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MS-4787: Abba Hillel Silver Papers, 1902-1989.

Series I: General Correspondence, 1914-1969, undated.

Sub-series A: Alphabetical, 1914-1965, undated.

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20

American Civil Liberties Union, 1940-1942.

NATIONAL COMMITTEE

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AMERICAN CIVIL LIBERTIES UNION

170 Fifth Avenue • New York City

(at 22nd Street)

GRamercy 7-4330

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ARTHUR GARFIELD HAYS
MORRIS L. ERNST
Counsel

August 15, 1941

Rabbi Abba Hillel Silver
The Temple
East 105th St. & Ansel Road
Cleveland, Ohio

Dear Rabbi Silver:

It seems to us desirable to approach the Selective Service authorities at this time in regard to two problems raised by the administration of the Selective Service Act to which satisfactory solutions, in our judgment, have not yet been found.

We understand that the authorities are fearful of criticism if they should move to adopt either of the proposals covered by the enclosed petition. But strong support of those recommendations may induce them to act. The object of this petition is therefore to encourage General Hershey and his assistants to move toward a solution of these difficulties.

We are asking a considerable number of citizens known to be interested in conscientious objectors to sign this petition, which will be personally presented to General Hershey by a committee which we hope will represent jointly the several agencies most concerned with conscientious objectors.

Will you be good enough to sign the petition and return it in the enclosed envelope? If you do not concur in all of it, or wish to express yourself separately, will you instead send us a letter addressed to General Hershey which we can use?

With appreciation,

Sincerely yours,

John Haynes Holmes
Chairman of the Board

JHH:SH

AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE

NEW YORK CITY



September 26, 1941

To the members of the National Committee
and the Board of Directors

Friends:

A petition has been filed for a referendum vote of the active members of the corporation on the enclosed memorandum on Civil Rights in the Military Forces. The arguments for and against the proposal are covered on the sheet attached. A postal ballot is enclosed.

Will you be good enough to read the document and the arguments and let us have your reply promptly?

The issue discussed in this memorandum arose at the time of the debate in Congress over extension of the draft. Congressional leaders debated the extent to which soldiers had a right to address them or the President. The matter was brought before our Board and debated at successive meetings. The memorandum enclosed was first presented by a special committee and later adopted in this revised form at a Board meeting by a vote of nine to five. It comes to you on appeal initiated by twelve active members opposed to it in whole or part.

Under our bylaws the ultimate authority on disputed issues is the majority of all the active members (the National Committee and Board of Directors combined). It is essential to have promptly an expression of opinion from every active member.

Sincerely yours,

John Haynes Holmes
Chairman of the Board
Roger Baldwin
Director
Walter B. Miller
Secretary

lb

September 26, 1941

CIVIL RIGHTS IN THE MILITARY FORCES

I. The arguments in favor of adoption

1. Soldiers are citizens with the right to vote. They should be permitted to express themselves like other citizens except where such expressions contravene discipline or constitute organized political pressure.
2. There are no dangers of contravening discipline or creating political pressure groups in permitting soldiers to address personal communications to the President and Congress, not for publication.
- 3.. There is every reason from the point of view of policy and morale in favor of this form of expression as against enforced silence.
4. There can be no valid objection to permitting enlisted men as well as officers to appear before committees of Congress on request.

II. The arguments in opposition

1. Even so modest a proposal opens the way to exert political pressure by the armed forces and will tend to encourage soldiers to appeal from army authority to Congress both as to army organization and discipline and the terms and conditions of service.
2. It is obvious that the existing regulations do not unduly restrict the expression of opinion by enlisted men, since the newspapers and magazines contain many communications from men on various subjects.
3. Insofar as the purpose of the proposal is to encourage suggestions for the improvement of army conditions, it is far better that those suggestions should be made through the regular War Department channels than that they should appear as possible partisan attacks on the Department by members of Congress. Correction is more likely to result from within than from without.
4. The Declaration is not limited to time of peace or to the portion of the armed services which is serving under compulsion. It would be particularly destructive of discipline to permit such communications in time of war; and the arguments in favor of the Declaration seem less applicable to the professional enlisted strength.
5. The issuance of the Declaration will only serve to create new political controversy and will interfere with efforts to improve morale. If present regulations are being harshly applied so as to prevent correction of conditions, the Union should seek fairer application within the War Department.
6. Even if the Union were to issue any Declaration in favor of soldiers sending communications on legislative matters, they should

go to the President as Commander-in-Chief, not to members of Congress who may misuse such communications to the detriment of discipline.

NOTE: Some of the signers of the referendum petition are in favor of the memorandum if it is provided that all communications from soldiers to the President or Congressmen go through official channels, that is through the higher military authorities. Others favor it with an amendment to confine communications to the President. Others are opposed to the Union taking any position in regard to civil rights in the military forces.

The ballot, therefore, provides for these alternatives.

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AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE
NEW YORK CITY

490

MEMORANDUM on CIVIL RIGHTS IN THE MILITARY FORCES

From the point-of-view of the Civil Liberties Union it is obviously desirable that members of the military and naval forces in a democracy should exercise their democratic rights as citizens to the maximum degree consistent with the maintenance of discipline and with avoiding the dangers of getting the military into politics.

Under the law all men in the armed forces have the right to vote. In practice, however, it is circumscribed by the difficulties of complying with the state requirements for registration and voting.

But they may not, under army regulations, exercise other political rights. They may not express themselves to Congress on legislation, with the sole exception that officers, not enlisted men, may appear on request to testify before committees of Congress. They may not speak in public when on leave on any matter likely to arouse controversy or criticism of the army or their officers.

Men in the armed forces must communicate their complaints on any matter only to their immediate superiors. The regulations encourage men to express their personal complaints and require officers to deal with them sympathetically, both as to "military and organizational matters and in personal or family distress or perplexity".

No valid objection can be made to the method of handling personal complaints through superior officers. But the restraints on expressions of opinion appear to be more sweeping than necessary either for discipline or to prevent politics in the army. As a minimum of rights

consistent with these requirements two liberalizing provisions could in our judgment safely and reasonably be made in the regulations:

First, there appears to be no reasonable justification for prohibiting the appearance before committees of Congress of enlisted men as well as officers. The theory that officers are competent to express adequately the views of men under their command is proven by experience to be untenable. Rank and file representatives of enlisted men should be permitted to speak for themselves on request by committees of Congress. Committees of Congress, the public, and the armed forces may benefit quite as much from expressions by men in the ranks as by officers.

Second, while agreeing that the military forces should not engage in organized political activities, individual expressions of opinion by men in personal letters addressed to Congressmen or the President would not appear to violate that policy. It seems to us far better from the point-of-view of sound public policy that men in the army should have the right to communicate privately and directly with their representatives in Congress and with their Commander-in-Chief than to have their sentiments bottled up in enforced silence. In our judgment the army regulations could reasonably be changed to permit such private communications from individuals to Congressmen and the President on public issues, - excluding, of course, personal complaints necessarily handled only through superior officers.

The recent debate in Congress over extension of the training period has indicated considerable confusion over interpretations of the army regulations. Some members of Congress maintained that they

do not forbid enlisted men from addressing personal communications to them on such a matter. But the military authorities hold to the contrary. The regulation specifically prohibits men from "influencing legislation affecting the army" or "applying to Congress for legislation of any kind (other than private relief legislation), except with the approval of the Secretary of War." The words "influencing legislation" and "applying to Congress" are apparently interpreted by the military authorities to cover even personal expressions of opinion.

The right to vote should not, as now, be regarded as the exclusive channel of political expression by members of the armed forces. At the very least a democracy should avoid imposing on its armed forces a degree of silent subservience which offers no outlets to the civil government for general grievances. Both as a matter of principle and of practical results compulsory silence is hostile to the interests of a democracy and of the morale essential to its armed forces.

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September, 1941

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MORRIS L. ERNST
Counsel

January 16, 1942

Rabbi Abba Hillel Silver
The Temple
E. 105th St. & Ansel Rd.
Cleveland, Ohio

Dear Rabbi Silver:

Your term as a member of the National Committee expires this February. The Nominating Committee would appreciate having your comment to a renomination.

In so doing the Board of Directors of the Union requests the Committee to present to each nominee the enclosed statement of principles of the Union and a copy of the resolution adopted in February, 1940 in order to determine whether any nominee disagrees with any policy therein outlined or comes within the terms of the resolution adopted.

We would appreciate your reply on the enclosed card or by letter.

Sincerely yours,

Quincy Howe
Chairman
Nominating Committee

QH:EK
enc.

AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE
NEW YORK CITY



January 27, 1942

To the members of the Corporation
(members of the National Committee
and Board of Directors)

Friends:

The undersigned nominating committee appointed pursuant to the bylaws submits to you the enclosed ballot which should be returned on or before Saturday, February 14. The annual meeting is fixed for Monday, February 16 and under the bylaws all votes must be counted by that date.

All the nominees (except those starred*) have agreed to serve if elected and all have expressed their substantial agreement with the Union's principles, including the resolution adopted at the 1940 annual meeting. The few starred have not replied, but since they are all present members of the National Committee and have expressed no disagreement with the Union's policies, it may be assumed they would serve. No nominations have been made otherwise than through the Nominating Committee.

Very truly yours,

Quincy Howe, Chairman
Nominating Committee

Alfred Bingham
George S. Counts
Freda Kirchwey
Eduard C. Lindeman
William Allan Neilson
John Nevin Sayre

AMERICAN CIVIL LIBERTIES UNION

Annual Election - 1942

BALLOT

For members of the Board of Directors and National Committee. Voting closes Saturday, February 14th. Vote by marking X in the appropriate spaces.

FOR THE BOARD OF DIRECTORS

(Maximum 35; 16 vacancies for 3-year terms; six vacancies to remain open)

	FOR	AGAINST
1. Alfred Bingham (renominated)		
2. Harry L. Binsse (renominated)		
3. Prof. Paul Brissenden (new nominee)		
4. Morris L. Ernst (renominated)		
5. Arthur Garfield Hays (renominated)		
6. John Haynes Holmes (renominated)		
7. Corliss Lamont (renominated)		
8. Thurgood Marshall (renominated)		
9. Elmer Rice (renominated)		
10. Raymond L. Wise (renominated)		

FOR THE NATIONAL COMMITTEE

(3-year terms. No maximum number fixed)

	FOR	AGAINST
1. Harry Elmer Barnes (renominated)		
2. Stephen Vincent Benet, author, N.Y. (new nominee)		
3. Alfred Bettman (renominated)		
4. Henry Seidel Canby, Book of the Month Club, N.Y. (new nominee)		
5. John Dos Passos, author, Provincetown, Mass. (former member of National Committee, resigned)		
6. Rep. Thomas H. Eliot of Mass. (new nominee)		
7. *Lloyd K. Garrison (renominated)		
8. *Frank P. Graham (renominated)		
9. Powers Hapgood (renominated)		
10. Marvin C. Harrison (renominated)		
11. Dr. John A. Lapp (renominated)		
12. Malcolm S. MacLean, President of Hampton Institute, Virginia (new nominee)		
13. John P. Marquand, author, N.Y. (new nominee)		
14. Prof. Alexander Meiklejohn (renominated)		
15. Amos R. Pinchot (renominated)		
16. *Bishop William Scarlett (renominated)		
17. Prof. Vida D. Scudder (renominated)		
18. *Rabbi Abba Hillel Silver (renominated)		
19. Dean Clarence R. Skinner (renominated)		
20. Senator Elbert D. Thomas of Utah (new nominee)		
21. Dr. William Lindsay Young, President of Park College, Missouri (new nominee)		

Date _____

Signed _____

AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE
NEW YORK CITY



RESOLUTION ADOPTED BY THE BOARD OF DIRECTORS AND NATIONAL
COMMITTEE OF A.C.L.U. AT ANNUAL MEETING OF NATIONAL
COMMITTEE AT TOWN HALL, Monday, February 5, 1940.

"While the American Civil Liberties Union does not make any test of opinion on political or economic questions a condition of membership, and makes no distinction in defending the right to hold and utter any opinion, the personnel of its governing committees and staff is properly subject to the test of consistency in the defense of civil liberties in all aspects and all places.

"That consistency is inevitably compromised by persons who champion civil liberties in the United States and yet who justify or tolerate the denial of civil liberties by dictatorships abroad. Such a dual position in these days, when issues are far sharper and more profound, makes it desirable that the Civil Liberties Union makes its position unmistakably clear.

"The Board of Directors and the National Committee of the American Civil Liberties Union therefore hold it inappropriate for any person to serve on the governing committees of the Union or on its staff, who is a member of any political organization which supports totalitarian dictatorship in any country, or who by his public declarations indicates his support of such a principle.

"Within this category we include organizations in the United States supporting the totalitarian governments of the Soviet Union and of the Fascist and Nazi countries, (such as the Communist Party, the German-American Bund and others); as well as native organizations with obvious anti-democratic objectives or practices."

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B. W. HUEBSCH
Treasurer
ROGER N. BALDWIN
Director

LUCILLE B. MILNER
Secretary
ARTHUR GARFIELD HAYS
MORRIS L. ERNST
Counsel

February 18, 1942

Rabbi Abba Hillel Silver
The Temple
East 105th St. & Ansel Rd.
Cleveland, Ohio

Dear Rabbi Silver:

We take pleasure in informing you that at the annual meeting of the American Civil Liberties Union held in New York City on Monday, February 16, 1942 you were reelected a member of the National Committee for a three year term.

Sincerely yours,

Lucille B. Milner

Secretary

LBM:SH

AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE
NEW YORK CITY

490

May 8, 1942

To the active members of the Corporation

Friends:

By action of the Board of Directors at a meeting on May 4 the following proposal is submitted for your consideration:

"Resolved that:

(1) The United States has a right to mobilize all persons subject to its jurisdiction for the purpose of the prosecution of a war, whether for combatant or civilian service,

(2) Such mobilization, however, is justified only if directly necessary to the prosecution of a war and

(3) Such mobilization must be carried out on a fully democratic selective service basis similar to our present draft laws and

(4) Due provision must be made for conscientious objectors."

1. This resolution is occasioned by a number of bills pending before Congress, all of which propose in one form or another to authorize the President to mobilize the entire man and woman power of the nation in the war and to impose compulsory civilian service. The purpose of the vote is to determine our position on these or other bills for that purpose. The above declaration that the "United States has a right to mobilize" all citizens is intended to express the view that no conflict with civil liberties is involved.

2. The Union's position on military conscription was that it did not raise an issue of civil liberties in either peace or war if adequate provisions were included for total exemption on grounds of conscientious objection. The above resolution takes note of our position on conscientious opposition to war service of any sort. The Union presumably would not oppose the principle of drafting civilians in such temporary emergencies as flood or fire, and we cannot therefore urge that all forms of con-

(more)

scripted civilian service endanger civil liberties. The question before us is whether a wholesale grant of power to the government in wartime raises such an issue.

The arguments in support of such governmental power are:

(1) that the full power of the nation can be enlisted only by centralized government control of civilian as well as military service in a war in which production is so crucial a factor;

(2) that the grant of such a power to the government, great as it is, would not necessarily establish a pattern which would carry over into peacetime, and that a democratic people, through Congress or at the polls, would prevent any administration from abusing such a power;

(3) that governmental compulsion of service is necessary to insure maximum effort, which cannot be accomplished substantially by voluntary means;

(4) that similar power has been granted to the British government, affecting both men and women, and with general public approval, and without impairing democratic liberties;

(5) that civilian mobilization is preferable to the possible alternative of general extension of military conscription to cover workers who would be assigned to war industries.

The arguments against the proposal are:

(1) that total mobilization of all men and women for war service is a long step on the road to totalitarianism. It is a form of forced labor which would fix work and wages, hold workers to specific jobs, and destroy the right to strike. We cannot fight totalitarianism by totalitarian means and still remain a democracy;

(2) that no present peril is great enough to justify so sweeping and universal an exercise of power by the federal government. No peril which faces the United States which might be met by total mobilization is comparable to the internal danger of turning over such vast powers to the President;

(3) that in principle total mobilization means the absolute obedience of every citizen to the state, and endangers our whole political structure of democracy by entrenching in government such vast powers of disposing of every man's and woman's service. It is this power which threatens in principle every man's and woman's civil liberty. That power is to be distinguished from military conscription, which is a practical necessity in time of war, and rests on established precedent, unlike this proposal;

(4) that no provision for exemptions on grounds of conscience can overcome the evil of regimenting the entire population;

(5) that even if abandoned after the war, the principle of total mobilization once accepted could be revived in time of peace on some pretext of internal danger, with the risk of establishing a totalitarian state;

(6) that the British experience is not persuasive, since the complete control of parliament over the executive there minimizes dangers which would be far greater under our Presidential powers;

(7) that everything necessary to enlist the civilian population can be accomplished by a general registration for voluntary service in accordance with abilities and preferences. The patriotism of the American people would insure their not refusing to perform any requested services, without the stigma of compulsion. No issue of civil liberties would be raised by compulsory registration and voluntary service.



AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE

NEW YORK CITY



May 22, 1942

To the Active Members of the Corporation

Friends:

The Board of Directors requests your opinion as to whether an issue of civil rights is involved in principle in the exercise of power by the government to remove citizens from areas designated as military zones.

The issuance of the so-called Pacific Coast Order involving the establishment of a military zone and the removal of large numbers of persons, including American citizens, from the designated areas, raised an important question of civil liberties. Subsequently a more moderate East Coast order was issued.

On the underlying issue of legal rights and powers there has been action and reaction among the members of the Board of Directors. There have been prolonged discussions at several meetings.

Two conflicting points of view have finally emerged:

- (1) That in the absence of conditions justifying a declaration of martial law there is no constitutional power in the government, acting either through military or civil authorities, to remove any citizens from any military zone on the purported ground that such persons may endanger national security, and
- (2) That such power does vest in the United States government, but that in exercising such power the civil liberties of citizens must be maintained.

These conflicting views are expressed in the following two resolutions, neither of which has been adopted by the Board. Both are submitted for your opinion.

Resolution No. 1

"The Civil Liberties Union is of the opinion that in the absence of any conditions justifying a declaration of martial law, any order by the government of the United

States investing either military or civil authorities with power to remove any citizen or group of citizens from any zone established by such authorities, on the purported ground that their presence may endanger national security, constitutes a violation of civil liberties guaranteed by the Constitution of the United States. No system of civilian hearing boards to determine what citizens should be removed can cure the fundamental violation of constitutional rights."

Resolution No. 2

(1)"The government has the right in the present war to establish military zones and to remove persons, either citizens or aliens, from such zones when their presence may endanger national security, even in the absence of a declaration of martial law.

(2) Such removals, however, are justified only if directly necessary to the prosecution of the war or the defense of national security.

(3) Except in cases of immediate emergency, the necessity for such removals should be determined by civilian authorities, and such removals should be carried out by civilian authorities.

(4) Such removals must be carried out in a manner, and based upon a classification, having a reasonable relationship to the danger intended to be met.

(5) Each person affected should have an opportunity of showing that he does not come within the necessities of the situation; and hearing boards should be established to pass upon all such claims.

(6) Persons so removed, unless held for other reasons, should be allowed full liberty in the United States outside of such military zones. Their property rights should be fully protected, and reasonable arrangements should be made for their resettlement in places of their own choosing outside of such zones."

In order to help guide the Board of Directors in resolving the conflicting views, you are asked to vote upon these resolutions. You are further asked to express your opinion freely upon any point involved.

The arguments in favor of resolution No.1 are:

1. American citizens cannot and should not be deprived of their liberty to live and work where they will, without due process of law,--which means a trial in a court of law.

This is a constitutional right which is a primary obligation of such a defender of civil liberties as the Union.

2. No argument as to military necessity can possibly justify the creation of large zones covering many states from which the Army authorities may exclude any citizens whose presence it regards as undesirable. To give such power to the military authorities is virtually to suspend the Bill of Rights altogether. For courts would either be reluctant to intervene to protect rights against the military in war-time, or the military might refuse to recognize the authority of civil courts, as in the Civil War.

3. As a practical matter, no such sweeping grant of power is needed, since present laws are adequate to deal with national security. Enemy aliens are already under complete control of the Department of Justice. Dangerous and disloyal citizens can be handled by the Department of Justice and the F.B.I. in the enforcement of war-time laws.

4. However reasonable the administration of such powers may be at the start, they can be indefinitely extended under pressure, even to covering the whole country, creating without justification a state of virtual martial law. It is the primary duty of the Civil Liberties Union to help prevent this tendency by protesting the power itself and by protecting the civil rights of any citizens who may be thus threatened with exile from their homes and businesses to live in distant parts of the country.

5. The grant of such drastic powers of removal to the civil authorities would be equally objectionable. Removal of citizens from any zone, without trial in a court of law,--in the absence of martial law,-- is repugnant to concepts of civil liberties and contrary to established constitutional guarantees as interpreted by the Supreme Court.

The arguments in favor of resolution No.2 are:

1. No constitutional issue is involved because in war-time military necessity shifts the weight of the balance that must always be maintained between civil liberties and governmental administration. The judgment of the authorities as to what is necessary in the defense of the country and the conduct of a total war should not be lightly rejected.

2. Fears that the rights of citizens will be generally violated under these orders are exaggerated. On the Pacific Coast the Japanese-American population presents a peculiar problem aggravated by extreme local prejudice. The mass deportation order went far beyond the necessities of the situation, and should be opposed by the A.C.L.U., not on the ground of lack of power but because of abuse of power, just as the A.C.L.U. opposes any oppressive action on the part of the government involving civil

liberties,--even where the general power to act lies in the government.

3. If it is admitted that military necessity justifies the evacuation of all civilians from a given military area, or a declaration of martial law, it is more reasonable to grant to the authorities a lesser power even in larger areas, and to oppose any attempted discrimination in the exercise of the power.

4. There are many instances in which the government has power to act, but where the abuse of such power constitutes an infringement of civil liberties which will be curbed by the courts. Possibly the furthest development of this in recent years has been the establishment of quasi-judicial administrative boards involving substantial personal and property rights. The findings of fact of such boards are usually final, subject to reversal only if there is no substantial evidence to support them. In this new kind of total warfare the government should not be completely blocked in taking necessary defensive measures; but a new technique must be developed to protect the civil liberties of the citizens within the temporary field of power held by the government in war-time. The A.C.L.U. should be active in developing such a protective technique.

5. Individual cases of injustices in exercising such war-time powers should of course be handled by the Civil Liberties Union.

NOTE

Vote on the attached slip and return promptly in the enclosed prepaid envelope. We would appreciate having your reply by June 1.

AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE

NEW YORK CITY



May 27, 1942

To the members of the National Committee
and the Board of Directors

Friends:

The returns on the referendum on the resolution concerning the Union's policy toward compulsory civilian service in war-time were reported at the meeting of the Board of Directors on May 25 as follows:

Of the 66 members of the National Committee, 35 voted in favor, (1 in favor with qualifications), 12 opposed, 1 not voting, and 18 not heard from.

Of the 29 members of the Board of Directors, 16 voted in favor, (1 in favor with qualifications), 11 opposed, 1 not voting, and 1 not heard from.

The total vote of the members of the Corporation was therefore: 51 in favor, (2 in favor with qualifications), 23 opposed, 2 not voting, and 19 not heard from. A clear majority was therefore registered in favor of this resolution:

The United States has a right to mobilize all persons subject to its jurisdiction for the purpose of the prosecution of a war, whether for combatant or civilian service; such mobilization, however, is justified only if directly necessary to the prosecution of the war and such mobilization must be carried out on a fully democratic selective service basis similar to our present draft laws, and due provision must be made for conscientious objectors.

In addition, comment was received from five local committees, three opposing and two favoring the resolution.

The action taken by the Board at the meeting on May 25th upon receipt of this report was as follows:

"After defeating a proposal that the Board should approve compulsory civilian service only after voluntary methods have failed, the Board voted that, having received the advice of the active membership, the resolution approved by a majority be declared the policy of the Union and that the standards established by it be used in examining all civilian mobilization bills (except the Bilbo bill already acted upon) and that a report on each bill be submitted to the Board for consideration and action."

Very truly yours,

Lucille B. Milner
Secretary

Roger Baldwin
Director

AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE

NEW YORK CITY

490

MINUTES of the meeting of the Board of Directors held Monday, June 22, 1942 at 1:00 P.M. at the Hotel Woodstock, 127 West 43rd Street, New York City. Present: Mr. Childs, presiding, Messrs. Baldwin, Binsse, Chamberlain, Finerty, Fraenkel, Frank, Greene, Hays, Huebsch, Lamont, Lindeman, Marshall, Rice, Seymour, Thomas, Mrs. Bromley, Miss Kenyon, and Mrs. Milner. Clifford Forster and Howard Lewis of the office staff.

1. The minutes of the previous meeting were approved as sent out.

2. Mr. Finerty requested that his negative vote be recorded on the resolution on compulsory civilian service adopted by the Board at the meeting on May 25, (item 3).

3. The Board considered the report and recommendations concerning the removal of citizens from military zones, made by Messrs. Frank, Hays and Huebsch as officers, under the resolution adopted at the last meeting. Their report, as amended by returns to date, showed that 36 out of 95 members of the Corporation voted in the referendum as follows: 52 in favor of Resolution #2; 26 in favor of Resolution #1; 3 undecided; 9 not heard from.

4. In accordance with the recommendation of the officers, the Board voted to adopt Resolution #2 as submitted, with the following changes by the officers. (New matter is underlined; matter in the original resolution is in parentheses).

"(1) The government in our judgment has the constitutional right in the present war to establish military zones and to remove persons, either citizens or aliens, from such zones when their presence may endanger national security, even in the absence of a declaration of martial law.

(2) Such removals, however, are justified only if directly necessary to the prosecution of the war or the defense of national security.

(3) Except in cases of immediate emergency, the necessity for such removals should be determined by civilian authorities, and such removals should be carried out by civilian authorities.

(4) Such removals (must) should be carried out in a manner, and based upon a classification, having a reasonable relationship to the danger intended to be met.

(5) Each person affected should have an opportunity of showing that he does not come within the necessities of the situation; and hearing boards should be established to pass upon all such claims.

(6) Persons so removed, unless held for other reasons, should be allowed full liberty in the United States outside of such military zones. Their property rights should be fully protected, and reasonable arrangements should be made for their resettlement in places of their own choosing outside of such zones."

Messrs. Finerty, Binsse, Hays, Thomas and Mrs. Bromley registered negative votes on the ground that their views were expressed in Resolution #1. Mr. Huebsch abstained from voting.

5. The office was instructed to inform the Southern and Northern California branches and the Seattle Committee that under the resolution adopted by the Board as a result of the referendum vote, local committees are not free to sponsor cases in which the position is taken that the government has no constitutional right to remove citizens from military areas, but that the Union will file briefs amici curiae on the points on which it is agreed that this constitutional power has been abused; and further, to advise the defendants in the test cases already brought to arrange, if they desire, for counsel who will be free to raise other constitutional issues.

6. The Board approved the recommendation by the officers that the office be instructed to give out in our weekly and quarterly news bulletin the text of Resolution #2 and such other comment as may seem appropriate.

7. The Board approved the recommendation of the officers that the office be instructed to prepare and distribute to our membership a circular or pamphlet stating the issue now decided, with adequate quotations from the comments of those voting on the two resolutions and, as well, the similar material concerning our referendum votes on compulsory civilian service and the civil rights of soldiers, to be edited by a special committee under some such title as "Military Power and Civil Rights".

8. On recommendation of the officers the Board agreed to reconsider the language of the resolution previously adopted concerning compulsory civilian war service, and adopted it in the following form (new matter is underlined; old matter in parentheses):

"(1) (The United States has a right) The government, in our judgment, has the constitutional right to mobilize all persons subject to its jurisdiction for the purpose of the prosecution of a war, whether for combatant or civilian service.

(2) Such mobilization, however, is justified only if directly necessary to the prosecution of a war and

(3) Such mobilization (must) should be carried out on a fully democratic selective service basis similar to our present draft laws and

(4) (Due) Provision (must) should be made for (conscientious objectors) the complete exemption of those found to be conscientiously opposed to participation in war service."

9. Mr. Baldwin reported in connection with a previous request from the Board that a number of articles have been published concerning concentration camps for Japanese-Americans and aliens alike, and suggested the reprinting of the article by Carey McWilliams in the current issue of "Common Ground" entitled "Japanese Evacuation: Policy and Perspectives". The Board approved the recommendation.

10. The Board voted (a) to oppose Senate Bill #2293, giving the Secretary of War power to intern Japanese-American citizens, as of doubtful constitutionality and unnecessary; and (b) to condemn the report of the Senate Committee on Immigration which justified the proposals on grounds that are factually incorrect.

11. The Board's attention was called to the Union's offer of assistance to Harry Bridges in contesting the Attorney General's deportation order in the courts. Mr. Greene agreed to assist in regard to the Union's participation.

12. A letter to the Attorney General was approved urging him to prescribe regulations, under the authority granted by Section 166 of Title 8 of the U.S. Code, to permit shore leave to Chinese seamen now barred under the Chinese Exclusion Act.

13. Mr. Fraenkel reported on the 5 to 4 decision of the U.S. Supreme Court in the Jehovah's Witnesses' cases (in which the Union participated) holding that communities have the right to require licenses for the sale of non-commercial literature. The Board authorized joining in the appeal for rehearing and efforts to enlist the American Bar Association.

14. Mr. Finerty called the Board's attention to his unsuccessful efforts to get the U.S. Supreme Court to reopen the case of Odell Waller, Virginia sharecropper condemned to death, and requested the Board to appeal to the Governor of Virginia to grant a stay of execution in order to make one more attempt to get the court to intervene. The requested action was authorized.

15. Mr. Hays called the Board's attention to a case in New York in which the War Department has so far declined to require an officer to respond to a civil process involving the custody of a child. The office was authorized to make inquiries of the proper officials and to send the members of the Board a memorandum on the issues.

16. Reprint for distribution was authorized of the article on "Democracy and Defamation; Control of Group Libel" by Prof. David Riesman in the Columbia Law Review, May 1942.

17. Leaves of absence until October were granted on request of Dr. Holmes, Prof. Brissenden and Dr. Chalmers.

18. The Board granted an application as an affiliated local committee to the St. Paul Civil Liberties Union (Minnesota).

19. Financial report for the four months of the fiscal year ending May 31 showed in the Operating fund receipts of \$9326 against \$10,053 a year ago, and expenditures of \$3791 (with unpaid bills of \$493) as against \$9635 a year ago. Expenditures were only slightly in excess of the budget.

In special funds receipts of \$2533 are shown with expenditures of \$2714.

Balances on hand June 1 were:

Operating Fund.....	1925.37
Special Funds.....	1913.83
McMurtrie Checking.....	894.03
Trust Funds Checking.....	1236.94
Trust Funds Savings.....	3696.00
Revolving Loan.....	224.40

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AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE

NEW YORK CITY



June 24, 1942

To the members of the National Committee

Friends:

The referendum vote of the members of the Corporation on the constitutional power to remove citizens from military areas was reported to the Board of Directors on June 22, with results as follows:

National Committee

In favor of Resolution 1 - 15
In favor of Resolution 2 - 35
Undecided - - - - - 7
Not voting - - - - - 9

Board of Directors

In favor of Resolution 1 - 11
In favor of Resolution 2 - 17
Undecided - - - - - 1

Totals: In favor of Resolution #1, 26; Resolution #2, 52;
undecided 8; not voting 9.

The Board thereupon

The Board thereupon adopted the following slightly modified form of the resolution favorably voted upon. (New matter is underlined; matter in the original resolution is in parentheses).

(1) "The government in our judgment has the constitutional right in the present war to establish military zones and to remove persons, either citizens or aliens, from such zones when their presence may endanger national security, even in the absence of a declaration of martial law.

(2) Such removals, however, are justified only if directly necessary to the prosecution of the war or the defense of national security.

(3) Except in cases of immediate emergency, the necessity for such removals should be determined by civilian authorities, and such removals should be carried out by civilian authorities.

(4) Such removals (must) should be carried out in a manner, and based upon a classification, having a reasonable relationship to the danger intended to be met.

(5) Each person affected should have an opportunity of showing that he does not come within the necessities of the situation;

and hearing boards should be established to pass upon all such claims.

(6) Persons so removed, unless held for other reasons, should be allowed full liberty in the United States outside of such military zones. Their property rights should be fully protected, and reasonable arrangements should be made for their resettlement in places of their own choosing outside of such zones."

The effect of this resolution will be to remove from the test cases in the federal courts a challenge to the constitutional power of the President as Commander-in-Chief. It will not affect the constitutional issues of discrimination against citizens of Japanese ancestry. The Board agreed that in cases where the citizens bringing tests desire to raise the underlying question of constitutional power they may do so through counsel not representing the Union. The Union will participate in any case up to that point, in accordance with the advice of counsel.

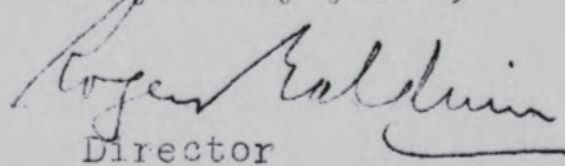
The Board also agreed to get out a pamphlet covering the conflicting views not only on this issue but on others recently debated related to the military power, — namely, compulsory civilian war service and the civil rights of men in the armed forces, under some such title as "The Military Power and Civil Rights". In this pamphlet we intend to use some of the comments received from members of the Board and National Committee. If any of you commenting do not wish your names and comments used, please indicate it promptly. Otherwise we will assume we have your permission.

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The Board also modified the resolution previously adopted on compulsory civilian war service to make its intent clearer by declaring, "The government, in our judgment, has the constitutional right to mobilize all persons subject to its jurisdiction for the purpose of the prosecution of a war, whether for combatant or civilian service".

The last clause was modified to conform with our previous position on military conscription, to read, "Provision should be made for the complete exemption of those found to be conscientiously opposed to participation in war service".

Very truly yours,


Director

RNB:EK

AMERICAN CIVIL LIBERTIES UNION
170 FIFTH AVENUE
NEW YORK CITY

July 8, 1942

Dear Rabbi Silver:

Thank you warmly for the renewal of your membership in the Union, for which we enclose our receipt, with the appreciation of all of your associates.

Sincerely yours,



B. W. Huebsch
Treasurer.

Rabbi Abba Hillel Silver
The Temple
Cleveland, Ohio

AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE
NEW YORK CITY

 490

Brig. Gen. Lewis B. Hershey
Director, Selective Service System
21st and C Streets
Washington, D. C.

Dear General Hershey:

The undersigned, concerned with the problem of conscientious objectors under the Military Training Act, desire to put before you the following considerations and recommendations:

1. The administration of the Act has resulted in the imprisonment of over two hundred men who refused to comply with the requirement for registration. Practically all of these men would have registered and would have gone through with the later routine requirements if the Act had provided for total exemption of those who in conscience cannot accept any service under compulsion. The British government in war-time adopted such a provision, which has been administered without public criticism. It was supported by the leading figures in British political and religious life in order to avoid the imprisonment of genuine objectors, which had marked Great Britain during the World War, and which obviously would recur under any more rigorous conscription act.

Our Congress has granted total exemption only to ministers and theological students. If it is sound thus to recognize their loyalty to an authority higher than the state, it is sound to apply it to men of equal conscience who do not happen to follow their calling.

We are confident that a recommendation from you to Congress would be favorably acted upon. We trust that you will see the desirability of so doing if further prosecutions of genuine objectors are to be avoided. Only a change in the law will accomplish that result.

(more)

2. The system of civilian service does not seem to us to meet the requirements of all men. The work camps organized by religious bodies fit the needs of their members and some others; but there are many objectors who go critically and some who will refuse that assignment. These men are either (1) objectors who do not belong to any organized church and whose scruples rest rather on humanitarian than strictly religious grounds in the accepted sense, and (2) those who are unable to pay their maintenance, unwilling to accept charity and who regard it as the government's obligation, having required them to perform a service, at least to maintain them.

The appropriate remedy seems to us to be a provision for individual services outside these camps which, under the law, you may authorize. We call your attention to the fact that during the World War some 4,000 objectors were furloughed from the army for work of this character. They found their jobs in several occupations, usually farm work, and were permitted to retain pay equivalent to that of draftees. Since that system of individual assignment worked during the World War without criticism from any quarter, we submit that similar provisions now, at least for meeting exceptional cases, are highly desirable. May we respectfully urge upon you the prompt consideration of some such provision?

If these two steps are taken, the system should work with general satisfaction to insure that, as in Great Britain, no genuine conscientious objector shall be imprisoned, a policy against which no reasonable criticism can be made.

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