

poverty law Report

A REVIEW OF ADVANCES IN THE LEGAL RIGHTS OF THE POOR

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Paramilitary unit of KKK is banned by judge

The Ku Klux Klan's private army in Alabama has been enjoined from operating, according to the terms of a consent decree recently issued by the judge handling a lawsuit brought by the Southern Poverty Law Center against the Invisible Empire.

The lawsuit was filed in June of 1982 on behalf of the NAACP and all black citizens of Alabama against Klan leader Bill Wilkinson, his Klan "Special Forces" paramilitary organization, and all other officers and members of the semi-secret group which claimed to be arming and training itself in the hills of north Alabama for a "coming race war."

The filing of the Alabama lawsuit followed by only a few days the successful conclusion of a similar SPLC lawsuit in Texas, in which a federal judge ordered the closing of four paramilitary camps operated by the Knights of the Ku Klux Klan.

Alabama, like Texas, has a law which essentially forbids private armies. Though Klan leaders claimed the "spe-

cial forces" units were for security for their rallies and meetings, the facts showed Klan members dressed in "combat fatigues" engaged in drilling and maneuvers at several locations in Alabama.

The Klan "soldiers" were armed with high-powered assault weapons, took orders from a "commander-in-chief," and learned rudimentary guerrilla warfare techniques.

The "special forces" first came to public attention in 1980, when news reporters were invited by the KKK to attend one of the training camps at a secret location (the farm of a Klansman near Cullman, Alabama).

The existence of the camp made headlines and was seen on the evening news throughout the nation, thus accomplishing instantly one of the Klan's goals, which was to spread the word about its newest technique for intimidation.

However, soon after the initial news



Klan 'commander-in-chief' has been disarmed by Alabama judge.

coverage, most of the north Alabama Klan leaders were sued by black citizens of Decatur, Ala., in connection with a Klan attack on a black protest march there in 1979. The new klan paramilitary unit quickly went underground after that lawsuit was filed.

Klan leaders have since denied that the camps were ever more than a publicity gimmick and have testified in depositions that there was no real training involved, that the "obstacle courses" photographed by reporters were erected

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Fair taxes sought in Kentucky case

By JERRY HARDT

LOVELY, Ky. — Some of the greatest wealth in this nation lies beneath the hills and mountains of Kentucky. Coal reserves there will fuel America's industrial engine for decades to come.

Yet for all this wealth beneath their feet, some of Kentucky's citizens are among the nation's poorest. Kentucky's Seventh Congressional District has the dishonor of being the worst of the 435 districts in the nation in one survey of education levels. Overall, barely half of Kentucky's citizens are high school graduates. Similar inequalities exist in hous-

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ing, medicine, roads, water and sewer service.

"It's a shame and a disgrace," says Everett Akers, of Floyd County, Kentucky.

"If you think us people in eastern Kentucky don't know what's going on, you're wrong. We do know," Akers said. "I blame the coal companies for robbing eastern Kentucky. They take all the money and leave us with potholed roads and poor education."

Many of his fellow citizens agree, and are organizing to do something about the gross discrepancies between the wealth of a few coal companies and the poverty of many individuals. However, the problem has as much to do with unfair tax policies as with greedy coal

companies.

The Kentucky Fair Tax Coalition and the Southern Poverty Law Center are jointly investigating actions that could be taken to bring about reform of Kentucky's taxation.

Historical Roots of Problem

The neglect of Kentucky's rural people, particularly in the eastern Appalachian mountains, goes back more than 100 years. The steep terrain made travel difficult, helping keep the region isolated, and much of the industrial growth and advent of public services of the late 19th and early 20th centuries remained far removed from the daily lives of mountain people. Education would have been almost completely lacking had it not been for church missionary societies

and other private institutions establishing schools in the region.

It was also in the late 19th century that Appalachia was "discovered" by eastern industrialists. Geological reports began telling of vast coal, oil and gas deposits underlying the Cumberland Plateau. Investors wasted no time in speculative purchasing of large tracts of mineral rights, generally severing the minerals from the surface land with a "broad form" type deed which granted overwhelming rights to the new mineral owner.

As the nation turned to coal to fuel its northern factories and growing steel industry, life in Appalachia changed. Isolation was broken in many communi-

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Klan leader Bill Wilkinson (center) poses with some of his self-styled commandos at 1980 training camp.

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the day before, and that no more than one campsite ever existed.

Those assertions are probably partly true. KLANWATCH investigators know that publicity was a key motive. However, several Klansmen lied under oath when testifying about the number and locations of camps, the number of members involved, the type of training, and other details.

The full details of the camps may never be known except to the participants, for in signing the consent decree the Klan leaders agree to an injunction barring all further paramilitary activity by the KKK in Alabama. Since that was the object of the SPLC lawsuit, the litigation will end there.

This litigation was handled by the SPLC by Chief Trial Counsel Morris Dees, who also was the lead counsel in the case against the Texas Klan paramilitary. Dees said he was confident that the NACCP would have won its case if it had gone to trial, and that the

Klan also recognized this and thus agreed to an injunction in order to avoid additional legal expenses.

The precise language of the decree states that the "defendants and their members, servants, agents, assigns, are hereby enjoined from associating, assembling or congregating together by or under any name in a military capacity for the purpose of drilling, parading or marching at any time or place in Alabama or otherwise take up or bear arms in any capacity."

The injunction was issued against Bill Wilkinson, leader of the Invisible Empire, Knights of the Ku Klux Klan; Terry Tucker, commander-in-chief of the Klan Special Forces; several individual Klan members; and Wilkinson's corporate Klan group.

In addition to the Klan paramilitary activity in Alabama and Texas, private Klan armies appear to exist in some fashion in several other states. About 24 states have laws like those of Alabama and Texas which prohibit private armies. KLANWATCH is investigating other possible violations.

In 1979 case —

More Klan defendants named in Alabama

A number of additional KKK members participating in the May 26, 1979, attack on a black protest march in Decatur, Ala., have been identified and added as defendants in the civil lawsuit filed by the Southern Poverty Law Center against the Invisible Empire, Knights of the Ku Klux Klan.

This brings to about 60 the total number of defendants in the case. Evidence collected by KLANWATCH investigators and testimony taken in depositions conducted by SPLC attorneys has revealed a conspiracy by the Klan to attack the march, a systematic and well-organized attack, and a subsequent cover-up to keep the police and FBI from discovering the truth.

The FBI investigated the case in 1979 and said they could find no evidence of a conspiracy to violate the civil rights of the black marchers. However, faced with the new evidence uncovered by the SPLC lawsuit, the FBI and the Justice Department reopened their investigation during 1983.

According to news reports, a federal grand jury has met several times in Birmingham during the past few months to hear evidence and testimony concerning the case. Indictments of Klan leaders and members could be announced at any time if the grand jury has been hearing and seeing the same sort of evidence that has turned up in the SPLC's civil suit.

More than a dozen Klan members have now testified, during depositions conducted by SPLC chief trial counsel Morris Dees, that Klan leaders came to their local chapter meetings a few days prior to the May 26, 1979, attack, and urged the members to come to Decatur on that Saturday morning to block the blacks' march.

The testimony also reveals that Klan leaders gathered the approximately 100 Kluxers together at a meeting spot in Decatur that morning, further discussed the plans, passed out sticks and clubs, and then led a caravan to the site where the attack took place.

"Niggers, this is as far as you go," one Klan leader has been quoted as saying.

In the melee which followed, five police were injured, and two blacks and two Klansmen were shot. To date, the only person prosecuted in the incident is a black man, Curtis Robinson, who was convicted of assault with intent to murder.

The SPLC represented Robinson in 1979 on his claim of self-defense and in the process had to investigate the Klan's actions. Following Robinson's conviction, the civil lawsuit, *People's Association of Decatur v. The Invisible Empire, Knights of the Ku Klux Klan* was filed seeking monetary damages and an injunction against the Klan.

That lawsuit led to the creation of the KLANWATCH project. Several additional lawsuits have been filed by the SPLC against the Klan since then, but the Decatur case is still the most complex and ultimately the most important.

Even though it may not go to trial for several more months its impact on the Klan has been substantial. At the time of its filing, the Invisible Empire faction of the Klan, led by Bill Wilkinson of Louisiana, was the most active, the fastest-growing and the most violent Klan group in the country.

Today, his Alabama Klan leaders and members are finding themselves constantly in court, faced with the possibility of criminal indictment and significant civil penalties. Wilkinson's Alabama membership is a fraction of what it was in 1979-80, and his activities in other parts of the nation have been severely limited by the litigation in Alabama.

Of the 100 or so Klansmen and Klanswomen who filed out into the street to block the black march in Decatur, KLANWATCH investigators have painstakingly tried to identify and track down the attackers.

More than 125 depositions have been taken in the case.

Klansmen participating in the conspiracy, the attack or the cover-up came from throughout north Alabama — from Muscle Shoals, Huntsville, Birmingham, Jasper, Cullman, Athens, Decatur, Hartsville, and other communities.

This was a major effort for Wilkin-

son's Klan, and was intended to stop recurring black protests in the Decatur area and to send a message across the nation that the KKK was again strong and active.

The incident did make international headlines, and it appeared for a time that the Klan would escape without punishment for the attack. Now, however, the progress of the civil suit and the pending criminal investigation by the Justice Department indicate that belated action may be taken.

At this writing, a federal judge in Birmingham has not ruled on the SPLC's request last spring to hold Bill Wilkinson in contempt of court for not complying with a previous order to turn over information needed by the plaintiffs to continue the suit.

The judge said, during a July hearing, that it was his opinion that Wilkinson was in contempt, and that if he so ruled the punishment Wilkinson could expect would be severe. The judge said, however, that he wanted time to study the complex legal issues involved, and

he has not yet ruled. Nor has Wilkinson yet turned over the documents and information requested.

When this case was originally filed, the main plaintiff was the People's Association of Decatur. This was an informal group of people who were among the marchers who were attacked, and they were the first ones to approach the SPLC for legal help.

However, the march on May 26, 1979, was sponsored by the Southern Christian Leadership Conference. In fact, Dr. Joseph Lowery, president of the national SCLC, and the Rev. John Nettles, Alabama president, and the Rev. Arthur Turner, Decatur president, were in the front line of the march. Mrs. Joseph Lowery was driving a car following along with the march, and a bullet went through her windshield only a few inches from her head.

The SCLC has now been named as the lead plaintiff in the case, and has been joined in the lawsuit by the NAACP. A number of individuals from Decatur are also plaintiffs in the case.

The defendants are Bill Wilkinson and other Klan leaders. Wilkinson's national and Alabama Klan groups, and about 60 — at this point — individual KKK members.

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Strip mining has ravaged Kentucky lands.

Fair taxes

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ties with the construction of railroads and the influx of management personnel from the east to run the mines.

This shift occurred in another way, also. As the railroads and mining companies entered the region, they purchased vast acreages of surface land above their mineral holdings, a buying trend that has slowed but continues until the present.

Absentee

Ownership Documented

Changes, though, have been slow coming. The region has been opened up some by the construction of major coal haul highways and the return of many who left for the north in the 1950's and 60's. But there is one major difference between the 1980's and twenty years ago — the involvement of local citizens to overcome this dominance and take control of their communities and their future.

Perhaps the most significant step in this growth of citizen activism was the completion of the Appalachian Land Ownership Study in April 1981.

* In the 80 Appalachian counties sampled, the top one percent of the owners own 44 percent of the land; the other 99 percent of the population must compete for the remaining 56 percent of the land;

* Of the 13 million acres of surface land sampled, 72 percent is absentee owned;

* Of the mineral property included in the survey, 80 percent was absentee owned;

* Over 75 percent of the mineral owners pay less than 25 cents per acre annually in property taxes;

* Forty-one percent of the land and minerals owned by the 30,000 owners in the survey are held by only 50 private owners and 10 government agencies;

* Forty-six of the top 50 owners are corporations, most of them absentee (located out-of-county and usually out-of-state);

* The federal government is the largest single landowner in Appalachia, holding over two million acres.

* All property is required by law to be assessed at its fair market value. Yet thousands of acres were listed on the tax rolls at far below their actual value and produced little tax revenue. The Kentland Company, for example, a subsidiary of Berwind Corporation, of Philadelphia, owned 27,611 acres of surface land and about 75,000 acres of mineral rights in Pike County, yet their land was assessed at only \$55 per acre;

* The Pocahontas-Kentucky Corpora-

tion, a subsidiary of the Norfolk Southern Corporation (formerly the Norfolk and Western Railroad), owns 81,333 acres of mineral rights in Martin County alone, representing over half of the mineral in the county. Yet their annual property tax bill on this holding comes to only \$74 a year. This is because the state legislature rolled back the tax rate on unmined coal to such a low level that it, in effect, represents no tax at all. Overall in the 12 counties, only \$1,500 is collected annually in property taxes on some of the most valuable coal land in the nation;

* In Perry County, corporations owned 54 percent of the land in the sample but paid only nine percent of local property taxes. In neighboring Letcher County, these figures are 62 percent and 12 percent, respectively.

* Land owned by coal corporations in eastern Kentucky is often given an agricultural value, enabling these companies to pay reduced taxes on that land, even though this is a clear violation of state law;

* In many counties, mineral tracts and their owners are not even recorded on the tax rolls, and when they are, assessments are not at fair market value — additional violations state law.

Statistics Hit Home On County Level

"Our members had suspected all along that there was a large concentra-

tion of ownership and a lot of property going untaxed," states Terry Keleher, staff director of the Concerned Citizens of Martin County (CCMC), the most established of several local citizens groups which are focusing their efforts on the impacts of the ownership and taxation patterns.

And perhaps the injustice is no better seen than in Martin County. There is no sewer system. The water system is in poor condition and does not have a stable supply. There is no garbage collection system or 24-hour medical service. The nearest hospital is about an hour away. Only in the past few months have state funds been made available for the development of a public library. Local schools do not provide quality education for their students. Martin County students, like most of those in eastern Kentucky, generally score at the bottom of the list on achievement tests.

The other side of Martin County is that it is the second leading coal-producing county in the state. In 1982, production exceeded 16 million tons, resources worth no less than \$500 million that were taken from the county. Salaries of employed miners tend to be high, but the contribution to the local economy goes little beyond that. The coal industry bears a number of taxes, but pays little in the way of local property taxes. And, of course, the profit goes elsewhere, leaving nothing for an investment for the future.

"When you tax away our right to tax coal in eastern Kentucky, you take away the only thing we have to tax," states Homer Marcum, editor of the *Martin Countian* and an outspoken advocate of an unmined minerals tax and other property tax reforms. "You're taking away from Martin County the opportunity to improve its plight and prepare for the day when the coal is gone."

In neighboring Johnson County, Billy Arms drives home the point. "Is it fair to say the more land you own, the more mineral you own, the more wealth you own, the less taxes you pay? We are in the middle of one of the richest mineral deposits, but these deposits are bringing almost nothing to our local governments."

Arms like to illustrate his point by showing copies of property tax bills for

which a coal company paid only 17 cents per acre on their land and mineral holdings while individual property owners have been paying over two dollars per acre.

Additional dollars for local schools, particularly in light of federal budget cuts and state budget shortfalls, will be one of the primary benefits of placing a fair and equal tax on mineral property and reversing the assessment inequities and violations of law granted to owners of other forms of property. The Kentucky Fair Tax Coalition (KFTC) was formed when citizens in Martin, Harlan and other counties realized that they could only effect a certain degree of change on the local level and that a statewide organization was necessary to address these broad inequities. KFTC research show exactly what the impact has been on coal-producing counties:

* In the top ten coal-producing counties, the amount of revenue raised per pupil from local property tax sources averages \$121. This compares with \$1,076 raised per pupil in Jefferson County (Louisville) and the \$936 in Fayette County (Lexington), the state's major urban areas. The overall state average is \$421 per pupil.

* Local property taxes account for less than 10 percent of the revenue for these local school districts. Again, this compares with 25 percent in Jefferson County and 34 percent in Fayette County.

* Pop and candy machines have been placed in a number of schools. Without revenues from these machines, teachers would not have money to buy classroom supplies.

A Three-Prong Approach To Tax Reforms

In just over two years of existence, KFTC has become a credible organization with over 500 members representing 45 of Kentucky's 120 counties. Now with a staff of five plus two full-time consultants, the organization's members are taking a three-prong approach to change — legislative, administrative and judicial — all done with a heavy emphasis on local organizing efforts. And it is in the judicial arena that the Southern Poverty Law Center will soon help KFTC launch its most significant challenge to

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John Long

Some Kentucky rural areas have no sewer systems, and outhouses are still used.

Bias toward blacks persists in trooper unit

Governor George C. Wallace's defiant stand in the schoolhouse door in the 1960's symbolized for many the South's fanatical opposition to integration during the civil rights era. No less defiant, however, though less dramatic, has been the Wallace Administration's refusal to carry out a long-standing federal court order to integrate the Alabama State Troopers.

In a lawsuit filed by the Southern Poverty Law Center in 1972, then-U.S. District Judge Frank M. Johnson, Jr., ordered the trooper force, which had never before had a black trooper in its entire 37-year history, to begin hiring blacks on a one-to-one ratio with whites until the force became 25 per cent black, roughly equivalent to the state's population. But for 14 years now, during which Wallace has been governor all but four, the Department of Public Safety has used every tactic at its disposal to frustrate the will of the court.

Acting on Wallace's orders, the Department resisted the decree and during the mid-1970's all hiring was frozen in order to avoid having to meet its requirements. Consequently the total number of

troopers steadily declined, through attrition, until the force was left dangerously understaffed. The few blacks who had been hired before the freeze found the road to career advancement blocked by discriminatory promotions practices.

In response to the Department's actions SPLC attorneys asked the court in 1978 to order a remedy for the Department's failure to hire and promote blacks to supervisory positions, and after negotiations the parties agreed in a consent decree on a plan to develop a valid promotion procedure for the rank of corporal, the next step above patrol officer. It was hoped it would also be the first step toward developing fair promotion procedures for the ranks of sergeant, lieutenant, captain and major.

Characteristically, the schedule was not met, and in 1981 the parties agreed to yet another consent decree which permitted the department to administer still another promotion procedure, although it forbade any promotions until determination could be made that the procedure was non-discriminatory. In April 1983, after further delays and continuing noncompliance, SPLC attor-



Alabama's first black state troopers: Once hired, most could not get promoted.

neys filed a motion seeking enforcement of the two previous consent decrees and a determination whether the promotion procedure had an adverse racial impact.

Last October the court ruled that it did and, in response to a request from SPLC attorneys, the court ordered that for a period of time at least 50 per cent of all troopers promoted to corporal be black. The quotas would remain in effect until 25 per cent of troopers with the rank of corporal were black or until the Department developed and implemented

for the rank a non-discriminatory promotion procedure.

The need for this racial quota is clear: after 12 years of litigation, there is still not a single black among the six majors, 25 captains, 35 lieutenants, or 65 sergeants on the force. Of 66 corporals, one rank above patrol officer, only four are black. The remainder of the blacks on the force, constituting about 21 per cent of the total number of troopers, hold the rank of patrol officer.

Klansman convicted in lynching

A Mobile, Ala., Klansman was convicted during December of the 1981 murder and lynching of Michael Donald, a 19-year-old black man.

The defendant, Henry Hays, 28, was local Klan leader and is the son of Benny Hays, a state officer in the United Klans of America. The UKA is led by Robert Shelton of Tuscaloosa, Ala., and was one of the most violent Klan groups in the nation during the 1960's.

Testimony during Hays's trial indicated that he and another Klansman, James "Tiger" Knowles, kidnapped Donald at random on the night of March 21, 1981, took him to a remote location, beat and strangled him to death, and then took his body back to Mobile and hung it from a tree.

Their motive, according to the testimony, was "to show Klan strength in Alabama." The murder closely followed a mistrial in the case of a black man accused of the slaying of a police officer.

Hays was convicted of capital murder, an offense which in Alabama carries a punishment of death in the electric chair or life imprisonment without parole. The jury convicting Hays recommended that he be sentenced to life without parole. As far as is known, no white man has ever been executed in Alabama for killing a black.

Prosecutors based their case on the testimony of Knowles and other present and former Klan members. Knowles, 20, said he and Hays beat Donald, who "fought like a crazed animal" until he became unconscious. Then, Knowles said, he and Hays put a "hangman's noose" around Donald's neck and strangled him with it. The body was then taken back to Mobile and hung in the tree.

Knowles has pleaded guilty to a federal charge in the case and could receive a life sentence.

SPLC to build new headquarters

The Southern Poverty Law Center will soon be breaking ground for the construction of a new headquarters building. New facilities have been needed for a long time, but the impetus behind the current plans was the arson of the existing office on July 28, 1983. (See Fall 1983 Poverty Law Report.)

The new building will be located on the corner of Washington Avenue and Hull Street, on a hill overlooking downtown Montgomery and just one block from the Dexter Avenue-King Memorial Baptist Church and two blocks from the State Capitol.

The location is an appropriate one for what is today one of the most active and most effective civil rights organizations in the South. The new building is

being made possible by the contributions of thousands of SPLC supporters from across the nation who responded with concern and outrage to the arson.

No arrests have been made in the arson, though investigators believe they have solid leads that will ultimately lead to prosecutions.

In the meantime, the existing SPLC and KLANWATCH offices have been repaired, a more sophisticated alarm system has been added, and the staff has moved back in and returned to normal operation.

The arson was a serious setback to the work of the Law Center. It caused thousands of dollars of damage and wasted time in moving back and forth to temporary quarters. However, the legal

and investigative work was never disrupted. Court documents were being filed — on schedule — from attorneys' homes within two days after the fire, and from temporary offices after that.

The new building is designed to protect against future attacks on the SPLC's still-controversial work, to allow that work to be more efficient and its performance more pleasant for the staff, and to serve as a memorial to the long struggle for civil rights in which the SPLC has been a participant for more than a decade.

Construction of the new headquarters is expected to take about nine months and to cost about \$750,000.

Fair taxes

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the system to date.

Currently, legislative efforts are a prime focus of KFTC activity as the Kentucky General Assembly meets only once every two years, as it is doing for the first 60 working days of 1984. A bill to tax unmined minerals at the same

methods as all other property while protecting small landowners enjoys popular support throughout the state, but coal industry lobbyists have mounted a well-financed campaign to block its passage. Estimates on the revenue this tax would generate range from \$45 million to \$132 million, with a third of this going directly to local school districts, another third to county governments, and the

remainder to the state.

On the administrative front, CCMC has been taking the lead. A public awareness campaign was used to prompt the local Property Valuation Administrator to raise the assessment on property owned by Pocahontas-Kentucky Corporation from \$50 an acre to \$200 an acre in 1981.

The following year, 1982, CCMC initiated a third-party challenge of the property assessment of Pocahontas and Martiki Coal Corporation, claiming the \$200 an acre assessment did not represent fair market value.

Supplementing the legislative and administrative efforts will be a federal lawsuit filed jointly by KFTC and SPLC against the Kentucky Revenue Cabinet alleging unequal and unfair application of property tax laws.

SPLC attorney Ira Burnim says that the suit will likely be filed under the equal protection clause of the 14th Amendment as local residents are being denied equal protection because their property is fairly assessed and they pay more than their proportionate share of taxes, but for no justifiable reason many large corporations don't pay their fair share.



Some Kentucky schools are the worst in the nation.