it is unconstitutional to draft a conscientious objector even though he refuses to express his belief in God.

The ruling outlawed the section of the Selective Service Act which requires a conscientious objector to belong to a religious group which believes in a supreme being in order to get a deferment.

The unanimous opinion of the 2nd Circuit Court of Appeals, written by Judge Irvin R. Kaufman, said that there are many religious groups such as Buddhists, ethical culturists and Taoists who do not believe in a supreme being.

Chief Judge J. Edward Lombard and Judge Paul R. Hays concurred in the far-reaching opinion, which was based on the due process clause of the Fifth Amendment.

There is an automatic appeal to the U. S. Supreme Court whenever a lower court or an appeals court holds a Federal law or any part of it unconstitutional.

The ruling, if upheld, means that draft board can- See Page 11, Col. 5

From Page 1

not induct a man who states that it would hurt his conscience to become a fighting member of the armed services no matter what his religion or whether he has one at all.

MORALITY

The opinion reversed the conviction of Daniel Andrew Seeger, 28, who defied the draft on grounds he was a conscientious objector and was unwilling to take part in any violent military conflict because of moral reasons.

In September, 1953, when Seeger was 18, he registered for the draft and received a student's deferment until August, 1958. On July 12, 1957, he wrote a letter to his draft board saying:

"I have concluded that war, from the practical standpoint, is futile and self-defeating, and that from the more important standpoint, it is unethical."

FORM

Seeger, who now is in charge of the college students' program for the American Friends Service Committee in New York, filed a form asking for an exemption.

But he refused to assert a belief or disbelief in a supreme being.

He wrote: "The existence of God cannot be proven or disproven and the essence of his nature cannot be determined."

"The skepticism or disbelief in the existence of God does not necessarily mean lack of faith in anything whatsoever . . ."

Last May, Seeger was convicted by Judge Richard H. Levett, sitting without a jury, of refusing to submit to the draft and was sentenced to serve one year and one day in prison.

NEW YORK WORLD TELEGRAM

and SUN

JANUARY 20, 1964

Objectors Needn't Believe

In a far-reaching decision, the United States Court of Appeals today declared unconstitutional a section of the Selective Service Law requiring "a belief in a Supreme Being" in order to win classification as a conscientious objector.

The historic ruling reversed the conviction of Daniel Andrew Seeger, 28, a Quaker, who was sentenced to a year

and a day in prison last May because he objected to military service on personal rather than religious grounds.

The decision was handed down here by Chief Judge J. Edward Lumbard of the Second Circuit and his Associate Judges, Irving R. Kaufman and Paul R. Hays.

The 22-page opinion, written by Judge Kaufman, stated in effect that a man now may argue for deferment on the grounds that he may have confirmed beliefs and scruples against war and still not be sure in his own mind about the existence of a Supreme Being.

THE CONSTITUTION

The Conscientious Nonbeliever

For Selective Service authorities in New York and Justice Department officials in Washington, Daniel Seeger presented a baffling problem. A New Yorker of draft age, Seeger claimed exemption as a conscientious objector, but he was an unusual sort of c.o. Although raised in a Roman Catholic family (two of his uncles became priests), he was a self-styled agnostic who refused to say he believed in a Supreme Being. The Selective Service Act makes it unmistakably clear that no one is to be exempted from the draft as a c.o. unless he holds to a "belief in a relation to a Supreme Being."

A Year & a Day. Seeger told his draft board that he believes in "goodness and virtue for their own sakes" and opposes war as unethical. Investigators pronounced him sincere in his beliefs, but the draft authorities followed the Justice Department's advice and ruled that, by the letter of the law, he could not be considered a c.o. After that ruling, Seeger was summoned to an Army induction center in New York City. There, one morning in 1960, he went through with the pre-induction physical examination but balked at the swearing-in oath. Tried in a federal court, he was convicted of refusing to submit to induction and sentenced to a year and a day in prison.

Last week in Manhattan, the U.S. Court of Appeals overturned Seeger's conviction. The draft law's requirement of belief in a Supreme Being, ruled the court, is unconstitutional. The decision leaned heavily on 1961's *Torcaso v. Watkins* case, in which the U.S. Supreme Court declared invalid a Maryland law requiring every notary public to take an oath professing belief in the existence of God. Neither the Federal Government nor a state, said the Supreme Court, "can constitutionally

MARTHA SWOPE



AGNOSTIC SEEGER
For goodness' sake.

TIME, JANUARY 31, 1964

pass laws or impose requirements which aid all religions as against nonbelievers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs."

"A Child of God." Applying the *Torcaso* doctrine to Seeger's case, the three-judge Court of Appeals panel held that it is unconstitutional for Congress to select belief in a Supreme Being as the criterion of true religion. The term religion, said the court, does not necessarily imply belief in a supernatural power. Today, "commitment to a moral ideal is for many the equivalent of what was historically considered the response to divine commands." The draft law discriminates against those who hold sincere religious beliefs not based upon faith in a Supreme Being. And that discrimination violates the Fifth Amendment, which says that no one shall "be deprived of life, liberty or property, without due process of law."

Lest its ruling be considered anti-religious, the court took care to point out that it was affirming rather than denying the religious heritage of the U.S. "The principal distinction between the free world and the Marxist nations is traceable to democracy's concern for the rights of the individual citizen, as opposed to the collective mass of society. And this dedication to the freedom of the individual, of which our Bill of Rights is the most eloquent expression, is in large measure the result of the nation's religious heritage. Indeed, we here respect the right of Daniel Seeger to believe what he will largely because of the conviction that every individual is a child of God, and that Man, created in the image of his Maker, is endowed for that reason with human dignity."

Newsweek

Associated with
The Washington Post Company

Philip L. Graham, 1915-1963
Frederick S. Beebe, Chairman of the Board
Katharine Graham, President

THE COURTS:

'Religious Agnostic'

Daniel Andrew Seeger is a friendly, rosy-cheeked young man who looks as if he ought to be chewing a wad of spearmint and circling under a fly ball. Instead, he has spent the past three years of his life beating the Selective Service Act.

In 1960, Seeger reported to a New York City induction center and took an Army physical exam with a group of draftees. But when the others took a step forward to be sworn in, Seeger remained rooted in place. "I felt nervous," he recalled, "but I knew what I was doing was right." A pacifist, Seeger cited religious grounds for his action; but he admitted his beliefs were not based on a Supreme Being. Last May, a Federal judge—acting on the 1948 draft law, which requires that conscientious objectors prove that their religious beliefs are based on a Supreme Being—sentenced Seeger to a year and a day

in prison. He appealed, and last week the U.S. Court of Appeals declared that section of the law unconstitutional.

"... Requirement of belief in a Supreme Being, no matter how broadly defined, cannot embrace all those faiths which can validly claim to be called 'religious,'" declared Judge Irving Kaufman in the three-man court's opinion. He cited Buddhism, Taoism, Ethical Culture, and Secular Humanism as among religious sects which do not believe in the existence of a Supreme Being, and said the law's insistence on such belief violated the due-process clause of the Fifth Amendment. (Atheists, however, still cannot be deferred on religious grounds.)

'Coping With Evil': The U.S. will automatically appeal to the Supreme Court. Meanwhile, the gentle, wide-eyed Seeger is going along as before—working for the American Friends



Newsweek—Tony Itorio

Seeger: Is God necessary?

Service Committee as head of the college counseling service. Raised a Roman Catholic, Seeger attends Quaker meetings every Sunday with his wife, though he prefers to be called "a religious agnostic." "I feel Christ's way of coping with evil is one of the supreme examples," he says, "though I don't find the concept of God useful in describing the human condition."

He has a pleasantly Christian attitude toward his difficulties with the government. "There has been nothing but politeness and kindness from everyone," he says. "Even the sergeant at the induction center was decent about it all, when he figured out what was happening."

And he has nothing but praise for the government lawyers who were trying to send him to jail. "It might be kinder not to mention their names," he says. "After working so hard on their case, and then losing, the publicity might be uncomfortable for the poor fellows."

Newsweek, February 3, 1964

Conscience and the Law

Daniel A. Seeger is an ex-Catholic who now calls himself a "religious agnostic." When conscripted for military service, he refused to serve on grounds of conscience. But he would not base his refusal on belief in a Supreme Being, as the law requires conscientious objectors to do. The government therefore prosecuted him.

On Jan. 20 the U. S. Court of Appeals in New York reversed his conviction and declared the relevant section of the Selective Service Act unconstitutional. The requirement that conscientious objection be derived from belief in God discriminates against nontheistic beliefs, which now qualify as "religions" under the Constitution, said Judge Irving R. Kaufman for the court.

Obedience to the dictates of conscience is all that the law can demand, Judge Kaufman said. He added that the court respected Mr. Seeger's right to his belief "largely because of the conviction that every individual is a child of God; and that man, created in the image of his Maker, is endowed for that reason with human dignity."

That is not very different from what Bishop Emile De Smedt of Bruges, Belgium, said to the last session of Vatican Council II when he introduced the proposed chapter on religious liberty: "The man who sincerely obeys his own conscience intends to obey God Himself, although at times confusedly and unknowingly, and is to be considered worthy of esteem."

The problem that now remains is how to distinguish sincere conscientious objectors from draft dodgers.

CHRISTIAN SCIENCE MONITOR, Jan. 22, 1964

Definition of Church Sought

By Mary Hornaday
Staff Correspondent of
The Christian Science Monitor

New York

What is the legal definition of "religion?" What is a "church" before the law? For what privileges, protections, restrictions should those entitled to these terms qualify? How can the law protect citizens from frauds operating under the name of "religion?"

These are some of the broad church-state separation questions opened up by an historic decision of the United States Court of Appeals here Jan. 20 outlawing a section of the Selective Service Act which requires conscientious objection to be based on religious belief in a Supreme Being.

The case, involving a federal statute, automatically goes to the Supreme Court of the United States for a final decision.

The New York decision, written by Judge Irving R. Kaufman, said that Daniel Andrew Seeger, head of the college counseling section of the American Friends Service Committee here, could claim deferment from selective service on the basis of beliefs that did not include conviction that there is a Supreme Being. Mr. Seeger born of a Roman Catholic family, calls himself a "religious agnostic."

Definition at Stake

If upheld, the appeals court decision would not only require congressional rewriting of the conscientious objectors clause in the Selective Service Act but could lead to reexamination of other church-state separation cases in which a legal definition of religion is involved.

National experts in the church-state separation field have been predicting that the frontier of the future in this field will lie in trying to define a "religion" before the law. Though Judge Kaufman made

it clear that his decision was not laying down "hard and fast" rules for a definition of "religion" in other cases a final Supreme Court definition in the Seeger case could set a precedent for church tax exemptions, school aid and other phases of the church-state controversy. It would line up in importance with the school prayer and Bible-reading decisions in June, 1962 and 1963.

Mr. Seeger took his stand as a conscientious objector dramatically, going to New York induction headquarters one morning in 1960 but refusing to take the official step forward that separates the military conscript from the pacifist.

An FBI investigation indicated that he was sincere in his belief that war was "futile" and "unethical." But he refused to base his plea for exemption from military service on a belief in a Supreme Being, as required in the present draft law.

Kaufman's Decision

In his decision, Judge Kaufman stated: "We feel compelled to recognize that a requirement of belief in a Supreme Being, no matter how broadly defined, cannot embrace all those faiths which can validly claim to be called 'religious.' . . . It has been noted that, among other well-established religious sects, Buddhism, Taoism, Ethical Culture and Secular Humanism do not teach a belief in the existence of a Supreme Being. Indeed, our country has long prided itself on the enormous diversity of religious beliefs which have been able to find acceptance and toleration on these shores.

"In this regard, Mr. Justice Brennan has recently explained the development of juridical attitudes toward the First Amendment by observing that our religious composition makes us a vastly more diverse

people than were our forefathers.

"They knew differences chiefly among Protestant sects. Today the nation is far more heterogeneous religiously, including as it does substantial minorities not only of (Roman) Catholics and Jews but of those who worship according to no version of the Bible and those who worship no god at all. In the face of this vast conglomeration of differing ideas and ideals, it is not surprising that no single concept may be found which is common to all. . . .

'Impossible to Say'

"When Daniel Andrew Seeger insists that he is obeying the dictates of his conscience or the imperatives of an absolute morality, it would seem impossible to say with assurance that he is not bowing to 'external commands' in virtually the same sense as is the objector who defers to the will of a supernatural power. . . .

"While we are, therefore, most reluctant to find that Congress, in a sincere attempt to balance the personal rights of a minority with the insistent demands of our national security, has transgressed the limits imposed by the Constitution, we are impelled so to hold."

In conclusion the court noted that it was America's dedication to the freedom of the individual, "in large measure the result of the nation's religious heritage" and the conviction that "every individual is a child of God" that led to respect for Daniel Seeger's human dignity and his right to believe what he will.

New York World-Telegram:

January 21, 1964

Court Backs Non-Believing Objectors

In a far-reaching decision, the United States Court of Appeals today declared unconstitutional a section of the Selective Service Law requiring "a belief in a Supreme Being" in order to win classification as a conscientious objector.

The historic ruling reversed the conviction of Daniel Andrew Seeger, 28, a Quaker, who was sentenced to a year and a day in prison last May because he objected to military service on personal rather than religious grounds.

The decision was handed down here by Chief Judge J. Edward Lumbard of the Second Circuit and his Associate Judges, Irving R. Kaufman and Paul R. Hays.

Accept Sincerity

The 22-page opinion, written by Judge Kaufman, stated in effect that a man now may argue for deferment on the grounds that he may have confirmed beliefs and scruples against war and still not be sure in his own mind about

the existence of a Supreme Being.

"We are convinced that the believer in a Supreme Being is not for that reason more entitled to have his conscience respected by a draft board than is Daniel Seeger," the opinion said.

The court held that "there is no question in this case . . . as to the sincerity of Seeger's beliefs or the tenacity with which they are held."

The judges went on to point out that when Seeger first made his claim for deferment, the Federal Bureau of Investigation checked, and discovered he had been reared in the Catholic faith and had been a brilliant student at Bayside High School and Queens College.

The court noted that the FBI regarded his claim as valid, but the Justice Department insisted on prosecuting him for violating the Draft Law.

Kaufman observed that Seeger in a letter to his draft board, explained his belief that "the existence of God cannot be proven or disproven and the essence of His nature cannot be determined." The judge said Seeger wrote: "I prefer to admit this and leave the question open than answer 'yes' or 'no.'"

The court said that the government with commendable candor has fully conceded that Seeger's views fall squarely within the definition of religion.

The court added that it was "most reluctant to find that Congress, in a sincere attempt to balance the personal rights of a minority with the insistent demands of our national security, has transgressed the limits imposed by the Constitution." The opinion continued:

"We cannot conclude that specific religious concepts, even if shared by the overwhelming majority of the

country's organized religions, may be selected so as to discriminate against the holders of equally sincere religious beliefs."

Convicted in 1962

Seeger asked for deferment as a student when he appeared before his draft board on his 18th birthday in 1953. On July 12, 1957, he revealed his conscientious objections to military service, asking for deferment on those grounds.

He was convicted July 24, 1962, in a trial without jury, for failing to report for induction. He argued that the board's failure to defer him

violated his rights under the Constitution.

Seeger is now employed by American Friends Service Committee, 2 W. 20th St., as head of its college student program.

Minority Rights

Congress again is going to be brought up square against the problem of preserving minority rights, a problem it sometimes hasn't dealt with as decisively as it might—witness the current pussyfooting near the public accommodations section of the civil rights bill.

The problem heading for national legislators now is that of framing a new law for conscientious objectors. Not only veterans' groups, usually doubtful that anyone could sincerely object to war, but also religious fundamentalists probably will enter the fray.

A U.S. appeals court has found that the law requiring conscientious objectors to believe in a supreme being violates religious liberty, which of course includes the liberty to have no religion. The Supreme court, in line with its school prayer decision, seems certain to uphold the lower court, which ruled that an agnostic's deep ethical scruples against war qualify him for exemption from military duty.

A new law will have to be written; and legislators, who unlike judges are subject to public opinion, will have a tough time doing it. Still, in an era when government is at once centralizing and adding new functions, society must jealously guard the rights of each member if the rights of all are to be left unabridged. The alternatives are social chaos or the enforced regimentation of minority rights to majority whim.

Perhaps as important as deliberations on tax cuts, housing needs or defense budgets is the need for Congress to gain an overriding view of the necessity for staking out elbow room for the individual in a mass society.

Boston Evening
TRAVELER 20.1.64

Conviction Of Objector Is Reversed

NEW YORK—A federal court today ruled unconstitutional a section of the Selective Service Act requiring a conscientious objector, in order to get a deferment, to belong to a religion which believes in a supreme being.

The far-reaching opinion by the U. S. Court of Appeals reversed the conviction of Daniel Andrew Seeger, 23, who had refused to be inducted, claiming he was unwilling to take part in any violent military conflict on moral grounds.

State Selective Service Chief Decries U. S. Court Ruling

Brig. Gen. Henry M. Gross, state Selective Service director, said today a New York federal court ruling yesterday threatens to confuse the question of what is a conscientious objector.

General Gross referred to a U. S. Court of Appeals decision in New York, declaring unconstitutional a section of the Selective Service Act requiring a conscientious objector to believe in a Supreme Being to get a deferment.

General Gross said, if the decision is upheld, a person could claim to have a faith simply because he believed in himself, or an object or a principle.

Standards Difficult

"This could be reduced to absurdity," he said. "Why, thousands could say, 'Look, I'm for peace, I want a deferment.'"

However, he said he thought those who would try to take advantage of such a ruling would be in the minority.

General Gross said he did not know what standards could be applied in deciding who deserved a deferment if the ruling striking out the section of the Selective Service Act is upheld.

Dividing Line Dimmed

The general said it would be hard for a person who did not believe in a Supreme Being to

justify a request for draft deferment.

He said he believes the present law establishes a dividing line between "the spiritual and the philosophical."

Without it, he said, "it could be difficult to decide at what point a religious feeling changes over into a philosophical feeling."

General Gross said he was sure the ruling eventually would come before the U. S. Supreme Court for a final decision.

Watching With Interest

"This is every interesting," he said. "It's something that has never come up before. I'll be watching its progress with great interest."

Yesterday's federal court ruling came in the case of a 28-year-old New Yorker who sought a draft deferment as a conscientious objector on personal principles, without claiming affiliation to any particular religion.

The court's unanimous decision stated that a requirement of belief in a Supreme Being, "no matter how broadly defined, cannot embrace all those faiths which can validly claim to be called 'religious.'"

Loophole in the Draft Laws

The decision by a U. S. Court of Appeals, reversing the conviction of a young man who sought draft deferment as a conscientious objector on personal principles, without claiming affiliation with any particular religion, breaks wide open the whole question of conscientious objection to military service.

A remedy must be found or the way might be opened to wholesale demands for draft deferment by those whose only conscientious scruple in the matter is their dislike of entering military service and perhaps getting shot at. The whole system of Selective Service could be shattered. There would be vast resentment at any loophole in the law which would permit shirkers to dodge military service while other youths who do not look for the conscientious escape-hatch perform their patriotic duty.

The Court of Appeals opinion is not intended, of course, to help draft-dodgers but to point to what the judges believe are invalid regulations in the Selective Service Act.

It declares unconstitutional the provision that the conscientious objector status can be achieved only if the applicant bases his objection on religious belief that includes a belief in a Supreme Being. The case before the court involved the conviction of a man who refused to assert belief or disbelief in a Deity.

The court held that the Selective Service provision discriminates against religions not based on belief in a Supreme Being. It cited Buddhism, Taoism and Ethical Culture.

Granted that a believer in such faiths, or a confirmed agnostic, may have conscientious objection to taking up arms, that does not mean that the mere assertion of scruples should assure exemption from the draft.

What is needed is a new definition of conscientious objection, acceptable for deferment, without unfairly penalizing the patriot in favor of the shirking pacifist who is willing to permit someone else to do his fighting for him.

The Philadelphia Inquirer

M. L. ANNENBERG, Publisher, 1936-1942
Published Every Day in the Year by TRIANGLE PUBLICATIONS, INC.

THE PHILADELPHIA INQUIRER

400 N. Broad Street, Philadelphia 1, Pa.

WALTER H. ANNENBERG

EDITOR AND PUBLISHER

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THE INQUIRER'S PLATFORM

To print the news accurately and fearlessly, but never to be content with merely printing the news; to strive always to uphold the principles of our American democracy, to war relentlessly against alien "isms," to fight intolerance, to be the friend and defender of those who are persecuted and oppressed; to demand equal justice for employer and employed; to work for the advancement of industry in Delaware Valley and Pennsylvania; to oppose political hypocrisy and corruption; to fight and never to cease fighting to maintain the sanctity of personal liberty and the inviolability of human rights.

JANUARY 22, 1964

A section of the Selective Service Act requires that a conscientious objector seeking deferment from the military draft prove that the basis of his religious belief is a Supreme Being. Is this unconstitutionally discriminatory against demonstrably sincere objectors who do not profess such a belief?

This was the delicate question facing a three-judge federal court of appeals in New York in the case of Daniel A. Seeger, a self-styled "religious agnostic" who had refused on pacifist grounds to be inducted into the Armed Forces.

In an opinion handed down the other day, the court ruled the Selective Service Act's "Supreme Being" section unconstitutional under the due process clause of the Fifth Amendment, and reversed Seeger's conviction for violating the act.

This, we believe, was not only legally proper, but a decision to be applauded by Americans whatever their religious preference.

The Government, it should be emphasized, conceded that Seeger was sincere and thus his views fell within the legal meaning of the term "religion."

If Congress finds it proper to grant draft deferments to persons whose religious scruples reject military service, it ought to grant deferment to all such people, not just some of them. There is no reason why our law should extend to Christian and Jewish pacifists what it would deny to pacifistic "religious agnostics" like Mr. Seeger and to other pacifists honestly professing such faiths as Buddhism, Taoism, Ethical Culture and Secular Humanism.

A principle strength of this nation lies in its willingness to tolerate the widest diversity of conscientious faith. We hope the Supreme Court, to which the Government will carry an automatic appeal, will uphold this decision.

DAYTON DAILY NEWS,
January 29, 1964
God and Conscience

IT IS more than likely that a unanimous three-judge decision of a Federal Court of Appeals in New York, holding that an American may be a conscientious objector even though he acknowledges no God, will be carried up for final decision by the U.S. Supreme Court.

This is as it should be for many Americans have long had doubts over some of the hairline decisions made in conscientious objector cases. Isn't it possible, they have asked, for a man to have ethical scruples about bearing arms even though he subscribes to no formal creed and belongs to no formal religious organization?

In the past, some reviewing authorities have tended to equate conscience, ethics and moral scruples with organization and formalism. Undoubtedly many injustices have been done to men just as sincere in their interior beliefs as those who make a public profession of what they believe.

Obviously, no one should be able to claim a conscientious belief frivolously. There should be some kind of record, even though only a statement to a draft board sufficiently in advance of actual induction to lend credibility to the assertion of conscience. The whole troubled area of conscience and the draft has been murky for too long. It should be cleared up, legally, once and for all.

concept of religion does not necessarily imply a devotion to supernatural agents and is viewed as a quality of experience rather than adherence to any dogma.

INSTITUTIONS and the RULE OF LAW

Dan remarked that the proceedings in connection with his appeal, which have stretched out over 6 years, have been an intensive education for him. The experience has revitalized and renewed his appreciation for the American system of justice (in spite of the abuses of which we hear) as a remarkable and valuable achievement developed painstakingly over centuries. It is an education for which he would have expressed gratitude whether he had won or lost his case. The reassurance of an ordered society and rule of law based on concepts of respect for the individual is something of which it is good to be reminded (especially as we, as pacifists, often address ourselves to its shortcomings).

A DAY WITH NEWSMEN

An interesting sidelight of this experience was his contact with the operation of the newspapers. For a brief 24 hours, his life was intruded upon in a pell mell fashion which is characteristic of the American mass media. The actual stories which appeared reflected a diversity of spirit, scope and accuracy. On the whole the results were reassuring. Expectably, the New York Times had the fullest and most careful coverage including a first page story, the "Man in the News" feature, a lengthy quotation from the opinion and a background article on conscientious objectors generally. Most people were surprised at the extent of

Boston (Massachusetts) SUNDAY HERALD, 26 January 1964

Conscientious Objector in the News

(AFSC Star, February, 1964)

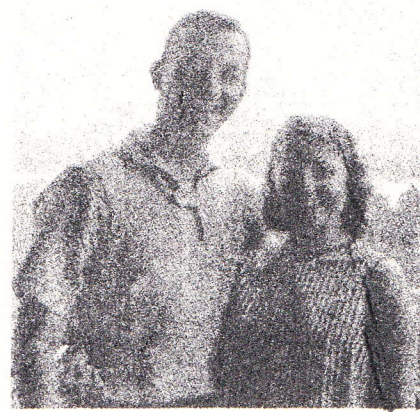
In a decision which elated the New York peace community, the Second Circuit Court of Appeals reversed the decision of the Federal Court which had found Dan Seeger, New York Region AFSC College Secretary, guilty of a Selective Service violation. Dan had applied for conscientious objector status and been denied because he could not state that he believed in a Supreme Being. He subsequently refused induction. The verdict reflects the Court's belief that the statute under which Dan was convicted was unconstitutional in violation of the First Amendment. The unanimous opinion stated that it believed this statute to be prejudicial in preferring theistically oriented religions over non-theistic ones.

LEGAL IMPLICATIONS

The decision represents a resounding victory for Kenneth Greenwalt who argued the case. It is the first time in history when any part of the Selective Service law has been declared unconstitutional. Indeed there have been very few, perhaps 13 or 14, federal laws of any sort that have been declared unconstitutional. Most famous cases which we hear about involve the constitutionality of state laws.

RELIGIOUS IMPLICATIONS

Dan doesn't find the concept of man's relation to a Supreme Being a useful one or describing the human condition. However, his recognition of the element of



Dan and Betty Jean Seeger

mystery in human life makes him respect such a concept as meaningful to countless others who have been inspired to actions and relationships which have maximized life.

He said that much of his thought is derived from the Christian tradition in which he was raised. He said that he regarded Christ's witness as a paramount example of a redemptive, non-violent way of coping with evil.

In effect, the decision is supportive of recent decisions of the Supreme Court which hold to a very broad definition of religious concern. Dan based his claim on what he described as "a religious devotion to a purely ethical creed" - devotion to ends and principles outside oneself rather than to narrowly personal ends

HIGH COURT FREES 3 WAR OBJECTORS

Finds Broad Basis for Draft Exemptions if Belief in a Supreme Being Is Held

Special to The New York Times

WASHINGTON, March 8—The Supreme Court held unanimously today that the provision in the draft law exempting religious objectors from combat training and service should be interpreted broadly.

The law exempts from the draft persons who by reason of religious training and belief are conscientiously opposed to any participation in war.

It also defines religious training and belief as "an individual's belief in a relation to a supreme being involving duties superior to those arising from any human relation, but [not including] essentially political, sociological or philosophical views or a merely personal moral code."

Test of Sincere Belief

The test of belief in a relation to a supreme being, the Court said, "is whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption."

Applying this test, the Court ruled that the beliefs expressed by three men involved in the cases before it entitled them to the exemption.

By doing so the Court did not have to take up the more complex question of whether the section is unconstitutional because it does not exempt non-religious conscientious objectors and discriminates between different forms of religious expression in violation of the Constitution.

Issue Is Defined

Said the Court:

"We also pause to take note of what is not involved in this litigation. No party claims to be an atheist or attacks the statute on this ground. The question is not, therefore, one between theistic and atheistic beliefs. We do not deal with or intimate any decision on the situation in this case."

The Court's opinion by Justice Tom C. Clark and a concurring opinion by Justice William O. Douglas read like a short course in theology.

The majority opinion quoted the eminent Protestant theologian, Dr. Paul Tillich; the Bishop of Woolwich, John A. T. Robinson, and the schema of the recent Ecumenical Council, among others, to demonstrate the "broad spectrum of religious beliefs found among us."

The quotations, the Court said, "demonstrate very clearly the diverse manners in which beliefs, equally paramount in the lives of their possessors, may be articulated."

"They further reveal," the

Continued on Page 14, Column 3

The New York Times

Published: March 9, 1965

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HIGH COURT FREES 3 WAR OBJECTORS

Continued From Page 1, Col. 7

Court went on, "the difficulties inherent in placing too narrow a construction on the provisions [of the draft act section involved] and thereby lend conclusion support to the [broad] construction which we today find that Congress intended."

The three objectors involved were Daniel Andrew Seeger, Arno Sascha Jakobson and Forest Britt Peter.

Mr. Seeger and Mr. Jakobson had been convicted by the United States District Court in New York, and Mr. Peter by the United States District Court in San Francisco, of refusing to submit to induction. Both New York convictions were reversed by the United States Court of Appeals for the Second Circuit. The Appeals Court for the Ninth Circuit upheld Mr. Peter's conviction.

Question Left Open

The Supreme Court upheld the reversals by the Second Circuit and reversed the Ninth Circuit.

Mr. Seeger had told Selective Service authorities that he was opposed to war on religious grounds, but preferred to leave open the question of his belief in a supreme being. Mr. Jakobson said he believed in a supreme being who was "the supreme reality."

Mr. Peter said that the source of his conviction was "our democratic American culture, with its values derived from the Western religious and philosophical tradition."

He supposed, he added, that "you could call that a belief in the supreme being or God."

The Court's opinion traced the evolution of the conscientious objector provision in the Universal Military Training and Service Act, and found that all that Congress had intended for an objector to qualify for exemption was a sincere conviction based on religious training and belief.

The cases were argued by Solicitor General Archibald Cox for the Government and by Juane B. Besson of San Francisco for Mr. Peter, and Herman Adlerstein and Kenneth W. Greenawalt, both of New York City, for Mr. Jakobson and Mr. Seeger, respectively.

The New York Times

Published: March 9, 1965

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