

Judge Rules Jury Report On Kent Strife Is Illegal

Special to The New York Times

CLEVELAND, Ohio, Jan. 28 — United States District Court Judge William K. Thomas ruled illegal today a report by the Portage County grand jury on the disorders last May at Kent State University.

The judge ordered the 18-page report destroyed and stricken from the records.

He did not, however, dismiss the indictments of 25 persons in connection with the events that ended in the deaths of four students. Judge Thomas said that decisions on whether the 25 persons could have fair trials would be made when jury selection begins in each case.

In a 50-page memorandum and order issued this morning, the judge said the grand jury's report violated the right to a fair trial of the indicted persons.

Secrecy Seen Violated

The jury, he said, went far beyond the scope permitted under state law for such juries, violated its oath of secrecy and violated the constitutional rights to free expression of 23 Kent State faculty members, who the grand jury said bore a major responsibility for the events at Kent.

The court order by Judge Thomas came as a result of hearings on two suits in United States District Court here, combined by the judge for the hearings and order.

One suit was by 32 Kent faculty members. The other was by 10 Kent students, including nine indicted by the grand jury, and nine other persons.

Hearings on the Federal suit took place before Judge Thomas here in November and December.

The grand jury's report was issued in October, and the indictments were returned then. The report absolved members of the Ohio National Guard for its action in the deaths of four students and the wounding of nine others. The report also accused the Kent State administration and some faculty members of a laxity and permissiveness that the jury indicated was responsible for the violence.

Judge Thomas, in ordering the jury report destroyed, said it made 770 different findings, including one that events on the Kent campus early in May constituted a riot.

These particular findings, said the judge, must be proved in the trial of defendants accused of violating the state's antiriot law.

"The grand jury is an ac-

cuser of crime, not a trying body," Judge Thomas said.

In ruling that the jury violated its oath of secrecy, Judge Thomas said, "These findings and conclusions, unlawful violations of the grand jury oath of secrecy, prejudiced the indicted persons. If allowed to stand, these findings and conclusions will irreparably injure their right to a fair trial."

"The vice of the violation of the oath of secrecy is that the grand jury finds commission of criminal offenses and ascribes guilt to participants."

A.C.L.U. Doubts Fair Trial

CLEVELAND, Jan. 28 (UPI) — The American Civil Liberties Union, which filed the suit challenging the report and is defending several of those indicted, said today that it doubted whether a fair trial was now possible.

"The only alternative of the courts will be either to dismiss all of the charges or proceed with sometimes less than a fair trial," said Benson Wolman, head of the Ohio chapter of the A.C.L.U.

The state Attorney General, William J. Brown, said he would not know what steps to take until he had seen the order.

The Kent State president, Robert I. White, said, "This action by the Federal court is further proof that the judicial process eventually does work and can be relied upon in pending cases."

Thomas E. Lough, an assistant professor of sociology and one of those indicted, said the ruling was a "substantial victory."

"But" he added, "I think it is too early to tell what the implications are of the decision in my case and the other 24."

Prosecutor Stands Ready

CLEVELAND, Jan. 28 (AP) — Perry Dickinson, special state prosecutor at Kent, said the judge "apparently doesn't feel a grand jury has any right to issue reports." He said he foresaw no trouble in prosecuting the cases "as long as the indictments stand."

Robert Hastings, the Ravenna insurance broker who was the jury foreman, said. "It was my opinion we were to issue a report. Frankly, I didn't think that report was prejudicial to any trials and I still feel that way. We simply were trying to evaluate what we thought went on there."

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