

Thoughtful read Ferrua for Ferrua

Italy.

REPORT of ADVOCATE BRUNO SEGRE.

I wish at the outset to offer a warm welcome to the friends who have come to Turin from various countries for the W.R.I. Meeting, and to thank them for the honour done to us in choosing our city, which has been the scene of the first of the trials of the Italian G.Os.

It has been my lot both as advocate and journalist to concern myself, from the very start, with this question in its judicial and social aspects, and to follow at close quarters the fortunes in the courts of 3 of the 4 Italian G.Os: Pietro Finns, Elevoine Santi and Pietro <sup>Ferrua</sup> Ferrua. It was not until after the Liberation that the expression "conscientious objection" began to be heard in Italy, when at last the break-up of the nazi-fascist tyranny made possible the circulation of ideas and the free expression of the personalities of these young men. Two trials took place before the Turin military court; the defendant at the first was a young man named Rodrigo Gastiello of Cuneo, a member of the Christian sect known as "Pentecostals", and the trial ended in April, 1947, with his discharge under an amnesty; the second was of a young man named Enrico Ceroni, who had pleaded conscientious objection at the 1st Recruit Training Depot (CAR) at Casale. In January, 1948, he was condemned to 5 months 20 days imprisonment, with the benefit of conditional suspension of sentence and of not having the offence recorded.

But up to this time there was little talk in Italy of conscientious objection and these trials had passed without remark. The man who gave the topic currency in public opinion was Pietro Pinna, to whom must go the credit of having, by his unshakeable steadfastness and by the utter dignity of his bearing, brought the problem of conscientious objection to the notice of the entire country. When he was called up in May, 1948 he had not yet arrived at the C.O. position. Having need to continue his work for domestic reasons, he received deferment for 5 months, and asked to be enrolled a member of the school for Officer Cadets at Lecce. He entered this on Sep. 22, and a few months of that life sufficed to make him realise the real nature of military institutions.

He noted - as he himself noted in a statement - that in military service a man's own conscience is being constantly betrayed and his own personality repressed. He felt that respect and reverence for one's neighbour was among the highest of human values. For him the commandment "Thou shalt not kill" seemed unconditional and absolute. Violation of this imperative would have been the grossest wrong-doing and would have created in his soul so unbearable a sense of degradation that any other evil would have been preferable.

After criticising Catholicism, in the sense that the Church has betrayed the spiritual interests entrusted to its care, Pinna went on in his statement to assert " a moral conception

of life, a complete identification of religion and life, is the conviction that if all our energies were spent in maintaining fidelity to the ideals which we profess, these ideals would triumph as by an automatic reflex (this is the essence of faith and this constantly renewed, in the words of Jesus, will remove mountains.) Faced with the dissolution and stultification of religious values, I carried these principles of non-violence and absolute truthfulness which derive directly from my religious insight to their logical conclusion.

War, notwithstanding the self-denial and heroism which are inspired by love of country, amounts in the end to the utter betrayal of all morality, destroys completely every human feeling, and refuses quite unforgiveably to recognise the divine worth of human life. No law ought to seek to do violence to the conscience of an individual to the point of preventing him from realising his own destinies, and of living by those principles for which he perceives he was born and in which he finds the *raison d'être* of his manhood."

Having then arrived at the conviction that war was useless and immoral and that he must assert the principles of non-violence and absolute truthfulness, Finna set down in writing his unwillingness to follow the military life any longer. Whereupon the Minister of Defence removed him from the course and sent him home. From the military point of view this was an act of intelligence (for it is preferable to have 10 or 20% fewer

soldiers than to have 10 to 20% antimilitarists in the ranks) and at the same time an act which showed respect for human dignity. Indeed mistrust and suspicion of the conscience of the citizen can only serve to lower his moral standards. Scepticism in high places can only tend to produce hypocrites lower down.

The Minister understood that Pinna's objection was no negation, but rather the active affirmation of an idealistic sense of values, upon which rested the foundation of his spiritual relationship both with his fellow human beings and with God. A short time only elapsed: on February 5, 1949, Pinna was called up again and posted to the 1st CAR at Casale Monferrato. Here Pinna declared that he could not perform his military duties, but offered at the same time to serve his country by removing mines from minefields. This attitude was deemed tantamount to the crime of persistent disobedience, and Pinna was put in prison and remanded for trial.

The psychiatrists confirmed that Pinna was neither an imposter nor a fanatic, nor a person suffering from delusions, but one who was sincere and acting in good faith, with full capacity to understand what he was about and to exercise volition. He was tried, after several months in custody, on Aug. 30. At the hearing, which lasted a whole day in the presence of many members of the general public, Umberto Calosso, M.P., Prof. Aldo Capitini and Prof. Edmondo Maroucci appeared as witnesses for the defence. Counsel entrusted with the defence were the advocates

Bruno Segre of Turin and Agostino Buda of Ferrara. The court, under the presidency of General Ratti, sentenced Pinna to 10 months imprisonment with such alleviations as the law allows. He was released forthwith, but at once received orders to report at the 10th CAR at Avellino. To the Commandant there Pinna restated the reasons for his refusal to serve in the army. He was then transferred to Naples and imprisoned in the fortress of St. Elmo.

Whereas at Turin his counsel submitted grounds for an appeal to the Supreme Military Court, Pietro Pinna was in fact brought up for summary trial before the Naples military judges and a defending counsel was assigned him officially. The Hon. Calosso alone was able to make the journey to Naples to give evidence on his behalf. His own accredited counsel knew nothing about it, and even Calosso was prevented in practice from expounding his views. The accused declared it to be his intention to state, in order that it might be resolved, a moral problem which was troubling more consciences than his own: "Conscientious objection is a natural human right, because it arises from the moral, nay, in some sense even the physical impossibility of doing anything which can directly or indirectly kill or maim a fellow-man.

The court sentenced Pinna to 8 months imprisonment, which when added to the 3 still to run of the previous sentence which had been suspended conditionally, made 11 in all. The

trial, however, was not without its aftermath. Sig. Calosso, in representations which he made to the Government, called in question the regularity of the judicial procedure of the Naples military court, described as a "legal travesty", because Pinna had no time to call his witnesses and counsel and had assigned to him a counsel for the defence who made a direct attack on conscientious objection itself, or, to use the actual expression employed by the advocate, "objectivity of conscience".

The Hon. Calosso, together with the Hon. Iginio Giordani, had laid before Parliament in November 1949, a bill for the legal recognition of C.Os. The bill says in effect, in its 4 articles, that C.Os may ask the Tribunal for recognition of "their status as conscientious objectors, i.e. as men who by character, mentality and habitual manner of life are possessors of the human worth and courage which are consistent with their far from common ~~sin~~ profession of faith." Those thus recognised as C.Os should be employed in services where they would not be armed and could not take life, and where they could relieve other persons of specially arduous or dangerous tasks. Those not recognised would be employed upon tasks of maximum hardship or danger, or indeed, if found to be impostors, punished with from 1 to 5 years imprisonment.

Sig. Giordani, in his speech to the House, recalled that from the time of the Roman Empire to the present day there have existed souls for whom the commandment "Thou shalt not kill"

has had absolute validity. The Christian martyrs, too, were objectors. Genuine C.O.s are not actuated by motives of cowardice, but by a serious moral and religious conviction, as a result of which to kill a human being would be to kill a brother. On the other hand, the freedom of conscience solemnly granted by the Constitution should also find concrete expression in the freedom to object. The problem, already solved in many countries, is especially an issue today in France and Italy. Conscientious objection has been accepted in countries whose armed forces have never in the last century suffered defeat, while it has not been recognised in the Germany, for example, of the Kaiser and of Hitler, specialists in defeat piled on defeat.

Sig. Giordani's words, persuasive as they were and inspired by a Christian spirit, were loudly applauded; the Under-Secretary of Justice declared that, with certain reservations, he had no objection to the bill being considered. The Chamber by a practically unanimous vote decided accordingly. Today the bill is undergoing examination by the competent legislative Committee. The Assembly will have to discuss it and give its approval in due course.

Sig. Giordani's reference to France was significant: just at that moment everybody was talking about the C.O. Jean Bernard Moreau, sentenced by a Paris court, which a few days before had ~~absolved~~ <sup>absolved</sup> a German soldier, Aloys Bauer, who was guilty of the summary execution of a French partisan. Here was an authentic

instance of the paradox of a Court which had ~~absolved~~<sup>absolved</sup> the German for not having refused in the name of his own conscience to obey an order legally given him, and <sup>punished</sup> the Frenchman for having refused to obey an order which went against his conscience. Following on the condemnation of Moreau, citizen of the world Garry Davis got himself arrested in order to share Moreau's imprisonment, and was imitated by his followers in various countries. The Socialist Deputy, André Philip, and the Christian Democrat, the Abbé Gau, brought in a bill in the French Parliament to substitute for military service civilian service of national importance in which just the C.Os could be employed.

In due course the Pinna case was settled. 23 British M.P's sent to the Head of the State and to the Head of the Italian Government an appeal in which they urged the adoption of a law in favour of C.Os and the release of Pinna. The latter was released from prison at the time of the general pardon, although he did not wish to benefit by any conditional suspension of his sentence, and for that reason demanded to be allowed to remain in prison until such times as the actual sentence itself should have been annulled. After his release, he was posted to the 9th infantry regiment stationed at Bari, where, naturally, he renewed his conscientious objections. But this time, instead of a 3rd trial, there was attributed to him nothing less than a "cardiac neurosis" sufficient to place him upon indefinite leave of absence and to relieve the Minister of any further embarrassments.



The Pinna case was hardly concluded, before another cropped up. A young man from Bologna, a student of architecture Elevoine Santi, left the university in order to get himself called up. At the 10th GAR at Avellino he claimed to have a conscientious objection to which he had arrived in a spiritual sense at a time when he had given his services as a labourer in the voluntary work camps at Fraly (Turin), under the direction of Pastor Tullio Vinay, and in the I.V.S.P. camp at Verchemy (France), where in the summer of 1949 he struck up a friendship with Jean Bernard Moreau and Garry Davis. He offered his services at Fogoli (Modena) in the "childrens city" established by Monsignor Don Zeno Saltini; but having stated that he intended to substitute that work for military service, he was not accepted.

On Jan. 12, 1950, Santi wrote to the Presiden of the Republic and to the Minister of Defence, explaining the grounds upon which he intended not to perform his military service: "I want to serve my country not by killing other people as a soldier is called on to do, but by furthering its progress with peaceful activities. I am ready and willing to undertake a longer, harder and more hazardous service." He then refused to put on uniform and to take part in military training. He was placed under arrest and brought to trial on Feb. 8th at Naples. The Military Court, after having arranged the hearing as though it had been one of summary jurisdiction so as to hamper the defence (represented by the advocate Segre and De Berardinis)

did not admit the evidence of witnesses cited by the latter and practically prevented the accused himself from stating his case. It was indeed a scandalous trial, at the conclusion of which Santi was awarded the maximum penalty, a year's imprisonment, without benefit of extenuations, of conditional suspension of sentence, or of non-mention in the record, which are granted to all first offenders. Santi, after a brief sojourn in the fortress of St. Elmo, which already had had Pinna as a guest, is now in the jail at Gaeta, and is waiting with confidence for the Galasso-Giordani bill to become law. Writing to his counsel Santi says: "The reasons for which I find myself in this place are more important than my personal freedom...."

And now, a month later, yet another case, bearing out the historical law by which, if you persecute the upholders of an idea, you merely increase their numbers. On April 3 there took place before the La Spezia military court the trial of a 19 year old anarchist named Pietro Fenna, from Sanremo, the first instance of a C.O. in the Navy. Faithful to the ethical principles of anarchism according to which, as Tolstoy said, "militarism is the official school of violence", and the army a shameful thing worthy only of contempt, Fenna, when he was called up to the CEMM at La Spezia, refused to put on uniform or obey the orders of the officers. And in a letter written from the prison at Sanjana, and seized by the investigating authority, he pronounced his intention to lend himself to some humanitarian tasks and not to the slaughter of his own brothers: "I have been

constrained by my conscience" he explains, "to take this attitude."

At the trial, at which the accused was defended by advocates Segre and De Filippi, the judge was fairly lenient, and sentenced Fenna to a years imprisonment with the usual legal benefits. Called upon afresh to don military uniform, Fenna renewed his conscientious objection, so seeking for himself a fresh trial in which the defence was undertaken by the advocates Pedio and De filippi. The judges, regarding this new offence as a continuation of the old, revised the earlier sentence and condemned Fenna to a total of 1 year and 3 months imprisonment, a term which he is at present serving at Gaeta with Santi.

At the end of June there occurred at Palermo yet another new instance of conscientious objection. A young man named Mario Barbani (of the 1929 class), a native of Ozzano Emilia (Bologna), stepped forward during a military review at the barracks of the 11th GAR from the ranks and went up to General Marras, Chief of the General Staff, and cast his rifle down at the General's feet. Remanded for summary process, he declared himself a C.O. and stated he did not intend to do military service because, he said: "I do not wish ever to find myself in the position of shooting at one of my own kind." Assisted by the official defending counsel, the advocate Pierfranco Bonocore, Barbani was sentenced for not having carried out an order, to a years imprisonment, without the benefit of a conditional suspension of sentence. Thus, counting Barbani, there are now 6 C.Os who have been sentenced by the military courts.

The methods of objection have been various, whether in respect of the inspiration behind the objection (religious in some, social and political in others), or in respect of the actual manner of the refusal (i.e. before putting on uniform, or during the course of service itself). What has always been the same is the determining moral factor, built on a foundation of good faith and loyalty which is beyond all argument.

The problem with which Pinna, Santi, Fenna and Barbani confront public opinion and Italy's lawmakers is very serious, having regard as it does to one of freedom's fundamental rights in connection with the principle of the obligation to perform such a collective service as that of military service.

Article 52 of our Constitution (with the amendment introduced by the Hon. Gasparotto) leaves the door wide open for the voluntary principle: "Military service is compulsory within the limits and terms established by the law". This limitation means that military service is not compulsory for all: apart from women, minors, the unfit, ministers of religion, clerks in holy orders, and ex-partisans, are in fact exempted. What is wanted, however, is a proviso or a regulation to include among these categories of exempted persons C.O.s as well. But this gap (which the Calosso-Giordani Bill would remedy if it became law) does not mean that the right not to kill should not be recognised, for it is a natural right and so is prior to the legislation of the State and takes precedence of it.

This essential right is provided for by Art. 2 of our Constitution: "The Republic recognises and guarantees the inalienable rights of man, whether as an individual or in the social groups in which his personality finds expression". Among man's inalienable rights whether as an individual or in the social groups to which he belongs (e.g. the army) is included undoubtedly the right to refrain from killing, an expression of that civil liberty which Italy has pledged herself to respect, both under Art. 15 of the Peace Treaty, and under Art. 18 of the Universal Declaration of Human Rights (approved on Dec. 10, 1948, in Paris).

Finally, Art. 52 of the Constitution, stating that "the organisation of the armed forces is informed with the democratic spirit of the Republic", means to refer to the typically democratic English and American type of organisation in which conscientious objection is recognised.

"The defence of the Fatherland" - Art. 50 of the Constitution lays down - "is the sacred duty of the citizen ...". And in regard to this absolute duty which can find expression in the most varied kinds of service (succour, health, tasks which are also dangerous and laborious) C.Os are in agreement. On the other hand military service is a relative duty, compulsory that is to say only within the limits and terms provided for, with such exemptions as are allowed and are capable of being extended to C.Os in so many words, which does not mean an exemption from

the other absolute duty, that of ~~having~~ serving the country in a variety of ways.

It might be observed that every citizen as such must undergo the burdens of national security, which weigh upon all the members of the community: but C.Os observe that, being a minority (on the same moral and judicial plane as linguistic, ethical and religious minorities in the various countries) they have the right that the State should accord them that freedom and that respect which the Constitution sometimes (Art.6) gives in favour of minorities. However, in the legislative system in operation in Italy there is a contradiction between the Constitution of 1948, expression of the re-birth of democracy, and the penal codes of 1931, expression of the fascist regime. The Constitution lays down general rules, principles of an abstract character: the codes lay down precise methods of dealing with individual types of action. As far as the Constitution is concerned the right to refrain from killing exists and therefore, by implication conscientious objection which is the manifestation of such a right. In the eyes of the military penal codes there exist only acts of refusal and disobedience which constitute so many crimes. Therefore Italian military judges today cannot fail to condemn the C.Os. Only if the Calosso-Giordani Bill goes through will the situation change; at the same time the next revision of the penal codes to bring them into line with the new times, will allow of the co-ordination of a law like this with the code and thenceforth will give the magistrates the chance of acquitting genuine C.Os.

The opposition to C.Os on the part of the most authoritative circles, and of the Catholic Church, the distrust of the Press and of the political parties, and finally the deplorable lining-up of Italy in the Atlantic Pact and the war atmosphere which now dominates the whole world, render it doubtful whether the Calosso-Giordani Bill will become law, and it is therefore likely that future C.Os will be persecuted.

I want therefore to urge the W.R.I. Council to intensify their efforts by means of authoritative pressure from abroad, as English and American friends have already done to some purpose, directed to the Government and public opinion of Italy, so that in our country, too, the judicial recognition of C.Os may turn out to be indispensable.

Bruno Segre.

Turin, July 10, 1950