

More Legal Freedom for Penitentiary Inmates Bothers Salem Law Circles

By **DICK HUMPHREY**
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 Salem (UPI)—Federal Judge Gus Solomon's recent sweeping decision allowing Oregon State Penitentiary inmates much more freedom in studying law and preparing appeals is causing interest and concern in government and legal circles here.

Part of this increase is due to the new Post-Conviction Law passed by the 1959 Legislature. This law is designed to bring order to the chaos of post-conviction appeals and put all remedies including habeas corpus under one statute. It also makes it mandatory for the inmate to be provided free legal counsel in preparing his appeals if he has no money—most inmates don't.

This, with the new legal freedom in the penitentiary, creates some problems because the law provides that if legal counsel was not provided in habeas corpus actions before the new law became effective, the petitioner may try again—with counsel—under the new act.

Some legal minds feel this law guaranteeing counsel to penniless convicts makes some of Judge Solomon's lifting of restrictions unnecessary. They reason that access to law books is not necessary if a lawyer is provided. Immediate result of the law will doubtless be an increase in the number of actions brought under it—both old and new cases.

The decision in the case of several inmates reverses most of the restrictions imposed by Warden Clarence Gladden on library use, purchase of law books, keeping of legal papers in cells and access to legal counsel at all times.

Sun Never Sets On These Natives

Much of the interest stems from the fact that the state penitentiary is located here and proceedings such as habeas corpus whereby inmates seek their freedom must start in Marion county Circuit Court.

Belgrade—(UPI)—To be numbered among those upon whom the sun never sets are natives of Olib, Silva, Brac, Hvar, Vis, Korcula, Solta and Drvenik.

These are islands in the Adriatic Sea off the coast of Yugoslavia. They have seen thousands of emigrants leave their shores during the last 75 years to be scattered throughout the world.

Supporters of Solomon's decision herald it as a victory for the rights of the individual while opponents fear it may greatly increase the burden on the courts with a flood of habeas corpus proceedings that may be triggered by the new freedom.

About 60,000 of them live today in the United States, a figure representing almost 40 per cent of the present population of all the coastal islands put together.

It also allows the attorney to file an affidavit with his client's case stating his belief that there are not sufficient grounds for it. However, the petition will be examined by the court which will decide for itself.

As Marion county circuit court officials noted: "Ten years ago we only got one or two a year." Figures since August of this year already

show 18 or 19 cases.

Previously all habeas corpus cases from the prison were heard by the Marion county circuit court only. But the new law allows the case to be sent to the circuit court where the inmate was convicted. This will spread the work load around and speed decisions.

Original Jurisdiction

Nothing in the new law prevents the State Supreme Court from taking original jurisdiction in habeas corpus cases. But the high court has not exercised this power in years, feeling there was adequate remedy in the circuit court.

The consensus seems to be that the new freedom of access to books and lawyers provided by Judge Solomon's decision plus the new post-conviction law may increase legal actions for a time but that eventually there will be fewer but better prepared actions than can be provided by "jailhouse lawyers."

The goal of the new law is to guarantee an inmate all the rights named in the U.S. and state constitutions and at the same time reduce the flow of many different motions, often badly planned, which now swamp the courts.

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