

Statement of John H. Geiger: National Commander. American Legion

Mr. Chairman, and members of the subcommittee, I am appearing here today at your invitation to present the views of the American Legion on the question of executive clemency for those who have failed to comply with the . . . requirements of the Selective Service Act and those who have deserted from military service during the Vietnam war . . .

Today my appearance and the position I take on amnesty are based upon resolution 207 adopted at our 1971 National Convention . . .

. . . The delegates who unanimously adopted resolution 207 represented every one of the 50 States and the District of Columbia. They were all honorably discharged veterans of wartime service and represented a cross-section of American ethnic, cultural, political and economical life. Resolution 207 also has unanimous support of the American Legion Auxiliary whose nearly 1 million members are the wives, mothers, sisters, and daughters of men who served their nation.

Like you, we Legionnaires are deeply concerned over the complex problems presented by the issue of amnesty. It is an emotional problem with overtones of justice, tempered with mercy and understanding. Amnesty is particularly difficult to consider today because of the profound and bitter division in our land over the Vietnam conflict—our longest war and . . . a bitterly divisive one . . .

. . . Today, our Vietnam casualties far outnumber our draft evaders. Over 70,000 by unofficial estimates are either military deserters or Selective Service evaders. For many, their excuse is the immorality of the participation of the United States in the conflict in Vietnam . . . Their cause is now being popularized and propagandized by many and diverse groups in the United States and abroad—including several candidates for high public office in our own country . . .

. . . The American Legion has an intense and direct interest in amnesty because of the fact that its members all were subject to the laws, regulations, pressures and responsibilities of military service in defense of the United States. And moreover, we are subject to the operation of the Selective Service System.

We believe that we have a real and vital stake in this issue since it concerns basically the rights and responsibilities of the citizen to bear arms in defense of his nation.

In 1783, Gen. George Washington expressed clearly the responsibility of citizenship which I believe goes to the heart of the proposition under discussion. Washington said: "It may be laid down as a primary position and the basis of our system that every citizen who enjoys the protection of a free government owes not only a portion of his property, but even of his personal services to the defense of it." The American Legion was formed to help insure that these rights and responsibilities were carried out in civilian life by those comrades who have borne them in time of war.

Proponents of amnesty at the present time fall into two categories. One group advocates unconditional amnesty for all military deserters and draft evaders. This group reasons that the Vietnam conflict is an immoral war for the United States; that those who recognize this and follow their conscience ought not to suffer any legal penalties for being right while their country was wrong; and, therefore, amnesty should be a blanket recognition of this.

Some spokesmen for this view, go so far as to advocate full veterans' rights and pensions for deserters and draft evaders for their sufferings in Canada, Sweden and elsewhere.

The second group of proponents offers amnesty to draft evaders but not to military deserters providing that draft evaders prove their sincerity by performing alternate service for their country.

The American Legion believes that most draft evaders and deserters consciously decided to refuse to accept their responsibilities as citizens under the law; that they evaded their responsibilities by flouting our laws and legal remedies rather than by going through the available, legal channels of redress; that their actions in declining to obey certain laws distasteful to them is contrary to sound legal and moral standards; and that the obligations of citizenship cannot be applied to some and evaded by others.

The American Legion resolved that: "We go on record as opposing any attempt to grant amnesty or freedom from prosecution to those men who either by illegally avoiding the draft or desertion from the Armed Forces failed to fulfill their military obligation to the United States." In other words, we of the American Legion firmly believe that giving any wholesale amnesty—whether conditional or unconditional—would make a mockery of the sacrifices of those men who did their duty, assumed the responsibilities in time of conflict and—in many cases—were killed, seriously wounded, or now lie in a prison camp somewhere in Indochina. Over 50,000 men have paid the supreme price of patriotism and citizenship: Another 302,602 have been wounded or injured. Over 1600 men are prisoners or missing in action in Vietnam, Laos, or Cambodia and the casualties have not ended.

How can any general amnesty be explained to these men? How can amnesty be explained to parents, wives, children—all those who have lost a son, husband, or a father in their country's service? How can we excuse ourselves to the prisoners of war, the missing in action, or to their suffering families for offering amnesty? Furthermore, what would be the effect on the morale of our Armed Forces if amnesty were granted . . .

Amnesty might even be the last bitter pill to our servicemen now caught in a web of confusion and held in disdain by those who hate the war and would do anything to drive us out of it in dishonor, including destroying our Armed Forces on the field of battle and their spirit. Our men are fighting the enemy. They are fighting dangerous drugs, they are fighting hatred and misunderstanding at home. They are coping with racial problems and the problems involved in a transitional period in military life and discipline.

We cannot afford to add the issue of a general amnesty to those problems at this time. It is clear from the Legion's resolution that our official opposition to amnesty is not a total opposition to it but an opposition to any sort of amnesty—with or without conditions—to all draft evaders as a class. Our resolution asks that all draft evaders be prosecuted.

This means that we would like each case to be heard in court and tried on its merits. The courts can deal with the particulars of each case and exercise leniency or sternness, based on the actual facts brought out in hearings about each particular draft evader. Surely the courts will find those who are innocent, and who should be excused without any further conditions. It is also implicit in our resolution that those found guilty would still have open to them the right of appeal. Should appeal fail they would have recourse to the President's pardoning power, if, on review of the facts in each case, he wishes to extend additional leniency beyond what the courts may extend.

This is implicit in our resolution, because any request for prosecution implies not only the possible finding of their guilt but the finding of innocence and the avenues for redress, appeal, and pardon are available to all persons who are prosecuted.

Our request that draft evaders be prosecuted does not deny to them their full rights under the law, or the opportunity for Executive clemency. Our resolution, in effect, opposes any form of blanket amnesty, and asks that each case be considered on its merits. The only other example in our history of amnesty for wartime draft evaders certainly bears out the wisdom of this approach—and, of course, it is consistent with the whole American system of justice which is based on hearing the charges and the facts in each case.

After World War II, the Roberts Board tried to treat all 15,805 World War II draft evaders the same, as all proposals for blanket amnesty do. The board threw up its hands at the injustice of such an operation. It found sinners of all degrees, as well as innocent men, among the World War II draft evaders. In the end, with the aid of the Justice Department staff, it reviewed each case. That was not the easy way out but the Roberts Board shouldered the huge job of review rather than accept the onus of dispensing justice by the shovelful . . .

We Legionnaires reject the simplistic labeling of our effort in Vietnam as immoral. We reject it on the grounds that such allegations are patently false. The United States' commitment to the government and the people of South Vietnam is just and moral. We are committed to providing South Vietnam a means whereby it can defend its independence and its right of self-determination. Our involvement in Vietnam was authorized under proper constitutional procedures and was sustained by the Congress.

The Vietcong were committing genocide in South Vietnam at the time we became heavily involved in that conflict—systematically slaughtering innocent civilians wholesale as a means of gaining political control. We knew this then and we know it now . . .

Any determination of amnesty based on the moral superiority of draft law violators is contrary to our concept of justice. Historically, the Congress, the President and the Judiciary have struggled to determine the extent of power of each. Should we now add a new dimension to this three-sided struggle—namely any citizen who claims that his unilateral view of morality is superior to the Congress, the courts and the President alike?

If we establish this as the correct view, the day will arrive when there will be little further use for the Presidents, the courts, or the Congress.

In summary, the American Legion's position on amnesty is: one, we oppose any attempt to grant amnesty now. Two, after the conflict ends, peace is established, and our prisoners of war and missing-in-action have been repatriated or accounted for, each case should be reviewed under existing procedures available to the courts and the President.

Source: Hearing before the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary United States Senate, 92nd Congress, 2nd Session on Selective Service System Procedures and Administrative Possibilities for Amnesty, February 28, 29, March 1, 1972 (Washington, DC: US Government Printing Office, 1972), 237–242. Available at Internet Archive:

http://archive.org/stream/selectiveservice00unit/selectiveservice00unit_djvu.txt