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CONSCIENCE

An AFSC Defense of the Rights of Conscience

The Case of the United States of America vs. Daniel A. Seeger

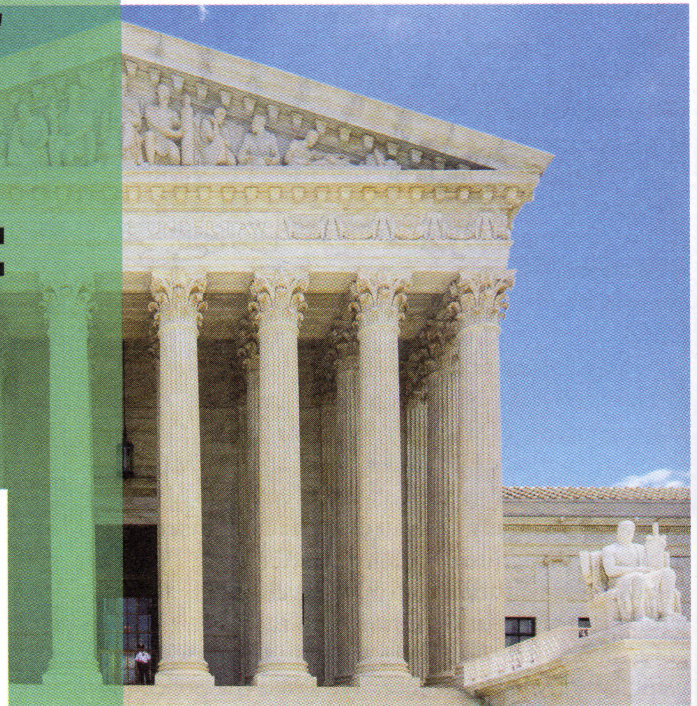
DANIEL A. SEEGER

On March 8, 1965, the United States Supreme Court greatly expanded the number of American citizens qualified for classification as conscientious objectors to military service. It did this by striking down the requirement that a conscientious objector must affirm belief in a Supreme Being and must derive his conscientious

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claim from that belief.

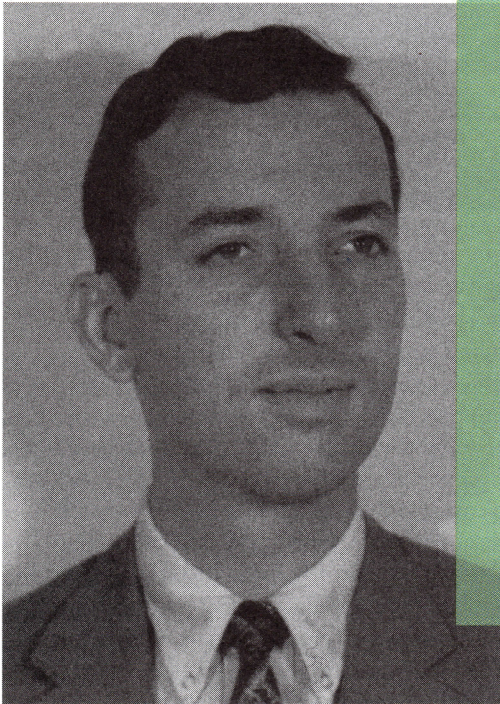
Fifty-two years have elapsed since the rendering of the verdict in the case of *United States v. Seeger*. I am, perhaps, the least qualified to reflect on its meaning on account of being too personally involved in the matter. With the current uncertain political situation and the prospect of an endless “war on terrorism” looming, a reflection, however inconclusive and possibly flawed, must begin somewhere.



When I wrote to my draft board requesting exemption from military service because of my deeply held pacifist convictions, I was an unchurched youth, having drifted away from the Roman Catholicism of my family and into agnosticism. The draft board sent me a conscientious objector form to fill out, and the first question on the form was “Do you believe in a Supreme Being?” followed by a check box for a “yes” answer and another for a “no” answer. I was startled to be asked such a question by an agency of the government, but having no wish to dissemble—most especially on a matter so close to my deepest convictions—and having no awareness of the legal consequences of what I was doing, I drew a third check box, next to which I wrote, “Please see attached pages.” I had submitted with the form an eight-page personal essay on the ability and the inability to know God.

The religious test was first mandated by section 6(j) of the Universal Military Training and Service Act of 1948. In adopting the Supreme Being test for conscientious objectors, Congress was seeking

to address a problem which arises in both law and economics: the “free-rider problem,” more commonly referred to as “draft dodging” with regard to the draft. How can society address the issue of people who benefit from a public good while not contributing to the effort? The law was intended to sift out authentic conscientious objectors from people who opted out merely because of a



Daniel A. Seeger.
Photo courtesy of
AFSC Archives.

said to me: “You had better look up the Quakers; they might be able to help you.” I looked up the Quakers in the yellow pages—a paperback directory of local telephone numbers and addresses that existed back in those days—and I found my way to the New York City office of American Friends Service Committee (AFSC).

At that time, most members of the Religious Society of Friends were routinely receiving their conscientious objector classification. But in the course of their work for peace, Friends and AFSC staff were encountering people whom they regarded as sincere objectors to war but who were being denied exemption on the basis of this dogmatic religious test. They ended

THE MAIN ARGUMENT IN MY DEFENSE

was that Congress, in requiring affirmative belief in a Supreme Being as a prerequisite for exemption from military service, was preferring people of some religious beliefs over people of other religious beliefs or with no religious belief, thereby violating the “disestablishment clause” of the First Amendment to the Constitution.

preference for their own convenience over the needs of the nation.

The First Amendment to the Constitution of the United States guarantees citizens freedom of religion. It stipulates that the government shall not interfere with the free exercise of religious practice, and it also proscribes the government from behaving in a way that prefers, or “establishes,” a particular faith or group of faiths over others. The main argument in my defense was that Congress, in requiring affirmative belief in a Supreme Being as a prerequisite for exemption from military service, was preferring people of some religious beliefs over people of other religious beliefs or with no religious belief, thereby violating the “disestablishment clause” of the First Amendment to the Constitution.

When I was single-handedly, and unsuccessfully, attempting to get classified as a conscientious objector in spite of my unorthodox religious views, a college friend finally

up either in jail, fleeing the country, or serving in spite of their convictions. So the impulse to try to change things was natural for many Friends.

Robert Gilmore, who was then in charge of the office, looked over my documents and quickly recognized both the impossibility of my claim, in terms of the law as it then presently stood, and the opportunity it presented for launching a case challenging the law. He was promptly on the telephone with Colin Bell, AFSC’s head of staff, and George Willoughby, who at that time served as the executive secretary of the Central Committee for Conscientious Objectors. As a result of the collaboration of these three Friends, Kenneth

The author (left) in AFSC's New York Metro Regional Office, with Jerald Ciekot and J. Collett. Photo courtesy of AFSC Archives.



FIFTY-TWO YEARS AFTER THE SUPREME COURT DECISION.

I remain convinced that we are better off acknowledging that we face great and awesome mysteries about our origins and about life and death than we are by claiming to know too much. We can develop a reverence for what is sacred without making extravagant dogmatic claims—claims that always flaut and fail.

Greenawalt was recruited to serve on a pro bono basis as chief attorney, and a defense fund was organized.

Taking on my case was an act of courage and vision on the part of these three Friends, and most particularly on the part of Colin Bell, who bore overall responsibility for AFSC's mission and well-being. The chance that an effort in the courts would result in the overturning of a key provision of the Universal Military Training and Service Act of 1948 was a small one. AFSC in those days was supported by a broad array of Friends of diverse theological views, and many of AFSC's constituents were skeptical of, if not hostile to, associating with "godlessness," and thus to the expenditure of time, effort, and resources in this connection.

The government's argument was that my beliefs were not religious but were merely philosophical, or merely a personal moral code, and that the religious freedom protections of the First Amendment need not be extended to me. The United States Supreme Court, in unanimously

deciding the issue in my favor, defined the term "religion" broadly enough to include my unchurched agnostic perspective.

When our challenge was launched in the late 1950s, no one had any idea that a war was in our future. By the time the case was decided in 1965, the first stages of the Vietnam War were underway, and the catastrophe was rapidly escalating into a major national crisis. Conscription meant that many thousands of individuals and families were impacted by the war policy—and by the *Seeger* case. To this day, I still meet people who, when they've learned my name, exclaim that my case was the reason they did not have to go to Vietnam, or to jail, or to Canada.

As a result of the case, many conscientious objectors with unorthodox religious beliefs were enabled to do alternative service instead of joining the military. The case did, nevertheless, have its limitations. I was (and am) an absolute pacifist; that is, I am opposed to all wars in any form. So the decision in my case allowed only those who opposed all wars to qualify for alternative service. Although I disagree with people who think that some wars can be justified, I fail to see why, because one regards some wars as necessary, one loses one's right to decline to serve in a war one sees as unjustified or foolish. There are many wars in U.S. history, from the invasion of Mexico to the Iraq War, that do not pass any reasonable "just war" test.

I believe I can honestly say that the movement in the heart of compassion for those who suffer in wars first motivated me to file my conscientious claim. Later came the strong sense that war cannot achieve any decent political or social goal, and that

its cost is never commensurate with its results.

Today I would express my concern more broadly. True peace requires compassion not only for humanity but for the entire biotic community that inhabits planet Earth. True peace will come only when we learn to live in gracious harmony with the animals and plants that are part of Earth's normally balanced ecological system. If we were to destroy Earth's many species and their habitats, we certainly would destroy the human estate itself. But a true decency of spirit will sense a reverence and a love for the community of nature, and not seek to preserve it merely for self-interest. We see this enlargement of spirit beginning to take hold among some of our fellow citizens in their restoring monarch butterflies and communities of wolves and dolphins. In the meantime, the degradation of the Earth and the loss of such resources as pure water become the seeds of future wars.

Fifty-two years after the Supreme Court decision, I remain convinced that we are better off acknowledging that we face great and awesome mysteries about our origins and about life and death than we are by claiming to know too much. We can develop a reverence for what is sacred without making extravagant dogmatic claims—claims that always flaunt and fail. While I have become an avid reader of devotional literature from Christian and other traditions and have met many God-fearing people whose purity of spirit has been truly uplifting, I am also increasingly wary of the dangers of religious fanaticism, an age-old problem in every spiritual culture and one which manifests itself with particular virulence today.

I am equally wary of dogmatic atheists. It is only in recent times that whole societies have been organized on atheistic principles, as in the Soviet Union and the People's Republic of China. There is little to inspire confidence there.

That reason and empirical observation will eventually solve all the mysteries of existence, a claim made by some of the "new atheists" in Europe and the United States, strikes me as extraordinarily naïve. Every deductive reasoning process begins from some un-premised first premise: some sort of stipulated initial principle for which no further underlying justification can be sought. And regarding ethics, it is impossible to argue from what is to what ought to be following scientific and rational procedures, frequent claims to the contrary notwithstanding.

The scientific view of reality is certainly less emotionally and intellectually satisfying than that which is given in the Book of Genesis. We are to believe that a big bang magically emerged from

some sort of nothingness, that space is curved, time elastic, and that we change something merely by observing it. Most of the matter in the universe is invisible matter, or dark matter, determined to be there and exerting gravitational force, because if it weren't, the universe would not behave as we observe it to do. Space itself is expanding even though there is nothing for it to expand into. String theory now proposes that there are many parallel universes. Thus, scientific hypotheses (they can hardly be called discoveries) tend to raise many more questions than they solve. Is it not clear that we are dealing with limitations in the human perceptual apparatus? We are like goldfish trying to figure out the economy of the household based on observations made from inside a bowl, or lobsters speculating about fire.

We do know that we are the stuff of stars, that this universe through some mysterious creative process generated us, and that we have a kinship with all that exists. As legend has it, Francis of Assisi recognized this when he sang of Brother Sun and Sister Moon. Jesus recognized this when, in the Gospel of John, he prayed "[t]hat they all may be one" (17:21). Religious people who acknowledge that all speech about God is misleading and secularists who nevertheless have mystical experiences in which they feel the exaltation of a loving sense of unity with all that exists are not that far apart.

So, although we are surrounded by mystery, we also, happily, live in an island of light. The most worthwhile endeavor the human spirit can address today is the search for a way in which decency and humanity can be identified and defended in an uncommonly degraded age. We know we live in a time of profound transition—a time when the world's habitual way of doing things has outlived its usefulness, has exhausted itself, and is foundering on its own internal contradictions. The job that is given to us—we did not choose it—is to lay the foundations for a new civilization. This is a task not to be undertaken with sadness, resignation, anxiety, or desperation, for that would taint the result. Rather, it should be addressed with joy, confidence, and hope. Truth is never without its witnesses; there are always people who are discriminating and independent, yet communicative and responsive, and willing to join with others in the decent management of our common human affairs. We must persevere in our work, planting seeds whose fruits we will not live to see. The arc of history is unmistakable: Whatever good things folly threatens to dissolve will, over the very long run, be restored through the practices of reconciliation and love. □