IN THE PUBLIC INTEREST

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EDITORIAL POLICY & SUBMISSION INFORMATION
In the Public Interest was originally conceived as a forum through which students and professionals could explore and discuss the meaning and destiny of public interest law. It was not intended to be a legal periodical but rather a magazine which would explore legal issues by examining their historical, economic, and social context. The journal has become a voice for alternative viewpoints and presents an avenue for students to publish their writing in a style generally disdained by legal publications. It is our belief, however, that this style makes us more effective carriers and transmitters of information.

The editorial board remains committed to publishing a broad range of opinions. At the same time, we will continue to maintain an editorial policy which places the lives, health, and integrity of people in the focus of legal practice.

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FROM THE EDITORS

Of the estimated 8.5 million young men required to register for an impending draft pursuant to Jimmy Carter’s Proclamation of July 2, 1980, at least 700,000 have refused to lend their names to the national lottery. The United States government has recently initiated prosecution of these individuals, but, since bringing vast numbers of transgressors to trial is a physical impossibility, the government appears to be using these initial prosecutions as a means of bullying the remaining nonregistrants into compliance. Our government is taking these proceedings seriously.

Equally serious, however, are the young men who are resisting this country’s latest push toward military preparedness. The actions of these nonregistrants marks the continuation in this country of a moral and political tradition dating back at least to the first world war when thousands of Americans refused to risk their lives for the benefit and enrichment of a growing international ruling class.

The history of the resistance to this country’s participation in the first world war is an instructive reminder of how those persons pointing to the true causes of war can get trampled in the hysteria of nationalism. It is both poignant and tragic for one surveying World War I burial sites to discover that the United States did not choose its side in “the war to make the world safe for democracy” based on its commitment to moral principles and political idealism. Were it true that American policy was guided by a dedication to such high-minded goals, this country would have likely felt compelled to enter the conflagration prior to the last eighteen months of fighting. History teaches us that our support of France and England actually arose out of the ethnic and cultural affinities of our political and economic elite and that the only “principle” we were seeking to protect by entering the fray was several billion dollars worth of loan money which would have been lost in the event of a German victory.

Mr. Benjamin Sasway, the first young man since the Vietnam War era to be indicted by the federal government for violation of the Military Selective Service Act (50 U.S.C.A. App. § 451 et. seq.)—and the second to be convicted—has such an understanding of history. He has stated that the United States has no defensive military needs which necessitate a draft, and he believes that the only purpose served by a ready-for-action pool of registrants is “interventionist.”

One American who disagrees with Mr. Sasway, of course, Ronald Reagan. In breaking his pre-election promise to terminate peace-time draft registration, Mr. Reagan explained, “We live in a dangerous world... In the event of a future threat to national security, registration could save the United States as much as six weeks in mobilizing emergency manpower.”
The President is correct that we live in a dangerous world, but saving us six weeks of preparation time is futile when the frame of reference should be six hours or six minutes. The world is a time bomb of our own creation. For despite our government’s wailing, the United States is the master of thermonuclear technology and remains the only possessor of nuclear weapons to refuse to swear off their first use. Moreover, as our military leadership, unable to hide its glee, recently pointed out, the war in Lebanon revealed that American technological dominance extends into the realm of conventional warfare as well.

With such an arsenal at ready command, why is draft registration so critically important to our government that it went to the time and expense of recreating a selective service apparatus and is now prosecuting the incorrigible resisters?

Assistant United States Attorney Yesmin Annen, who is prosecuting Mr. Sasway, claims that she knows the answer. “It goes to the heart of national interest,” she told the jury. Certainly, the peasant and Indian peoples of Central America would ask Ms. Annen why U.S. marine involvement in their domestic political struggles is in the United States’ best interests. Clearly the young men who have not registered for the draft are motivated by the belief that such intervention is not in our national interest. But it is necessary to ask whether the violation of a federal law is a legitimate expression of their opposition?

Judge Gordon Thompson answered for the judiciary in the negative. He instructed the jury to consider only two issues: whether Mr. Sasway failed to register and whether the failure to register was his intended action. The judge did not permit Mr. Sasway’s attorneys to raise a defense based upon his moral and philosophical opposition to war and a draft and concluded that “a person may not decide for himself whether a law is good or bad.”

We don’t agree.

The violation of any law promoting the militarization of our society is a legitimate expression of political opposition. But breaking the law is not enough.

Mr. Sasway’s attorneys asked the court to grant a special exception for their client because of his well-established moral objections to war. But special exceptions are also not enough.

The symbolic statements of scattered individuals, no matter how courageous and righteous they are, will not successfully change law or policy, for it is the community that must become outraged. Preparations for war and military adventurism can only be stopped by mass involvement and organized protest.

Until American people collectively express opposition to this country’s military program, bold and principled persons such as Mr. Sasway will in all likelihood be routinely and severely punished for their opposition. A sovereign has the right to enforce the perceived will of the majority until a new majority is constituted. Therefore the occasional actions of individuals, although admirable, are not only ineffective, they are also risky.

For this country, too, will imprison its political dissidents.
It is the great advantage of the new movement that we do not seek to anticipate the new world dogmatically, but rather to discover it in the criticism of the old. . . . It is not our task to build up the future in advance and to settle all problems for all time; our task is ruthless criticism of everything that exists, ruthless in the sense that the criticism will not shrink either from its own conclusions or from conflict with the powers that be.

—Karl Marx