

Pacifist Gets Suspended Sentence

for Destroying Draft Card

David J. Miller, 23-year-old pacifist convicted of publicly destroying his draft card, received a three-year suspended sentence and was placed on probation for two years yesterday by Federal District Judge Harold R. Tyler Jr.

As conditions of probation, Judge Tyler ordered Miller to obtain a new draft card within two weeks and to carry it; to obey all lawful orders of his Selective Service board, and, if called, to serve, to submit to induction into the armed forces.

The tall, slender graduate of Le Moyne College, a Jesuit institution in Syracuse where he majored in sociology, said after he had been continued free in \$500 bond pending appeal:

"I have no intention of obeying any of the judge's directives, even if I have to go to jail."

Protested Vietnam War

Before imposing sentence, Judge Tyler told Miller he had been bothered by the fact that the defendant, in view of his pacifist leanings, had never filed with his draft board a statement that he was a conscientious objector to war.

He asked Miller if he would now file such a form. Miller said he would not.

"I don't want to send you to prison," Judge Tyler said, "for several reasons; partly because

of yourself and I don't want to create a myth of martyrhood."

"I certainly don't want to go to prison," the defendant answered softly.

Miller was found guilty of destroying his draft card last Oct. 15. He said he was protesting the Selective Service System and the war in Vietnam. He was the first person indicted under a law enacted last summer.

To make certain that Miller would be acceptable for induction in the face of a felony conviction for which he could have received five years in prison and a \$10,000 fine, Judge Tyler ordered that his probation be lifted the day he was inducted.

Assistant United States Attorney Peter Fleming told Judge Tyler that Miller had the right to dissent and protest. But he said that, aside from publicly destroying his draft card, Miller had never voiced his thoughts in public or written on the subject.

Marvin Karparkin, Miller's lawyer, said that Miller's act had been a moral and religious protest. He said that Miller had invited arrest to test what he believed to be an unconstitutional law.

Judge Tyler told Miller, "Someone has given you very bad advice. I am not referring to your counsel."

Miller has been associated



Associated Press

David J. Miller

with the Catholic Worker Movement at 175 Chrystie Street.

Plans to Subpoena Captives

Special to The New York Times

HARTFORD, March 15—An attorney for a youth charged with draft evasion said today that he would attempt to sub-

poena Americans and Vietnamese, including an American naval officer he says is being held prisoner in North Vietnam, to testify that United States troops in Vietnam were guilty of criminal acts.

The lawyer, Mark Lane, made the statement in an interview in a recess on the first day of a retrial in United States District Court here.

David H. Mitchell 3d, 23, of 150 Crown Street, Brooklyn, who formerly lived in New Canaan, is on trial for refusing to report for induction. He contended that the United States is guilty of war crimes and that under the rulings of the Nuremberg trials he has "duties which transcend the national obligations of obedience imposed by the individual state."

Mr. Lane declared that he was prepared to produce several Vietnamese civilians and two American servicemen who would testify to atrocities.

Mr. Lane declined to disclose the name of either serviceman.

The bulk of the day was devoted to selecting the jury of nine men and three women, plus a male alternate.