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CEB
F41

July 17, 1975

Mr. Lawrence M. Baskir
General Counsel
Presidential Clemency Board
The White House
Washington, D. C. 20500

Dear Mr. Baskir:

This is in reply to your letter to me dated July 15, 1975.

In accordance with our discussion this afternoon with Senator Goodell, in the event it becomes necessary for me to write a memorandum for any Board member, I will first furnish copies of it to my immediate supervisor, Mrs. Handwerger, you, and the Senator before giving it to the Board member.

I fully understand now that in my position as head of the records section, I report directly to Mrs. Handwerger and that the chain of command goes from her to you, then to the Senator.

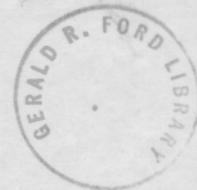
I also understand that if any Board member discusses matters with me which concern the operation of the Board, that I will call these to the attention of Mrs. Handwerger and make her aware of their concern.

You have my assurance that I will henceforth strictly adhere to the chain of command in all matters pertaining to the operation of the Presidential Clemency Board.

Sincerely,

O. G. Benson

OGB:jz



MEMO FROM
MAURICE GOLDMAN

7/31/75

Dear Senator Goodell:

Thank you very much for taking the time to write to me.

I appreciate this very much.



I also think that you should try to get the nomination for Senator from N.Y. again.

Thank you for sending my letters to Gov. Bruce of Texas.

I hope you were able to write a few personal words, along with

the letter to Gov. Bruscoe.

I don't think I'll hear
from Gov. Bruscoe, but
I appreciate your gesture
and your kind
remarks.

Thanks again
Sincerely yours
Maunce

MEMO FROM
MAURICE GOLDMAN

W

5/15/25

Dear Chairman Goodell

Thank you for your kind letter to me on the Pardons of the Draft Resisters who have served their sentences in the U.S.A., before the Presidential Clemency Board was established.

I'll ask my lawyer for further comment. As far as it goes, you have been lenient in these $\frac{1}{3}$ of the decisions you speak of & I agree with them. Hope it continues.

Thanks again
Sincerely yours
Maurice

AUG 15 1975

Rob Card

Aug. 8, 1975

Gentlemen:

Just read Chas. E. Goodell
article on Amnesty, published in Parade
Magazine.

I thought you might be impressed
with two of the mens answers.

Brad Fountain is Correct!

Bernard Wilson made smart decision

Mr. Wm. A. Fair, Jr.

982

Will We Ever Solve the Amnesty Problem?

jobs with those who didn't serve or deserted.

At this point, I feel the country ought to say to those guys: "You let us down, and now we're going to let you down." In fact, unless they are willing to serve in the military like the rest of us did, I'd tell them to forget it: they don't deserve to live in America.

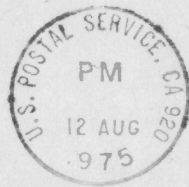


III. Bernard Wilson—27-year-old Navy deserter, currently doing alternate service in a Virginia hospital:

Why did I decide to do alternate service? Because, since 1969, when I deserted, I had been living underground with a false name. I hadn't seen my parents or my friends for six years. The clemency program was a chance to be me again.

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6522 Ocean View Ave
Carlsbad, Ca. 92008



Presidential Clemency Board
Washington, D.C.

Harold
Harold A. Gregory

AUG 18 1975

P. O. BOX 1221 - WORCESTER, MASSACHUSETTS 01601

August 11, 1975

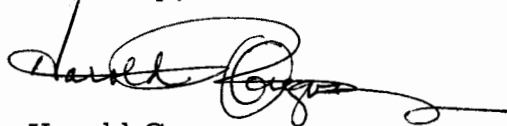
Mr. Charles E. Goodell
Chairman
Presidential Clemency Board
Vietnam Amnesty Cases
Washington, D. C.

Dear Mr. Goodell:

According to a TV news program I watched, one problem faced by possible amnesty seekers is What kind of a job will they be assigned in order to work their way back? What kind of work can they be given without arousing local resentment?

Has anyone sent you the enclosed idea that I submitted to the White House some time ago?

Sincerely,



Harold Gregory

Encs .

Ltrs N. Y. Daily News / WBZ-TV 4
"Amnesty, Alaska"
Anchorage Daily Times ltr
May 5, 1975



981

May 5, 1975. Anchorage Daily Times

absolutely imperative that Anchorage take immediate action to improve our roads and streets. The adverse effects of the mile-long traffic jams every morning and every evening include increased fuel consumption (energy), increased air pollution (physical environment), to say nothing of the shattered nerves and emotional upset which are caused by the constantly deteriorating situation.

Regardless of one's position concerning the private automobile versus mass transit, there are at least two improvement programs that should be supported.

First, all major intersections must be immediately upgraded to provide for separate right and left-turn lanes with adequate stacking capacity, plus at least two through-traffic lanes with merging lanes back to

step. Second, begin an immediate priority program to widen all major arterial streets and roads to at least four-lane capacity. These streets and roads will connect the upgraded intersections and must be completed within three to five years if Anchorage is to avoid total strangulation of its streets.

The steps outlined above should have been undertaken several years ago. They are certainly not final solutions to traffic or transit problems, but they should be mandatory first steps if Anchorage is to avoid further unnecessary deterioration of its quality of life. We cannot afford any further delay without exorbitant costs, both tangible and intangible, to all Anchorage residents.

Eldon L. Young
3236 Wesleyan Drive

Amnesty, Alaska

Dear Editor:

Can you picture a grandfather telling his grandchild at some future date how Amnesty, the beautiful capital of Alaska, all began?

"It was back in 1976 when the construction work was begun in earnest as part of the celebration of our nation's 200th anniversary.

"In 1974 we had voted to build a new state capital somewhere between Fairbanks and Anchorage; that's how it began.

"Then the federal government decided to help out with a public works program to build a super, technologically advanced, weather-controlled capital, giving employment to thousands of out-of-job air-space technicians, college graduates, unemployed persons from all over the states, and thousands of army amnesty personnel, those who fled to Canada and Sweden rather than to fight in Vietnam, and now were working

their way back."

"It became a space project on earth, exciting the imagination of the whole world and, after several difficulties, it became this marvelous city that you live in now.

"The people of Alaska were so impressed by the extraordinary and devoted work of the Army people, that they adopted officially the nickname that the returned objectors had given the site, 'Amnesty, Alaska.'

"Today, just the tourist trade of people coming from all over the world to see this amazing and immaculate capital, with its geodesic domes, monorails and advanced construction, from reservoirs to recreational units, its health and safety features and economic self-sufficiency, has made it one of the post prosperous living areas in the country."

Harold Gregory
Box 1221
Worcester, Mass.

Liberalizing Marijuana

Dear Editor:

It is hard for me to believe that some of the legislators we have sent to Juneau would introduce and support such bills as the liberalization of the marijuana drug law.

Is this liberalization supposed to increase safety on the road? Will it make us safer in our homes? Does it improve our health? Does it make us better citizens? I submit that its effects is just the opposite.

What we need is improvement in our court system. We need harder laws

not softer ones, and someone to see that they are enforced. The good people of Alaska have got to remember those who foster such laws and rid ourselves of them.

It seems to appear that Sen. Miller and others were not introducing legislation for the majority but for the minority. Don't the legislators know that a person who habitually breaks a small law would not hesitate to break a large one in stress or trouble?

R. C. Raymer
4840 E. Fifth Ave.

Paredes implies that KAKM will produce carbon copies of the New York City local

Exec. Director & General Manager KAKM Television

Andy Warwick

Dear Editor:

I have read with interest your recent editorials concerning the Andy Warwick appointment. You have argued that the Constitution of the State of Alaska "means what it says" and since it says that "during the term for which elected and for one year thereafter, no legislator may be nominated, elected, or appointed to any other office the salary or emoluments of which have been increased while he was a member," Warwick cannot validly be appointed to the post of commissioner of administration since he served in the Eighth State Legislature that raised the salary for that post. While you seem to agree with Governor Hammond that Andy Warwick would be a fine commissioner, you do not wish to see the constitution violated by his appointment. Both the governor and I share that wish.

It is my legal opinion that Warwick's appointment is not in conflict with the constitution and I have so advised the governor.

I know of no attorney who has reviewed this question and concluded that a literal interpretation of the constitutional provision was intended by the framers of that document. The Legislative Affairs Agency, which believes the appointment is invalid, suggests that a key issue is whether the salary increase for the commissioner's post was part of a general pay increase or a special pay increase. In Legislative Affairs' view the bill which increased the salary for the commissioner of administration was a bill which raised salaries for just commissioners and judges, which was not enough of a general salary increase to avoid a constitutional problem.

I am convinced that even if the pay raise had been restricted to judges and top executive officers, there has been no

showing whatsoever that Warwick had the slightest intent of benefiting himself when he voted for the pay raise. But the pay raise for commissioners and judges did not stand by itself! It passed together with a general pay increase for all government employes (contained in a separate bill), both of which were treated as packages by the finance committees.

Accordingly, even were you to accept Legislative Affairs' view of the question requiring a general pay increase in order to avoid a constitutional problem — that condition was met and Warwick's appointment is legal and proper.

The only way in which this question can be tested is if Warwick is confirmed and then a suit is brought to test the constitutionality of the appointment. We welcome that test so that we may resolve this issue once and for all. The legislature is considering that solution now.

It has been suggested that Warwick serve as deputy commissioner for a year and then be appointed commissioner. However, the legal issue remains the same. Both positions had their salaries raised by the legislature in which Warwick served. If he can serve as deputy commissioner — he can serve as commissioner. In my opinion, he can serve as either.

I would be the first to recognize that an attorney general's opinions are not sacrosanct and may be overturned by courts. I believe that would not be the case with Warwick's appointment. However, even if that should come to pass, it will not change the fact that the appointment was made with a sincere belief that it is consistent with the requirements of the Alaska Constitution, and not out of a desire to avoid those requirements.

Avrum M. Gross
Attorney General

Union Side

Dear Editor:

Your column had a couple of letters saying how the writers were opposed to the unions. If the people will just take the trouble to check, they will find that the non-union shops, gas stations and stores charge just as much as the union places. They have only one thing

wages.

The union man or woman carries a large load of the taxes, from \$70 to \$200 per week, so, inflation falls right back where it belongs. Without unions we would be back to \$1 per day.

Herbert Bartlett
3805 Cope

August 30, 1974

To the Editor of the N. Y. Daily News:

How about building a "Buck Rogers" type, technologically advanced, weather-controlled new capital for Alaska with federal aid, using unemployed technical personnel from all over the nation, including the Vietnam draft dodgers who want to "work their way back." They could call the super city, "Amnesty, Alaska."

Harold Gregory

755-1856

WBZ-TV 4 WBZ RADIO GROUP **W**
103

Dear Mr. Gregory,

Thanks for your comments and apologies for the delay in responding. We were working toward the enclosed editorial, and I held off to send on the printed copy to you.

The Alaskas building project may make good sense. But we think it should be done by a general work force, possibly including some draft evaders and deserters, as part of a public works program to take up the growing slack in employment.

hd

Harold A. Gregory

P. O. BOX 1221 - WORCESTER, MASS. 01601



Mr. Charles E. Goodell
Chairman
Presidential Clemency Board
Vietnam Amnesty Cases
Washington, D. C.

August 11, 1975

Dear Senator:

Thank you for your recent letter with which you enclosed a copy of a letter from one of your constituents who is interested in obtaining information from the Presidential Clemency Board.

I have referred this matter to the Chairman of the Board and you may be sure that your request will be given careful and thoughtful consideration.

With warm regards,

Sincerely,

**Patrick E. O'Donnell
Special Assistant
to the President**

**The Honorable Barry Goldwater
United States Senate
Washington, D. C. 20510**

bcc: w/incoming to Charles Godell, Presidential Clemency Board.

POD:pd



BARRY GOLDWATER
ARIZONA

COMMITTEES:
AERONAUTICAL AND SPACE SCIENCES
ARMED SERVICES
PREPAREDNESS INVESTIGATING SUBCOMMITTEE
TACTICAL AIR POWER SUBCOMMITTEE
INTELLIGENCE SUBCOMMITTEE
MILITARY CONSTRUCTION SUBCOMMITTEE
RESEARCH AND DEVELOPMENT SUBCOMMITTEE

United States Senate

WASHINGTON, D.C. 20510

August 5, 1975

Mr. Pat O'Donnell
Special Assistant for Legislative Affairs
The White House
Washington, D.C.

Dear Pat:

It would be greatly appreciated if you would forward the enclosed letter from a constituent to the White House Amnesty Board for reply.

Thanks very much.

With best wishes,



Barry Goldwater

July 23, 1975

Mr. Barry Goldwater
410 Old Senate Building
The Capital
Washington D.C. 20510

Dear Senator:

It has been said that the men who were granted Amnesty have a better chance of employment, over the men who have served in the Armed Forces.

Even though there has been so much controversy over the subject of Amnesty, I would appreciate your view points on this matter.

Thank you,

Marcia S. Thornburg

THE FIELD FOUNDATION

100 EAST 85TH STREET · NEW YORK, N. Y. 10028

212 / 535-9915

August 12, 1975

The Hon. Charles Goodell
1225 19th Street, NW
Washington, DC 20016

Dear Charles:

You know my opinion about amnesty. It was reached without the benefit of case-by-case study, such as you and Vernon Jordan have had. I'm not surprised, however, that months of study and thought have now led Vernon to speak out for an unconditional amnesty and for the plight of jobless veterans.

I have come to believe that amnesty is an issue singularly dependent for its resolution on political leadership, that the public -- both to its credit and discredit -- doesn't actively care. Had Mr. Ford extended a generous amnesty last year, instead of the course he took, the issue would, I am convinced, by now be over and largely forgotten by the public and the media.

It is a case where justice and "domestic tranquility" are on the same side, and that is rare enough to be seized upon and enjoyed. Were you also to give, in your own effective way, support to an unconditional amnesty you would contribute so much to, as Vernon put it, finally ending that war, which you in the tough years so brilliantly opposed. I wonder, therefore, if your experience of the past several months may not have led you to conclusions similar to Vernon's.

Sincerely; yours,


Leslie W. Dunbar

LWD/kjs



I SERVED MY COUNTRY - USA - BUT NOT FOR US BASTARDS - & THEIR POLITICIAN

6 San Francisco

Term Expires Sept. 15

AUG 18 1975

Clemency Board Starts To Wind Up Its Work

Washington

The Presidential Clemency Board said yesterday it has acted on 12,000 cases and granted about 6000 unconditional pardons to persons who received punitive military discharges or were convicted of desertion or draft dodging in the Vietnam war.

A backlog of more than 100,000 cases remains to be processed, a task to be completed before the board expires by law on September 15, said board chairman Charles Goodell.

Some persons were granted conditional pardons based on completing public service jobs of three to 12 months.

The board also considered cases of clemency for persons who were convicted of crimes.

About 21,000 persons applied to the board, but several thousand were found to be ineligible. These included persons who committed offenses in World War I and World War II.

About 100,000 persons eligible for clemency did not apply to the board because of confusion about the program or lack of information, Goodell said.

The board does not consider cases involving unconvicted draft dodgers or deserters, or persons who fled the country to avoid prosecution.

Of the 12,000 cases acted on, roughly 25 per cent are "individuals who served valiantly in Vietnam and subsequently got into trouble when they came home," Goodell said.

"About 65 per cent of our civilian applicants evidenced substantial conscientious objection to the war but were unable to state proper grounds for such objection. They have been recommended for outright pardons."

Most were men who applied for CO status before the Supreme

Repair Work On the Mars Rocket

Cape Canaveral

Engineers worked to replace a faulty valve in the Atlas-Centaur rocket yesterday with the aim of restarting the countdown for the launch of a Viking probe to Mars.

The faulty valve was discovered Monday just two hours before the scheduled launch of the Viking probe to the planet. The malfunctioning valve, located in the steering system of the first stage of the rocket, forced engineers to cancel the launch. It has been rescheduled for tomorrow.

Court ruled in 1970 that such an application need not have a religious basis, he said.

Goodell said the board recommended outright pardons for those who objected to war in general and to Vietnam specifically.

In answer to questions, the former New York Republican said he would like to see the program expanded. But he has doubts that Congress will ask Congress to do so.

Of the estimated 500,000 persons who were assigned to perform public service work in return for clemency, only 288 persons have been pardoned by the board, the Selective Service System for processing, a Selective Service spokesman said.

The remaining cases are awaiting action by Mr. Ford, who must give final approval to all clemency board recommendations.

Associated Press

LOUERY 980

COWARD IN ALL HANDS OF LIFE KNOW THEIR COWARDS 1976 RULED THEM OUT OF POLITICAL LOUERY HANDS

NEVER BEEN RECOGNIZED
TREASON
I, JIMMY
THAT WE
LOUERY

BEFORE & SINCE
1776

MILITARY

DEAD

WOUNDED

& POW'S

DID NOT

SERVE
TO

HONOR

GLADIATORS

OR

TREASONER

JUST FOR AMERICA'S FUTURE ←



Paul Laurence
Dunbar



CHAIRMAN CHARLES GOODRILL

CLEMENCY BOARD

WASHINGTON,

D. C.

205

WHO

ARE HEROES

COWARDS?

Sam Nunn

GEORGIA

110 SENATE OFFICE BUILDING
TEL. (202) 225-3521

United States Senate

WASHINGTON, D.C. 20510

August 13, 1975

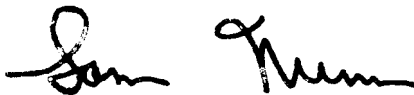
Mr. Charles Goodell
Presidential Clemency Board
3022 M Street, N.W.
Washington, D.C. 20036

Re: James J. Mullen

Attached is a communication within the area of your authority. Because of my desire to be responsive to all inquiries, your help is needed. I would appreciate your looking into this matter and providing me with a report so that I may further respond to my constituent. Your findings and views, in duplicate form, along with return of the enclosure, will be greatly appreciated.

With kindest regards, I am

Sincerely,



JC



AUG 4 12 09 PM 1975

2989 Kentucky Court
East Point, Georgia 30344
July 31, 1975

Senator Sam Nunn
110 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Nunn:

I voted for you. I am pleased with your performance as my Senator and intend to give you my further support.

The inclosed letters reflect my views on their subject. I am outraged that our President sees fit to pay no attention to my concerns.

I ask you, as a member of the Senate Armed Services Committee, to pursue this subject and hold some feet to the fire. Surely, there must be answers to the questions I have asked.

As a professional soldier, I have a deep interest in the future of our country which I am sure you share.

It is my belief that the President is badly advised and needs to be shown why this is so.

Your inquiry, on my behalf, will be most appreciated. Dependent on the results you produce to this letter, I am willing to do what you might ask of me to see you re-elected.

I hope to meet you personally on your next visit to Atlanta.

Respectfully,



JAMES J. MULLEN
Lieutenant Colonel
U. S. Army (Retired)

2989 Kentucky Court
East Point, Georgia 30344
September 24, 1974

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

Your announcement for amnesty for deserters and draft evaders has disturbed me.

As a citizen, I have many questions concerning this matter. The first, and most important to me is WHY?

I have read and heard many phrases such as: "Healing Wounds," "An Unique Act of Mercy," "An End to Divisiveness," "A Re-affirmation of Loyalty." None of these convince me.

I would like to know what forces caused you to offer your Amnesty Program.

I would like to know what results you expect.

I would like to know how much money this will cost.

Have you evaluated the effect this will have on citizens response in a future war? If we allow people to hide and then, when danger is past, to be accepted and forgiven, what will happen to the sense of civic duty and responsibility next time?

Are you aware that you may be producing the climate in which an American is permitted to "choose" his war?

Are you aware that you may be underwriting the disaster of our nation?

How do you, as President, have the right to override our laws, both civil and military?

Please explain to me your reasons for this program.

I believe that it is my right, as a citizen, to know why you are doing this. I ask you to give me a detailed reply.

Sincerely,



JAMES J. MULLEN
Lieutenant Colonel
U. S. Army (Retired)

2989 Kentucky Court
East Point, Georgia 30344
25 October 1974

Dear Mr. President:

On 24 September 1974, I sent you a letter containing a number of questions concerning your amnesty program. There has been no response.

I prefer to believe, that due to the press of business, or a possible clerical error, my letter has been overlooked.

Enclosed is a copy of my original letter to you.

I will appreciate a prompt reply.

Sincerely,

Encl
as

JAMES J. MULLEN
Lieutenant Colonel
U.S. Army (Retired)

The President
The White House
Washington, D. C. 20500

2989 Kentucky Court
East Point, Georgia 30344
January 10, 1975

The President
The White House
Washington, DC 20500

Dear Mr. President:

On September 24, 1974, I sent you a letter containing questions on your amnesty program. The letter was not acknowledged.

A second letter, including a copy of the first, was sent on October 25, 1974. No response.

I draw the conclusion that my inquiries are simply being ignored. I hope I am mistaken and that a reply will be forthcoming within a reasonable time.

Meanwhile, several other questions have occurred to me.

When will the Clemency Board be disbanded?

How much is the advertising campaign to bring in deserters and evaders costing us, to include toll free phone calls?

Who pays travel, food and lodging expenses for deserters processed at Fort Benjamin Harrison?

What is a typical "Public Service" job? What is the penalty, if any, should a person fail to perform his term of "Public Service"?

Please reply to this, and my previous letters, as early as possible.

Sincerely,

JAMES J. MULLEN
LTC, USA-RET

5 May 1975
2989 Kentucky Court
East Point, GA 30344

The President
The White House
Washington, DC 20500

Dear Mr. President:

On three previous occasions I have written you letters concerning your amnesty program for draft evaders and deserters. These letters are dated 24 Sept 1974, 25 Oct 1974 and 10 Jan 1975, respectively. In addition, while you were visiting Atlanta on 3 Feb 1975, I telephoned your headquarters at the Hyatt Regency Hotel. Mrs. Eleanor Elleness, who identified herself as a member of your staff, gave me profuse assurances that an immediate reply would be sent. It has not happened.

The conditional amnesty program expired on 31 March 75. In his column in the Atlanta Journal, 4 May 1975, Mr. J. F. Terhorst reports that you have recently doubled the clemency staff to nearly 400 persons. It appears the expiration date of the program was meaningless.


I am unable to understand why you persistently court these men after they have repeatedly rejected your offers and have arrogantly demanded unconditional amnesty. I am personally hostile to the program and would like to see the entire thing terminated. Unless I am mistaken there already exists a Court of Military Appeals and a Board for Correction of Military Records which pertain directly to deserters. So far as draft evaders are concerned, are there not still laws on the books to handle these cases?

Your reasons for the emphasis, effort and concern for these people I consider as undesirables, escapes me. I might see some merit in individual cases, but until and unless I can be convinced that your course is right, I will remain opposed.

I have read and heard many complimentary comments about the "openness" of your administration. If this is so, then perhaps I can expect an answer to the many questions I have posed in my previous letters.

Please help me understand what you are doing and why. If my outlook is mistaken, surely you would wish to set me straight.

Sincerely,


JAMES J. MULLEN
Lt. Col., USA (Ret)

2804 Rudolph Road
Richmond, Virginia 23229
August 13, 1975

Mr. Charles Goodell, Chairman
The Presidential Clemency Board
Washington, D. C.

Dear Mr. Goodell,

The attached clipping is from today's Richmond paper.

Of all the foolish and immoral things you have said and done since you became chairman of this clemency board, this one is probably the worst---

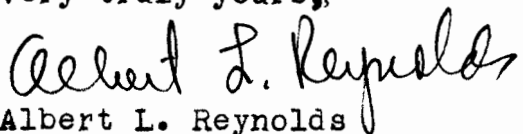
The program "has succeeded in closing the chapter on Vietnam," Charles Goodell said yesterday.

May I assure you, Mr. Goodell, that the chapter on Vietnam is far from closed and I will continue to work for unconditional amnesty.

We conducted ourselves like barbarians in Vietnam, Mr. Goodell, and you have joined a long and dishonorable group of liars and accomplices who have tried to conceal that fact. Your clemency board is just another attempt to put a thin coating of respectability on what was nothing less than murder.

Those who opposed the Vietnam war deserve unconditional amnesty and there are many of us who will work toward that end.

Very truly yours,


Albert L. Reynolds



Clemency Board To Phase Out By Sept. 15

WASHINGTON (UPI)

President Ford's Clemency Board, which has processed 75 per cent of the 16,000 eligible applications it received the past year, will be out of business by Sept. 15, says its chairman.

The program "has succeeded in closing the chapter on Vietnam," Charles Goodell, said yesterday.

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Reard

AUGUST 13, 1975.

THE HONORABLE

CHARLES E. GODDELL, CHAIRMAN
PRESIDENTIAL CLEMENCY BOARD

FOR VIETNAM WAR SERVICEMEN,
WHITE HOUSE, WASHINGTON, D.C. 20000

Dear Sir:

May I join all folks who
know of this problem in
thanking you for your pardons
to so many honest U.S. Soldiers
whose personal problems were
misunderstood as law.

Most Sincerely & Cordially,
(m.) Joseph Klotz,

(Volunteer most successfully at
VETERANS HOSPITAL - PHILADELPHIA)

HOME
ADDRESS

PARKER HOTEL, 13TH + SPRUCE ST. 977
PHILA. - PENNA. 19107





United Press International

Goodell reporting that the clemency board is winding up its work

6,000 Pardons Given By Clemency Board

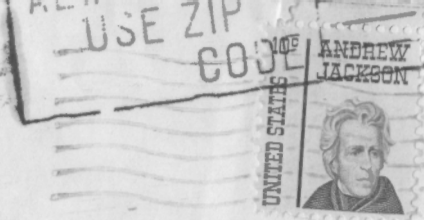
Associated Press

WASHINGTON — The Presidential Clemency Board for Vietnam war servicemen reported yesterday that it had processed 12,000 of the 15,000 to 16,000 eligible applicants and granted outright pardon to 50 per-

1,000 pardons that were either unconditional or required a period of public service work.

The board has been sending the President a packet of 1,000 to 2,000 cases on a regular basis, he said.

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THE HONORABLE

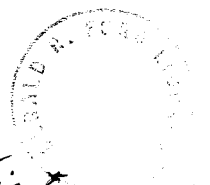
CHARLES E. GOODELL, CHAIRMAN

PRESIDENTIAL CLEMENCY BOARD
FOR VIETNAM WAR SERVICE MEN,
WHITEHOUSE, WASHINGTON, D.C. 20500

JOS, KLOTZ
(VOLUNTEER U.S. VETERANS HOSPITALS)

McCard AUG 18 1975

Aug. 14, 1975.



Dear Mr. Goodell;

We are past due in granting unconditional amnesty to our Vietnam war resisters.

When a full grown man with a law degree like Richard Nixon gets total amnesty why do you continue punishing our young men with principals in an undeclared, illegal war. Is there any justice?

One of the reasons our country is in such a mess economically is because of the Vietnam war.

You would be surprized at how many feel as we do including Vietnam veterans, and as far as the Amnesty program is concerned its a flop.

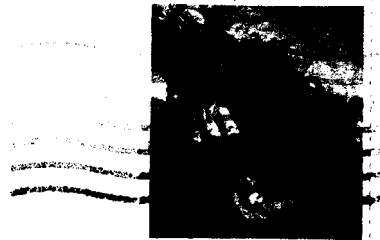
President Ford asks us to show compassion to the Vietnamese refugees so how about the same for our own. He also said Richard Nixon has suffered enough. Doesn't he think our boys and their families have suffered enough?

All we can say is the little guy hasn't got a chance while those with wealth and power get away with breaking the law.

What this Country needs is statesmen, not politicians.

Sincerely,
Mr. & Mrs. E. Krueger
630 No. Fig St 979
Escondido, Calif. 92025

E. C. KRUEGER
630 NORTH FIG ST.
ESCONDIDO, CAL.
92025



Bunker Hill 1775 by Trumbull
US Bicentennial IOc

Mr. Charles Goodell
Clemency Board Chairman
1600 Pennsylvania Ave. N.W.
Washington, D.C. 20500

AUG 22 1975

17 August 1975

Subject: Clemency for deserters et
draft dodgers (about the
same thing: traitors)



You and Mr. Ford must indeed feel
great pang of liberal joy at your respec-
tative records of leniency to your sunshine
traitors.

The contempt you and company have
shown pertaining to this country's war efforts
is boundless.

The contempt we, the living veterans, hold
you et company is boundless.

This clemency business will be one of the
factors that will cost Ford his job.

How in hell you two can sleep at night with
the parolphy of dead and maimed pursuing
through is beyond me.

Capt. H.E. Hess

1193



Charles Goodell
Presidential Clemency Board
Washington, D.C.

Personal:

5353 Baltimore Dr., Apt 2
La Mesa, Calif. 92041



August 18, 1975



Dear Mr. Pepitone:

Thank you for your letter of August 12, 1975, with reference to the projection of reconciliation of service dispositions by this Board and my remarks to the press on August 12.

The 20 per cent referred to should have been clearly labeled as applicants who receive our average period of alternative service of 4 to 6 months. Another 20 per cent receive 3 months' alternative service. Put in a simpler way, it is our present projection that 20 per cent of our total applicants will receive 3 months' alternative service and another 20 per cent will receive 4 to 6 months. Since we are now projecting our final number of eligible applicants at about 15,000, about 3,000 of those applicants will require 3 months' alternative service and another 3,000, 4 to 6 months alternative service. We still project about 8,000 total cases referred to you to perform alternative service.

I shall be in touch with you very soon to discuss the recommendations of the Presidential Clemency Board, which you invited in our earlier meeting. You are the one in a position to assess the nature and uniqueness of Clemency Board referrals to you. I know we share a desire to have maximum participation in a program which fully carries out the President's intent.

I am enclosing an updated projection of Board dispositions to this letter for your information.

With kind regard, I am

Sincerely,

Charles E. Goodell
Chairman

Mr. Byron Pepitone, National Director
Selective Service System
Washington, D.C. 20435

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515
(202) 225-5464

GEORGE E. DANIELSON
30TH DISTRICT, CALIFORNIA

DISTRICT OFFICE:
879 SOUTH ATLANTIC BOULEVARD
MONTEREY PARK, CALIFORNIA 91754
(213) 570-8216

Congress of the United States
House of Representatives
Washington, D.C. 20515

COMMITTEES:
JUDICIARY
VETERANS' AFFAIRS
CHAIRMAN, SUBCOMMITTEE ON
CEMETERIES AND BURIAL BENEFITS
—
ASSISTANT MAJORITY WHIP
—
DELEGATE
NORTH ATLANTIC ASSEMBLY
—
MEMBER:
SPECIAL COMMISSION ON
MODERNIZATION OF
HOUSE GALLERY FACILITIES

August 18, 1975

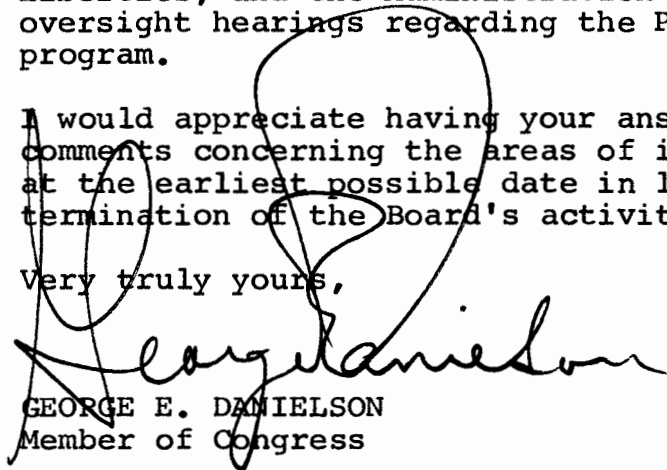
Honorable Charles E. Goodell, Jr.
Chairman
Presidential Clemency Board
The White House
Washington, D.C. 20500

Dear-Mr. Chairman:

Enclosed is a copy of my additional views to the report being issued by the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice on their oversight hearings regarding the Presidential Clemency program.

I would appreciate having your answers and any additional comments concerning the areas of interest I have specified at the earliest possible date in light of the impending termination of the Board's activities.

Very truly yours,


GEORGE E. DANIELSON
Member of Congress

GED:ctn

Enclosure



94th Congress }
1st Session }

COMMITTEE PRINT

REPORT
ON
THE PRESIDENTIAL CLEMENCY PROGRAM

SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES,
AND THE ADMINISTRATION OF JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION



AUGUST 1975

Printed for the use of the Committee on the Judiciary

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WASHINGTON : 1975

56-634

ADDITIONAL VIEWS OF HON. GEORGE E. DANIELSON

I would like to add some additional remarks. Regarding recommendation No. 4:

I certainly desire that the Presidential Clemency Board complete its task by its original deadline of September 15, 1975. However, I would hope that there be no rush to judgment. Should the President decide, in fairness to those applicants whose cases are pending completion, that additional time is necessary to complete this task in an equitable manner, I would strongly reiterate that he seek such funds from Congress.

At that point, I think Congress, and specifically this subcommittee, before authorizing any funds, would be remiss if we do not more closely scrutinize some of the policy decisions underpinning the existence of the Presidential Clemency Board.

Before authorizing funds, I would like to know the following:

(1) Did the Presidential Clemency Board give any special consideration to the cases of applicants who entered the service through Project 100,000¹ and if not, why not?

(2) Has the Board established any procedures for determining which cases are ripe for review by the various Department of Defense Discharge Review Boards? If so, what are these procedures? In what manner, then, are applicants' cases channeled to the appropriate Discharge Review Board?

(3) Does the Presidential Clemency Board take steps to insure that its mitigation factors are consistent with factors used by DOD Discharge Review Boards and consistent with the intent of the Department of Defense's own clemency-oriented policies; that is, Laird memorandum of 1972 regarding drug abuse and the ensuing alcohol abuse programs?

(4) How many applicants submitted timely data and were granted de novo hearings pursuant to the notice filed in the June 13, 1975; Federal Register? This notice, changing the prior standard operating procedure of the Board, stated in effect that the Board, because of time considerations, would no longer allow the review of an applicant's comments on the content of his case summary prior to the presentation of applicant's case before the Board, as had been the prior procedure. Presently, the Board's procedure allows that if an applicant's case has been heard by the Board prior to the receipt of a timely submission amending, contradicting, or supplementing, a case summary, the case will be presented de novo to another panel of the Board, other than that which heard the case originally, if the submission contains relevant information which could have affected the disposition of the case. It is upon this change in procedure that this question (4) is premised.

Regarding recommendation No. 5:

I would think that because of the small number of applications submitted to the Presidential Clemency Board, this subcommittee

(17).

¹ McNamara Memorandum, Aug 23, 1966 "Broadening the Manpower Pool".

should make a close investigation of the policy behind the jurisdictional parameters of the military cases.

Specifically:

(1) Why is jurisdiction granted only to those persons who went AWOL (or AWOL-related offenses UCMJ Articles 85, 86, and 87) and not extended to those persons who resisted the war by refusing to obey orders?

(2) To what depth did the Presidential Clemency Board, before finding or denying jurisdiction, examine the administrative procedures and data which individual commanders used in determining which separation program number would be listed on the separatee's DD Form 214? Therefore, what, on its face, was the basis for the discharge may have only been the straw that broke the camel's back, and yet be the basis for denial of jurisdiction by the Board if one does not look behind the separation program number.

(3) What were the standards which the Presidential Clemency Board used to determine that applications were clearly ineligible and thereby sent "no jurisdiction" letters when such a determination was done without any review of the applicant's records except a reading of applicant's original letter?

Finally, regarding the program as a whole: Upon a favorable consideration of the Presidential clemency, and the grant of a pardon, what, in effect, is the value of a clemency discharge? Are there cases in which the Board is recommending upgrades for veterans' benefits? Upon the receipt of a pardon and a recommendation by the Presidential Clemency Board that the applicant have some or all veterans' benefits restored, what is the status of the applicant's veterans' benefits?

BURTON H. JAFFE
3708 N. OAKLAND ST.
ARLINGTON, VIRGINIA 22207

Dear Sen. Goodell

Aug. 19, 1975

Thank you for your kind letter of Aug. 15. I performed to the best of my ability and am pleased to have contributed, in the small way that I did, toward the healing processes to which this Program addressed itself.

This work experience has been the most profoundly fulfilling and meaningful of my 12 1/2 year federal career. My primary regret is that I could not have served under your leadership for a greater period of time.

My thanks and very best personal wishes to you for continued success in the years ahead.

Sincerely,

Burton H. Jaffe





CLERGY AND LAITY CONCERNED

235 EAST 49th STREET, NEW YORK, N. Y. 10017

212-371-7188

August 21, 1975

The Honorable Charles E. Goodell
Chairman
Presidential Clemency Board
The White House
Washington, D.C. 20500

Dear Mr. Goodell:

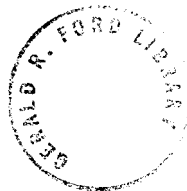
The Office of International Justice and Peace of the U.S. Catholic Conference, the Southern Asia Office of the Division of Overseas Ministries of the National Council of Churches, the American Friends Service Committee, and Clergy and Laity Concerned are co-hosting a three day seminar on the ramifications of the Indochina war on both domestic and foreign policy of America. The seminar will be held September 8 through 11 at Pendle Hill Conference Center in Pennsylvania.

The question of amnesty will be one of the questions discussed at the seminar. Duane Shank, a Board Member of the National Council for Universal Unconditional Amnesty, has prepared a paper for the seminar; "Remembering the Past to Serve the Future." Since this question is of vital importance to you and the Presidential Clemency Board, it would seem important for the seminar members to receive a response from you to the paper. We will, of course, be glad to reproduce your response and send it to each seminar member.

We would also like to extend an invitation to you to come to the seminar to discuss the issue of amnesty with the seminar members.

Sincerely yours,

Don Luce
Executive Director
Clergy & Laity
Concerned



Remembering the Past to Serve the Future

With the final end of the war in Indochina this spring, a new struggle begins for Americans who were involved in the anti-war movement. It is a struggle that promises to be as hard fought as the one just concluded, and perhaps equally as long. The goal is to interpret the history of the war and its meaning for America.

The American opinion-molders have already been active with their analyses, which almost without exception see the war as a mistake in tactical policies or as a basically good venture somehow turned sour.¹ We who opposed and organized against the war must now turn our efforts to seeing that the American people hear and understand the true nature of the war and the resistance it created.

One appropriate instrument for this process is the ongoing struggle for a universal, unconditional amnesty. At the present, however, much of the educational work around amnesty is still based on such concepts as reconciliation, healing of wounds, forgetting the past, etc. Without going into the relative merits of those arguments, they clearly share one thing in common--all are based on the past.

While a legal forgetting of past actions is the general definition of amnesty, the process of working toward a goal and its ultimate meaning are in many instances as important as the goal itself. In this case, the implications of amnesty are for the future, while the obvious effect remains for the past.

One guideline that can be used in examining the implications

of amnesty is the judgement of Nazi war criminals at Nuremberg and the resulting principles of international law. It was the United States, more than any other country, which insisted on the prosecution of the Nazis and the use of broad, general principles in doing so. It was also the United States which emphasized at the time the significance of those principles in judging future conduct of war.

Justice Robert Jackson, the Chief Prosecutor for the United States at Nuremberg, specifically spoke to the future possibility of the judgement being used against the United States when he said: "...we are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us."²

The significance of the struggle for amnesty, in continuing to speak to the American people, is to invoke that rule of conduct against the governments that have ruled the United States for the past thirty years.

Two of the most basic ideas embodied in the Nuremberg Principles are the fundamental illegality of waging a war of aggression, ie. the use of armed force against another nation in any context other than self-defense against attack; and the obligation of individuals to refuse to be a part of any such illegality by their governments.

In the terms of our strategic consideration, both of these ideas contain the element of the past affecting the future. We shall first look at the past.

Volume after volume has been written in documenting and analyzing the commission of war crimes by the United States in

Indochina and the effect of these crimes on the Indochinese people. This has been obvious enough that as early as 1966, Bertrand Russell could say to the American people: "[T]he United States is committing war crimes in Vietnam. These have been documented so frequently by Western observers that they need no further cataloguing here."³

I shall likewise not attempt to catalogue or conclusively prove that there were, in fact, war crimes committed in Vietnam. It is enough to say that the very nature of the war, a technological war by the world's most powerful nation against a national liberation movement, was a crime. The entire people of Indochina were the enemy, and American war policies reflected that fact. Search and destroy missions, free fire zones, harassment and interdiction fire, massive bombardment of non-military targets, the defoliation of vast areas of the countryside--all of these were officially sanctioned policies of the U.S. government and all of them are in violation of international laws.⁴

A conclusive proof could no doubt be constructed, but it is sufficient, in the words of Professor Richard Falk, to "maintain that anyone who believes or has reason to believe that a war is being waged in violation of minimal canons of law and morality has an obligation of conscience to resist participation in and support of that war by every means at his disposal."⁵

It is difficult, in fact, to see how any American could not have known of the legal and moral violations occurring in Indochina, as they were extensively covered by the American press. In 1968, what was then "Clergy and Laymen Concerned About Vietnam" published In the Name of America, a 420 page compilation of news

stories which documented American war crimes.

Yet while much has been written on the existence of war crimes, until recently, not much has appeared which directly relates those crimes to the need for an amnesty.⁶ Nearly one million men and women did, in one way or another, refuse to obey orders to participate in the crime that was the war in Indochina, yet most of them continue to suffer legal and social sanctions for that refusal.

I assert that draft, military, and civilian resistance activities, although not always consciously articulated as such, were in fact individuals exercising their legal responsibility under the Nuremberg Principles to refuse orders of their government to participate in war crimes, crimes against peace, and crimes against humanity. The theme of individual responsibility for actions in time of war was stated by the International Law Commission in formulating the Nuremberg Principles as Principle IV:

"The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him." 7

It is that idea of making alternative moral choices, or, the right to resist, that is at the heart of the amnesty question. While governments in general, and their military services in particular, operate on a chain-of-command structure that demands obedience, Nuremberg established that an individual dare not lose sight of his own conscience, his own responsibility to resist if necessary.

Richard Falk points out that "...the Nuremberg teaching [is] that human beings have obligations that may transcend their duty to obey the dictates of their own state. Indeed, the most important positive contribution of Nuremberg may have been to give citizens an argument to interpose between themselves and the criminal conduct of their government."⁸

There were a number of persons over the course of the war in Indochina who attempted to use the Nuremberg principle as a defense in the criminal courts of the United States, usually in cases of induction refusal. The courts consistently refused to hear it, for various reasons.

Some simply said that allegations of the illegality of the war did not constitute a defense to the charge of refusing to submit to induction; some said that since a potential inductee had not received orders to report to Vietnam, he did not have legal standing to challenge the legality of the operations there; others said that the power of the Congress to raise and support armies was not affected by international laws and treaties regarding the use of the armies that are raised. The most common response was for the courts to declare that the war was a "political question" charged exclusively to Congress and the President, and that the courts had no authority to interfere with politics.⁹

The most blatant refusal, worth quoting at length, was the opinion of the district court for Connecticut, in the case of David Mitchell, a 1965 induction refuser. Mitchell had cited in his defense his belief that the United States was committing

crimes in Vietnam and that an individual must disassociate himself from the crimes of his government. The judge responded:

"Leaving aside the sickening spectacle of a 22 year old citizen of the United States seizing the sanctuary of a nation dedicated to freedom of speech to assert such tommyrot, and leaving aside also the transparency of his motives for doing so, the decisive point is that such political or philosophical views, even if sincerely entertained, are utterly irrelevant as a defense to the charge of willful refusal to report for induction in the armed forces of the United States..." 10

Although, as stated earlier, certainly not every act of resistance against the involvement of the U.S. in Indochina, or even against the military in general, can be related to a conscious articulation of the Nuremberg principle, some interesting facts may be observed.

David Cortright, in his recently published book, Soldiers in Revolt, points to statistics which "suggest that the pattern of dissent within the services was directly related to their role in the war effort." ¹¹ He cites the rates of absence and desertion, the incidence of non-judicial punishments, rates of other-than-honorable discharges, and applications for discharge as a conscientious objector. In terms of discharge applications, Cortright notes specifically that objection in the ground forces declined quickly after a peak in 1971, while rates in the Navy and Air Force remained high well into 1972--the years of massive ¹² bombings.

Whether or not one could conclusively demonstrate anti-war feelings as the basis for all acts of resistance, the point remains that in every instance there was a person exercising his individual conscience, his responsibility to remove himself from something he knew to be wrong and wished no part of. This point

of individual responsibility is what must be emphasized and re-emphasized.

The obligation of an individual to at times go against the orders of his government, in addition to being founded in international law, has its roots deep in our religious tradition. It has long been taught that if one's loyalty to a state comes at variance to one's loyalty to God, the loyalty to God must come first. This teaching is relevant to us here in the form of "just war" theories and selective conscientious objection to war.

Many religious bodies, perhaps most notably the Lutheran Church and the Roman Catholic Church, have taught that some wars can be morally justified and others cannot, depending on the specific circumstances and the nature of the war. The conclusion which follows is that individuals, relying on their conscience and the guidance of their religious community, may find it possible to participate in some wars and not in others.

This belief, based on the inseparability of moral ethics and political judgement, is held by persons who believe that conscience "requires the individual to judge the morality of whatever policy of government he may be under orders to implement and where such a policy is clearly unjust, to refuse to obey."¹³

This belief, however, is not legally recognized as conscientious objection in the present Selective Service law, which requires persons to be opposed to "participation in war in any form."¹⁴

Numerous persons also attempted to use selective conscientious objection as a defense to criminal charges, arguing that the draft law's definition should be broadened. The Supreme

Court did broaden the definition of conscientious objection to include persons who did not believe in a Supreme Being, but who held a belief that occupied a parallel place in their lives (Seeger, 1965); and to say that deeply held moral or ethical beliefs qualified as "religious" under the law (Welsh, 1970).

It rejected, however, a further broadening to include selective objection. The leading case decided in the Supreme Court, the Gillette case in 1971, held that Congress did have the right to draw a line between total pacifists and non-pacifist objectors.

With this legal and moral justification for the idea of individual responsibility, let us look more specifically at the present--the people involved and the case for amnesty.

Amnesty is generally defined as the legal forgetting of past criminal offenses or alleged offenses. Its effect would include an immunity from further or future prosecution, an expungement of records relating to the alleged offenses, and in general, as far as the law is concerned, considering the offense never to have happened.

An amnesty must be universal, which is to say that all persons who come within the category of relevant offenses must be covered. In this situation, amnesty refers to the war in Indochina and must cover all acts of resistance to that war. This would include all violations of the draft law; military violations including absentee offenses, disobedience of orders, and all other offenses which did or could lead to an other-than-honorable discharge or other form of punishment; and, acts committed by civilians in opposition to the war.

A special emphasis here is necessary on the question of other-than-honorable discharges, which in the minds of some people are still questionable beneficiaries of an amnesty. Two general categories of discharges, administrative and punitive, are used by the armed forces. The major distinguishing feature between them is that a punitive discharge can be awarded only by sentence of a court-martial. Both types were commonly used, however, in quelling dissent within the military. The New York City Commission on Human Rights, after a series of hearings in 1973, concluded: "Administrative proceedings and punitive discharges were frequently utilized in dealing with soldiers who were outspoken in their opposition to the war..."¹⁵

Two of the better known incidents of military resistance resulting in bad discharges involved a young Navy seaman and an Army medical doctor.

Seaman Apprentice Roger Priest began publishing an anti-war newspaper in 1970, off base and out of uniform. An article appeared in the paper which offended L. Mendel Rivers, powerful chairman of the House Armed Services Committee, and he requested that the Navy do something about it. Very shortly thereafter, Priest was charged with fourteen violations of the Uniform Code of Military Justice, ranging from solicitation of desertion to sedition. After a year of legal battles, he was convicted of promoting disloyalty and disaffection, and given a Bad Conduct Discharge.

Captain Howard Levy, M.D., was an Army doctor assigned to train Green Beret medics for Vietnam. As he realized more of the political and military goals for which medical aid could

be used, he refused to continue training what he considered to be potential war criminals. After rejecting his defense contentions of the illegality of the Vietnam war and the necessity to not participate in it, the military court sentenced Dr. Levy to three years at Ft. Leavenworth and dismissal from the service (equivalent to a Dishonorable Discharge). He served twenty-six months of the prison sentence, but will retain the stigma of "Dishonorable" for the rest of his life.

While both of these cases involved a court-martial sentence, over 90% of the other-than-honorable discharges are given administratively, usually at the recommendation of a commanding officer. The recipient of the bad discharge has not been convicted of any crime, does not have the right to a hearing in the matter, yet the discharge affects his life in much the same manner as a felony conviction; making employment difficult, making him practically ineligible for veterans benefits, etc. The universality of amnesty considerations must, therefore, include an upgrading of all such bad discharges.

An amnesty must also be unconditional, with no punitive or stigmatizing conditions attached. Such conditions could include a period of service to the government, loyalty oaths, completion of an unfinished term of military service, etc. Since any condition necessarily involves a consideration of punishment for wrongdoing, any conditions must be rejected.

The point to emphasize here is that while stating that amnesty legally means forgetting, the context of the discussion of individual responsibility to refuse illegal orders clearly implies remembering. This is the consideration of having an

effect on the past and an implication for the future.

The persons who refused to participate in or opposed in whatever manner the war in Indochina need to be legally freed from prosecution and punishment for their actions. But while the law forgets the act, we must not forget the reason for the act. If we do not remember, we are doomed to repeat the crimes of this war in a future one.

The amnesty movement has just weathered the challenge of President Ford's "Earned re-entry" program, a program against which a world-wide boycott was undertaken. The boycott and educational work around it were successful, as less than 20% of those potentially eligible for the program actually responded to its lures. The reason for the opposition and boycott of the program relate to the Indochina war and the assumptions about it which were made.

The President, in announcing his intentions, spoke of "the few citizens of our country who, in my judgement, committed the supreme folly of shirking their duty..."¹⁶ This assumption was embodied even more directly in the oath that was required of returning military absentees, "recognizing that my obligations as a citizen remain unfulfilled..."¹⁷ Persons accepting the program then had to pledge to complete up to two years of civilian "alternate service", ostensibly to fulfill their "obligation", but practically, as punishment.

It was these assumptions that were categorically rejected. The persons who resisted the crimes in Indochina did not shirk their duty or fail to fulfill their obligations as citizens. Completely to the contrary, they fulfilled their duty and

obligation to exercise their legal and moral responsibility to refuse to participate in crimes against humanity.

One effective rejection of the program was the speaking and organizing tour of the United States carried out by Gerry Condon, an ex-Green Beret. In 1968, after 16 months in Special Forces training, Condon publicly "resigned" from the Army and thereafter refused several orders for out-processing to Vietnam. As his court-martial approached, he planned as a defense the fact that he had the right and responsibility under the Nuremberg principle to refuse such orders, but when he discovered that such an argument had little chance of success in the military courts, he went to Canada.

Looking back on his experience, Condon says that he had enlisted in the Special Forces to see what was really happening in Vietnam so he could form his own conclusions on it. The conclusion he formed came about because "my Green Beret training was long enough that I had a lot of time to think about the war, as well as the opportunity to meet many returned Vietnam veterans.. ..It became all too clear to me that insanity and war crimes were commonplace in Vietnam, that in fact, this was the consciously encouraged policy of the U.S. military there." 18

When the President's program was announced, Condon received a notice from the Army informing him that he had been tried and convicted in absentia in 1969 and sentenced to ten years in prison and a Dishonorable Discharge, which had been subsequently reduced to two years and a Bad Conduct Discharge. Challenging this conviction, Condon returned to the United States and engaged in a nation-wide speaking tour under the sponsorship

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of the National Council for Universal Unconditional Amnesty. His success in reaching people with the message of his resistance to the war and his rejection of the assumption that such resistance was incorrect is responsible in a large degree for the Army deciding to discharge him with the Bad Conduct Discharge and dropping the prison sentence.

Another assumption relating to amnesty which is more widely held is that which excludes from consideration those persons whose resistance to the war took the form of violence, usually defined as damage or injury to persons or property. This exclusion is true of the statements and resolutions of religious bodies on amnesty, it is true of all the current legislative proposals, and it is true of the personal feelings of many who are actively involved in working for amnesty.

This refusal to accept amnesty for acts of resistance which took a violent form seems to indicate that most people still do not see the war in Indochina as the type of crime which made resistance by any means possible a necessity. It immediately raises the general question of the official violence of the U.S. government in Indochina vs. the relatively small amount of violence by the anti-war movement.

Official violence in Indochina involved massive programs of saturation bombing, anti-personnel weapons, torture and execution of prisoners, assassination programs, etc. Anti-war violence generally involved destruction of property which directly aided the war effort--draft files, ROTC buildings, etc. When this minimal violence is placed alongside the deliberate, official violence of the government, it pales in significance.

It was not the anti-war movement which was violent, it was the government.

There is, however, a more fundamental point. At the sentencing hearing for Karl Armstrong, accused of bombing an Army research center in which a student working late was accidentally killed, Richard Falk spoke of "...the individual's duty to do what he can to stop criminal acts from happening...In light of the Nuremberg tradition, and the absence of constitutional redress, the sense of the right and duty of the individual to take the law into his own hands is reinforced.... To stop the commission of great crimes, one may have to commit lesser crimes." ¹⁹ Armstrong himself spoke of having "acted out ²⁰ of a feeling of moral responsibility..."

Again, we must emphasize that it is the moral responsibility to refuse to take part in a lawless war which is the essence of amnesty. In his article "War Criminals and War Resisters", referred to earlier, Herbert Kelman concludes by saying:

"Unconditional amnesty offers the best opportunity to reinforce the principle that the individual has not only the right, but the obligation to consult his conscience when the government asks him to participate in war. The war resisters were absolutely right in their judgement that American involvement in Indochina was immoral and illegal, that participation in the war would have constituted complicity in war crimes and crimes against humanity, and that by resisting they were acting in accordance with the Nuremberg principles." ²¹

If raised in this context, the continuing campaign for universal, unconditional amnesty can be a powerful tool to make the American people aware of the character of a war that was waged in their name. If we do not uncover the nature and scope of the crimes committed in the war in Indochina, we run the grave risk of them happening again.

As the second component of this educational effort, we should work to have the principle of individual responsibility included in our domestic law. As pointed out earlier, the present draft law does not provide for selective conscientious objection to war. With the strong likelihood of inductions being reinstated, we must stress the rightness and the necessity for individuals to exercise their conscience when faced with government orders. This is an area of implication for the future that the campaign for amnesty would do well to include.

Based on the legal principle of individual responsibility to make moral choices and the religious tradition of enlightened conscience, we should seek the broadening of the legal definition of conscientious objection to include all persons who sincerely and deeply object to all wars or to a particular war.

Remembering the past to serve the future--a universal and unconditional amnesty for acts of resistance against the involvement of the United States in Indochina--would have its effect on the past in erasing the stigma the resisters continue to suffer and its implication for the future in preparing people to better face the next war.

If built on this perspective, the campaign for amnesty will increasingly be seen as upholding the principles the United States put forth at Nuremberg. This growing awareness we seek was recently demonstrated in a speech delivered by Vernon Jordan, Jr. to the National Urban League's annual convention. In announcing a break with the Ford Administration's policy, Jordan, who was one of the original members of the Presidential Clemency

Board, said:

"Among the mistakes of the past with which we have yet to come to grips is Vietnam. Whatever each of us may have felt about the war, in retrospect it is clear that there was...no justification for the many crimes against decency and humanity that were committed there.

"We cannot absorb the true lessons and meaning of the Vietnam experience into our history while continuing to punish the innocent victims of our war policy...

"That is why I call for complete, immediate, universal and unconditional amnesty." 22

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Duane Shank
15 August 1975

Notes

1

For an excellent current discussion of this process, see "The Remaking of History", Noam Chomsky, Ramparts, August/September 1975.

2

Page 222, Crimes of War, ed. Richard Falk, Gabriel Kolko and Robert Lifton, Random House, 1971.

3

Page 101, "The Only Honourable Policy", Bertrand Russell, War Crimes in Vietnam, Monthly Review Press, 1967.

4

For a compilation of the relevant international laws and treaties relating to the conduct of war, see "The Law", pages 29-54, In the Name of America, Clergy and Laymen Concerned About Vietnam, Turnpike Press, 1968.

5

"Songmy--War Crimes and Individual Responsibility--A Legal Memorandum", Richard Falk, in Transaction, January 1970, as reprinted by the American Friends Service Committee.

6

For one of the best (and only) discussions of the connection between war crimes and amnesty, see "War Criminals and War Resisters", Herbert Kelman, Society, May/June 1975.

7

"Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgement of the Tribunal", as formulated by the International Law Commission, June-July, 1950. Page 43, In the Name of America.

8

Page 7, Crimes of War

9

The legal and semantic maneuverings used by federal judges make quite interesting reading. For those who may be interested, the citations of some representative cases follow.

--illegality of war is no defense:

US v. Prince, 1 SSLR 3150, 398 F.2d 686 (2d. Cir) cert. denied 393 US 946 (1968)
US v. Pratt, 2 SSLR 3407, 412 F.2d 426 (6th Cir, 1969)
Rusk v. US, 2 SSLR 3428, 419 F.2d 133 (9th Cir, 1969)

--potential inductee has no legal standing:

Ashton v. US, 1 SSLR 3287, 404 F.2d 95 (8th Cir), cert. denied 394 US 960 (1969)
Velvel v. Nixon, 3 SSLR 3273, 415 F.2d 236 (10th Cir, 1969), cert. denied 396 US 1042 (1970)

--power to raise armies not affected by international law:

US v. Owens, 2 SSLR 3310, 415 F.2d 1308 (6th Cir, 1969), cert. denied 397 US 997 (1970)
US v. St. Clair, 1 SSLR 3184, 291 F.Supp. 122 (S.D. NY. 1968)
US v. Hogans, 369 F.2d 359 (2d Cir, 1966)

--war a non-justiciable political question:

Luftig v. McNamara, 373 F.2d 664 (D.C. Cir), cert. denied 387 US 945 (1967)
US v. Berrigan, 1 SSLR 3150, 283 F.Supp 336 (D.MD. 1968)
Simmons v. US, 1 SSLR 3304, 406 F.2d 456 (5th Cir), cert. denied 395 US 982 (1969)

--for a good overall discussion of all these issues:

US v. Sisson, 1 SSLR 3307, 294 F.Supp 520 (D.Mass. 1968) and
1 SSLR 3354, 297 F.Supp. 902 (D.Mass. 1969)

10

US v. Mitchell, 246 F.Supp. 874 (D.Ct. 1965), quoted from page 206, Crimes of War.

11

Page 16, Soldiers in Revolt, David Cortright, Anchor/Doubleday, 1975

12

ibid, see generally chapter 1, "The Machine Breaks Down"

13

Page 41, Conscience, War, and the Selective Objector, Richard J. Niebanck, Board of Social Ministry, Lutheran Church in America, 1972.

14

Military Selective Service Act of 1971, section 6(j), [50 U.S.C. App. 456(j)]

15

Page 16, Postwar Opportunity and the Vietnam Era Veteran, New York City Commission on Human Rights and the American Civil Liberties Union, 1975.

16

Speech to Veterans of Foreign Wars, Chicago IL, 19 August 1974.

17

"Pledge to Complete Alternate Service" and "Reaffirmation of Allegiance", Department of Defense, 17 September 1974

18

Speech to Convocation of Families for Amnesty, Washington DC, 2 February 1975.

19

"A Trapped Generation on Trial", Henry Schipper, The Progressive, January 1974.

20

"Karl Armstrong, A Case of Resistance", Karl Armstrong Defense Committee, Madison WI.

21

See note 5 above.

22

Keynote address at 65th National Urban League annual convention, Atlanta GA, 28 July 1975. Transcript from the Congressional Record, 1 August 1975.

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US v. Seeger, 380 US 163 (1965)

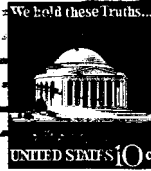
Welsh v. US, 3 SSLR 3001, 398 US 333 (1970)

US v. Gillette, 3 SSLR 3741, 401 US 437 (1971)

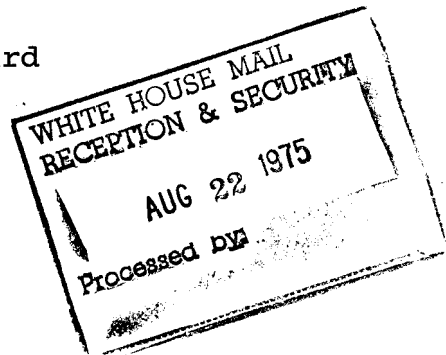


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CONCERNED

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The Honorable Charles E. Goodell
Chairman
Presidential Clemency Board
The White House
Washington, D.C. 20500



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President Jerry Ford.

I wonder and you will
to, what our officials of the Clemency board
is so lax to enforce your program.

It is a fact these men were given
discharges before they proved out. What in
the world is our Official thinking about.

These men who agreed & signed up to
work should be prosecuted for draft
evantion. A few will prove out there
worth, but the slacker will fizzle out.



Respectfully Yours
Merle Burris

1467

Deserters Quit Clemency Jobs, Escape Punishment

WASHINGTON (AP) — Two-thirds of the deserters who joined President Ford's clemency job program have dropped out, been kicked out, or processed out by the military without reporting for jobs, and will escape punishment without completing their assigned work.

Of the 4,500 deserters who joined the program, 2,035 have either dropped out or been kicked out, the Selective Service says. Another 1,000 men processed out by the military never

Associated Press inquiries, said the 2,035 "were terminated for non-performance, for lack of cooperation and because they chose not to fulfill their agreements in many cases." Some with families dropped out because they couldn't make a go of it on the low pay.

"Even though we didn't get the numbers we anticipated, President Ford has attained more of his initial goal than lots of people give him credit for," says draft Director Byron V.

Presidential Clemency Board, and its part of the program is still unfinished.

Of all three parts of the program, the Clemency Board has had the most applicants — 21,000 in all. It has until Sept. 15 to complete its work. So far it has found nearly 6,000 applicants ineligible, recommended outright pardons for about 6,000 others, recommended pardons conditioned on work period for about 6,000 more, and denied pardons to about 700.

with the board intend to perform jobs, although all agreed to do so when they applied.

The Justice Department portion of the program for draft dodgers has a low dropout rate, only 19 of the 722 who signed up. Those who don't complete their jobs still can be prosecuted for draft evasion. Some of the dropouts have fled the country to avoid this.

So far 52 of those in the Department of Defense portion of the program have com-

own time and is now a sheriff's deputy.

Another Vietnam veteran worked his term as a food service worker in a state hospital in the west. His supervisor wrote the Selective Service that he wanted more employees like this one.

A soldier who served in Vietnam is working as a "jack of all trades" in a rest home for the aged. "He enjoys his work and plans to remain on the job after his service is finished."

many ways over and above his responsibilities. Although his term is over he continues to spend some time at Goodwill."

A man in New York State, a wounded veteran, works with mentally retarded children "and is considering taking further training so as to be better equipped to help his wards even more," the report said.

Another Army veteran is working in an east-

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President Jerry Ford
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