

## **CHAPTER III**

### **The Draft or Freedom**

No one argues that the military draft is not an example of physical coercion, thus denying liberty to those drafted. But it is carelessly accepted by many, except those of draft age, as necessary to the preservation of a free society.

If one looks closely at the issue, one sees that conscription is a trait of totalitarian government, and is not characteristic of a nation that champions individual freedom. There are some who recognize that the draft is truly a violation of individual rights and oppose its imposition, except in extreme circumstances such as declared war. Even though a consistent defense of natural rights and individual freedom compels the rejection of the draft under all conditions, those who recognize their inconsistencies and would permit a draft only under emergency conditions are less of a threat to freedom than those who advocate peacetime conscription, with or without a national youth service.

It is this group, who either deliberately ignore or do not have the vaguest idea of what it means to live in a free society, that presents the greatest danger. For anyone developing a consistent political philosophy, the draft must be recognized as one of the most fundamental of all freedom issues.

### **Patriotism and the Draft**

Patriotic Americans should courageously defend natural rights and individual

freedom. Today's confusion has led many to believe that patriotism compels them to compromise on this one issue and to grant to the state the authority to draft our youth, against their wishes, to fulfill a carelessly devised, illogical and dangerously interventionist foreign policy.

For this reason we see many good conservative congressmen, with their patriotic ideals, championing the reinstatement of the draft. Patriotism should never be a justification for endorsing conscription. A patriotic American will instead guard against using the power of the state against the people under all circumstances.

It is in the American tradition to oppose a drafted military. For us, the drafted army is essentially a twentieth-century phenomenon. Its institution corresponds with the decline of our economic and personal freedoms and the rise of militarism. The drafted army dates roughly from the Wilson Administration and the First World War.

Although a draft was tried in the Civil War, it was met by stiff resistance and was never accepted, nor was it effective. It was so unpopular that it produced fewer than 50,000 soldiers, under 3 percent of the total forces. Some argue that it actually prolonged the war and did nothing to win it. Young men could avoid serving, even if drafted, by paying \$300 to the government. This made the Civil War draft very different from what we have experienced in this century.

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***Patriotism should never be a  
justification for endorsing conscription.***

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The Founding Fathers never granted constitutional authority to the Congress or the President to conscript an army. The Ninth and Tenth Amendments are very clear in stating that if a power is not granted to the federal government, that power is "retained by the people." The argument that the constitutional authority "to raise and support armies" gives the federal government the authority to force a young man to serve in the military was explicitly rejected by the authors of the Constitution. In the Federalist Papers #41, James Madison wrote:

It has been urged ... that the power to lay and collect taxes ... to pay the debts, and provide for the defense and general

### Chapter 3 – The Draft or Freedom

welfare of the United States, amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare. No stronger proof could be given of the distress under which these writers labor for objections than their stooping to such a misconception.

Certainly Madison believed that government authority must be explicitly granted. The argument that the common defense permits a draft is clearly a constitutional misconception.

Daniel Webster, a great champion of freedom and defender of the Constitution in his early Congressional years, was a staunch supporter of the voluntary military. In the War of 1812, there were many who wanted to impose the draft. Even as gunfire was heard near the Capital, Webster debated on the House floor and defeated the attempt to impose a draft for the "protection" of the country.

It should be remembered that with the draft in the War of 1812, as well as the Revolutionary War, our people fought and won with a sense of patriotism. Yet with the draft, with the millions of conscripted soldiers, with billions of dollars, and with all the advanced technology, we lost in Vietnam. Defending liberty and providing for an army is more complicated than merely imposing a draft on a select few.

Daniel Webster, in his great speech in the House in 1814, said:

The question (of military conscription) is nothing less than whether the most essential rights of personal liberty be surrendered and despotism embraced in its worst form... Is this, sir consistent with the character of a free government? Is this civil liberty? Is this real character of our Constitution? No, sir, indeed it is not. The Constitution is libeled, foully libeled. The people of this country have not established for themselves such a fabric of despotism. They have not purchased at a vast expense of their own treasure and their own blood a Magna Carta to be slaves. Where is it written in the Constitution, in what article or section is it contained, that you may take children from their parents, and parents from their children, and compel them to fight the battle in any war in which the folly or the wickedness of government may engage it? Who will show me any constitutional injunction which makes it the duty of the American? Who will show

me any constitutional injunction which makes people surrender everything valuable in life, and even life itself, not when the safety of their country and its liberties may demand the sacrifice, but whenever the purposes of an ambitious and mischievous government may require it?

Finally in 1865, the states approved the Thirteenth Amendment which provides that "neither slavery nor involuntary servitude, except as punishment for a crime whereof the party shall have been duly convicted, shall exist within the United States." Denying that conscription is anything but involuntary servitude is a distortion of the clear language and intent of this amendment.

Nowhere do these statements indicate that Americans in the name of patriotism shall be forced to endorse conscription. Other great Americans have also taken a strong principled stand against a conscripted military. Robert A. Taft strongly opposed the draft, and he was never said to be "unpatriotic," even by his political opponents. In one of his great speeches on the subject, Senator Taft said:

It is said that a compulsory draft is a democratic system. I deny that it has anything to do with democracy. It is far more typical of totalitarian nations than of democratic nations. It is absolutely opposed to the principles of individual liberty, which have always been considered a part of American democracy. Many people came to this country for the single purpose of avoiding requirements of military service in Europe. This country has always been opposed to a large standing army, and it has always opposed the use of the draft in times of peace. I shrink from the very setting up of thousands of draft boards, with clerks and employees and endless paper work and red tape, from the registration of 12 million men and the prying into every feature of their lives, their physical condition, their religious convictions, their financial status, and even hobbies.

Milton Friedman, the Nobel Prize-winning conservative economist said:

We need a strong military. But strength depends on spirit and not merely numbers. Our military will be far stronger if we recruit it by methods consistent with the basic value

### Chapter 3 – The Draft or Freedom

of a free society than if we resort to the methods of a totalitarian society.

In the 1980 campaign for the Republican Presidential nomination, the two most conservative candidates opposed the draft. Their unchallenged patriotism never compelled them to endorse the draft or even peacetime registration. Congressman Phil Crane said on the House floor:

The draft is a form of involuntary servitude which imposes unnecessary restrictions on the freedoms of draftees and their families alike ... The American tradition is founded on an attachment to the principle of individual freedom. Imposition of a draft is contrary to that principle. It violates the spirit of the Thirteenth Amendment-protection against involuntary servitude.

In a speech at Louisiana State University in Baton Rouge, Louisiana, on September 23, 1980, Ronald Reagan spoke of his "vision of secure freedom" and his attitude to the draft:

I oppose registration for the draft ... because I believe the security of freedom can best be achieved by security through freedom. The all-voluntary force is based on the sound and historic American principle of voluntary commitment to defense of freedom ... the United States of America believes a free people do not have to be coerced in defending their country or their values and that the principle of freedom is the best and only foundation upon which a defense of freedom can be made. My vision of a secure America is based on my belief that freedom calls forth the best in the human spirit and that the defense of freedom can and will best be made out of love of country, a love that needs no coercion. Out of such a love, a real security will develop, because in the final analysis, the free human heart and spirit are the best and most reliable defense.

These are great patriotic words, and it was this expression of love of country and the voluntary spirit that was responsible for the election of Ronald Reagan.

The war issue, used against conservative presidential candidates in the

past, did not work in 1980, and Governor Reagan's position on the draft, in contrast to President Carter's, was largely responsible.

The American people know deep down that coercion is wrong and voluntarism is preferable. It certainly was a disappointment to see President Reagan change his mind regarding registration after the election. Unfortunately too many have been confused into believing that the patriotic position is to endorse the draft.

Another great patriotic American, Dan Smoot, said this about the draft in a letter to me:

As I told you I was opposed to the draft even in 1950 when the Communist party and 'liberal' outfits that always followed the Communist line were the only others who opposed it. They opposed the draft because being statist they thought it would strengthen the United States to resist communism. I knew it would do just the opposite of that; yet, aware of the subtle difficulties of arguing against the draft on strictly constitutional grounds, I avoided those difficulties and built all my arguments on the unimpeachable assertion that a draft violates the spirit of liberty which brought Europeans here in the first place, and violates the principle of liberty which enables those transplanted Europeans to build a free society.

Judging from these quotes, it is clearly an error to assume that the conservative position is in support of the draft.

### **Conscription and Natural Rights**

Conscription contradicts the whole concept of natural rights. If our lives and liberties are gifts of the Creator, as our Founding Fathers believed, the use of our lives should never be controlled by the State. If they are controlled, it supports the totalitarian notion that rights are mere privileges granted by the state and, therefore, removable at will by the state, an idea alien to the American tradition.

That is why it is so important that this most fundamental of all liberty issues -- conscription -- be thoroughly analyzed and understood.

There is a moral obligation for those living in a free country to participate in its defense; everyone of us has that obligation. This moral obligation, fulfilled voluntarily, cannot be confused with the suggested

### Chapter 3 – The Draft or Freedom

"morality" of someone owing a service to a government that demands a young man risk his life under threat of imprisonment.

Author John Hospers says: "The argument for the draft comes to this: 'I want you to protect me so badly that I'll gladly sacrifice your life so you can do this.' The answer is that my life is not yours to sacrifice. "

Russell Kirk in the *Conservative Mind* states the argument against universal military training just as clearly:

Universal military training, the most crushing burden that the state can impose upon its people ... is found in conjunction with leveling democracy not merely by coincidence. The armed hoard is a concomitant of egalitarian socialism and state planning; and it is a natural reaction of any society which has abandoned all the old habitual and internal disciplines, so it must rely (as Burke predicted) upon arbitrary external discipline. Individuality, like imagination, must vanish from a people among whom socialism triumphs.

Not only will individuality vanish, but so too will individual liberty, as the resistance to compulsory military service disappears.

Ayn Rand said opposition to the draft is not to be confused with pacifism:

Needless to say unilateral pacifism is merely an invitation to aggression. Just as an individual has the right of self-defense, so has a free country if attacked. But this does not give its government the right to draft men to military service, which is the most blatantly statist violation of a man's right to his own life.

The question boils down to this: can a free society be preserved by compromising on freedom itself? Or is the danger very real that once this compromise is made, the defense of all other freedoms becomes impossible? Although all freedoms of expression do not vanish overnight with the imposition of a draft, a blanket acceptance of conscription -- especially in peacetime -- will surely be followed by the demise of all other liberties as well.

Most conservatives reject compulsion in economic matters, yet accept the coercive role of government in forcing the innocent young to face

battle. If conservatives permit the young to be forced to wear uniforms and risk their lives in undeclared wars like Korea and Vietnam, what intellectual defense is there against a similar grant of authority to the state to compel national civilian service? If a peace-time draft is acceptable to the American people, more arbitrary forms of people control will surely follow.

In the Second World War, Joseph Stalin made this very point. He was once asked by an American writer, according to Professor Dean Russell, how he (Stalin) could justify conscripting all the property of all the people for use by the government to fight the war. Stalin answered by asking why they considered it more immoral and illogical to conscript lifeless property than to conscript life itself, as was being done in the United States and all other capitalistic countries. His American challenger had no answer, because there was no answer.

Conservatives correctly reject registration of guns on constitutional and freedom grounds. They know that registration is merely a vehicle for later confiscation. It is disturbing to me that so many who see the importance of this liberty insist on registering their own sons with the government. Our young people's lives and liberty deserve at least as much consideration and constitutional protection as our guns.

If the liberty of our young people is neglected, the liberty required to maintain a free-market economy cannot be defended; the very foundation of liberty—the right to control our own lives—has been removed. An OSHA or EPA inspector can never be as much of a threat to our existence as an order directing us to the foxholes of a worthless foreign battlefield.

If the government can literally spend the lives of our youth in foolish military adventures, what argument is there against government's spending, controlling, and taxing away the fruits of our labors for less dangerous things? There is none, and that is why statism, interventionism, socialism, and the loss of freedom in all areas of society have paralleled the gradual acceptance of a draft by the American people.

Unless we have a comprehensive defense of liberty which insists on economic and personal liberty, and correspondingly rejects compulsory service of all sorts, the consensus that a drafted army is proper will unfortunately prevail. Neither the conservative, who outlaws gambling and alcohol and homosexuality, nor the liberal, who regulates and taxes the economy, is likely to stand against the tide of those who desire to place an unfair military burden on our young people.

In conceding that conscription is a proper function of the State, one

## Chapter 3 – The Draft or Freedom

places the State above God, collective right above individual rights, planned economy above the market economy, and property above life itself. The patriotism, the devotion, the wisdom, the conviction, the commitment, and the idealism which we all seek and need for a free society to exist cannot be achieved by conscription. This tool, used by many states for centuries, has never built a free society, nor can it be used to preserve a free society.

Dean Russel in *The Conscription Idea* made this statement: "I have more faith in myself and in my fellow American than do the politicians and humanitarians who desire to defend my freedom by depriving me of it. "The strength of a free nation comes from the rightness of its policies and its people's convictions that the nation's purpose is noble and proper."

Freedom cannot be preserved by tyranny. Ultimately our decision on this most fundamental issue will tell us the direction in which our nation is going.

### **The Draft Is Unfair**

Those who promote the draft actually believe it can be made to be fair. Even though they recognize the many shortcomings of previous drafts, they maintain vigorously that their plan for a draft will be fair. This is impossible.

There has *never* been a draft that was fair.

All attempts at making the draft equitable have used arbitrary and discriminatory power tactics that defy every precept of liberty. Conscripts are the ultimate victims of governmental rejection of our heritage and individual rights.

The inconsistency of supporting the draft while talking about "equal justice under the law," accepting that we have been "endowed by our Creator with certain inalienable rights, and among these are life and liberty should be obvious to everyone.

Selective service is nothing more than deciding who shall die and who shall live. All the justification and rationalizations about fighting for noble causes cannot change this fact. When registration is initiated, the sentencing through government power of some young people to death begins. These are not murderous criminals, but innocent victims. How can anyone with a sense of morality participate in this crime against our children?

As Dean Russel stated:

A mania for compulsory equality has swept this nation. It now applies to how we shall die or face death, as well as to how we shall work and be educated. It is as illogical in the one instance as it is in the other.

Not only is this mania illogical, economic equality or fairness in the draft is never achieved. Yet these egalitarian notions serve only to undermine our free society.

Even if we could distribute the death sentence without discrimination, it would still be a crime against God and man. Equal distribution of the risk of death and suffering is impossible. The attempts of some proponents of the draft to make it universal, both military and civilian, cannot correct these inequities.

Even the thought of universal conscription should chill the spine of any freedom-loving individual.

Bad wars cannot be fought without conscription. During the Vietnam War, only 17.7 percent of the armed forces were draftees, but 33.7 percent of those fighting in Vietnam were drafted.

The plain truth is that some will be sentenced to die and others will not. Nobody wants to think in these terms, but we have no choice.

How does one ration death? A government that believes it can ration gasoline equitably may be tempted to believe it can ration death as well.

Our gasoline allocation system led to gasoline lines; a conscription system will prompt lines leading to Canada, Europe, and Latin America. It is tragic to think that other countries can offer more freedom and security than America.

The problems which egalitarian conscriptors face are many:

Should only boys go, or girls as well?

This question alone can rip America apart. Many religions teach that it is not the responsibility of women to bear arms, but to preserve and protect our homes. Soldiering, they believe, is a moral responsibility of men.

Are students exempt?

## Chapter 3 – The Draft or Freedom

The feeling now is against the student exemption; however, given a shortage of MD's and other professionals and the arbitrary nature of conscription, those who promote the draft will surely reason that exemptions are, not only wise, but absolutely necessary. I can conceive of some student exemptions even being mandated.

Visual problems? Flat feet? Bedwetters? Homosexuality?

Why does one with a slight visual problem escape the death sentence? Flat feet used to save the young men from the rigors of foreign battle. What other silly medical exemption will preserve one life over another? Bedwetters were ruled exempt from conscription in the Second World War. Following this ruling, bedwetting promptly went up 1,200 percent in one Texas training camp. Those feigning homosexuality could also get an exemption.

Age?

This discrimination is the worst inequity of all. Why does the 45-year-old who has lived well and never served get off scot-free, staying home to reap the profits of military expenditures? How can anyone send an 18-year-old to death in a no-win foreign war and allow a war profiteer, who never served, to live in luxury?

Religion?

Religious exemptions have existed in the past, and will continue, I'm sure. Why is a Mennonite's refusal to fight honored, and a Baptist's met with a jail sentence? Are rights relative? If so, relative to what? They cannot be related if we believe in equal justice before the law.

It is obvious that we do not need to draft all of the 32 million people between the ages of 18 and 26. No matter how big a war erupts, the questions remains, which fraction will go and who shall choose? Selections must be arbitrary. The use of the Selective Service is the use of force and the threat of violence, methods that are unacceptable in a free society.

The obvious frustration of implementing a fair draft has led to the

Ultimate and so-called fair solution – the lottery. I cannot believe that conservatives who want to close the gambling houses would resort to gambling to choose who is to die and who is to live – and use this method in choosing who should be drafted.

Can we permit the lottery to be used to relieve politicians of their guilt for arbitrary choice on who shall risk his life? Universal military service and the lottery are symbolic of the pro-draft people's desire to ration death sentences and escape the responsibility therein.

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***The use of the Selective Service is the use of force and the threat of violence, methods that are unacceptable in a free society.***

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Conscription must, of necessity, be selective and arbitrary. To argue otherwise defies logic. The selecting must be beneficial to one and deadly to another. Since conscription is the ultimate tax – the tax that takes a life and uses, maims or even destroys it—its discriminatory distribution means we must reject the entire notion.

Amnesty for our recent draft dodgers established a fact: disobedience to draft laws preserves life, with punishment unlikely; obedience to draft laws means risk to one's life, with the rewards for service being society's scorn, possible physical injury, and perhaps even death. This recent history cannot be erased.

Just as many conservatives as liberals today have plans to protect their children by finding a safe haven for them if another "Vietnam" erupts. Of all the reasons why a draft cannot be fair and equitable, the amnesty exemption is the most repulsive to one who loves freedom and understands the need for a society guided by law and not ruled by men.

The states of marriage and of pregnancy raise many questions regarding the draft. Do the married have more right to live than the unmarried? According to most laws on conscription, they do. Justification for this defies logic and destroys the concept of equal rights. Marriage can be authentic or merely legal; many "paper-marriage contracts" have been drawn up in the past to escape the draft. If there were a marriage exemption, young people would flock ill-advisedly to the altar.

If married women were taken, could they be taken if pregnant? Should expectant mothers be treated differently from expectant fathers? Pregnancy

## Chapter 3 – The Draft or Freedom

in the first month is difficult to diagnose, so the cost of induction and discharge or providing care could be astronomical. How do you keep married women from getting pregnant? Or unmarried drafted women? Social acceptability of the unmarried mother, coupled with the advantage of escaping conscription, would provide a great incentive for getting pregnant. The heavy tax of conscription would prove a handsome subsidy to obstetricians.

Discrimination by numbers will occur, in spite of all the attempts to make the draft equitable. If 100,000 draftees are needed, or even 1,000,000, why must 32,000,000 register and become victims of civil rights discriminations?

Why must the noncommitted be subjected to exams, testing comparisons, and perhaps training, even if rejected for a good reason? The mere thought of instituting a really fair draft boggles the mind.

The risking of life in the defense of one's country must only be done with the consent of the individual. Otherwise life, freedom, liberty, natural rights, and equal protection under the law become only hollow words.

There is no philosophic defense for any part of freedom if we concede the right of the State to impose this maximum tax. The preservation of a society founded on the principle that rights come from God cannot be saved with a remedy based on state power over the individual.

### **The Draft and the Constitution**

The Ninth Amendment to the Constitution states that just because certain rights have been listed in the Constitution, this "shall not be construed to deny" any others. And all these "others" are "retained" by the people-not a draft board brought into existence by an ill-advised Congress.

The Tenth Amendment is equally clear. Any power not specifically "delegated to the United States by Constitution" is "reserved to the state respectively or to the people."

These two amendments are the most frequently abused portions of our Constitution, since so little that is done in Washington these days is specifically authorized in the Constitution.

When I pointed this out one day to a colleague, with regards to the constitutionality of foreign aid, he became outraged and said, "The Constitution is not important," but "the laws we write, that permit us to appropriate the funds are. " My suggestion that before these funds

can be wasted overseas, they must first be stolen from the people made him livid and our conversation ended.

Both Madison and Webster argued against the draft from a constitutional viewpoint. They argued correctly that any action by the federal government must be authorized by the Constitution or the action is illegal. Conscription, its proponents argue, is authorized by Article 1, Section 8, Clauses 1, 12, 13, and 14: "Congress shall have power ... to provide for the common defense and general welfare for the United States ... to raise and support armies."

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***Neither Congress nor the President has the authority to draft or register anyone***

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Conscription is obviously not explicitly authorized by these or any other clauses, so its proponents fall back upon an implicit authorization. But conscription is not authorized by the Constitution, either explicitly or implicitly.

If conscription is not authorized by the Constitution, neither is registration, for registration has no purpose except as a means to execute conscription. Neither Congress nor the President has the authority to draft or register anyone.

The Hartford Convention in 1815, following the attempt to impose the draft in 1814, was adamant that there was no Constitutional authority to conscript. The convention reported:

The effort to deduce this power from the right of raising armies is a flagrant attempt to pervert the Constitution. The armies of the United States have always been raised by contract, never by conscription, and nothing can be wanting in a government possessing the power thus claimed to usurp the entire control of the militia in derogation of the authority of the states, and to convert it by impressment into a standing army.

The convention also recommended a constitutional amendment against conscription, just as Rhode Island had insisted prior to being the last of the thirteen colonies to ratify the Constitution.

Robert Taft realized the significance of the error of accepting conscription as being constitutional and the danger of allowing force to be

### Chapter 3 – The Draft or Freedom

used to recruit individuals to serve in any capacity deemed important or necessary by the state.

With this type of mentality ruling Congress today, it is no wonder that the productive citizen now serves the nonproductive citizen as a fulfillment of the nonproducer's "rights." The goods and services that are provided to the nonproducers by wealth redistribution through taxation, inflation, or special economic regulations may be indirect as compared to conscription and national service, but the principle remains the same.

Taft in his 1940 speech clearly analyzed the illogical consequence of permitting a draft:

The principle of a compulsory draft is basically wrong. If we must use compulsion to get an army, why not use compulsion to get men for other essential tasks? We must have men to manufacture munitions, implements of war, and war vessels. Why not draft labor for those occupations at wages lower than the standard? There are many other industries absolutely essential to defense, like the utilities, the railroads, the coal mining industries. Why not draft men for those industries, also at \$21.00 a month? If we draft soldiers, why not draft policemen and firemen for city and state services? The logical advocates of the draft admit this necessary conclusion. Senator Pepper, of Florida has said that he believed the President should have power to draft men for munitions plants. Mr. Walter Lippman says that if the conscription bill is to serve its real purpose it must not be regarded as a mere device for putting one man out of twenty-five into uniforms' but must be regarded as a method of mobilizing the men of the country for much larger and more complicated task of industrial preparedness. In short, the logic behind the bill requires a complete regimentation of most labor and the assignment of jobs to every man available to work. This is actually done today in the communist and fascist state, which we are now apparently seeking to emulate.

Obviously, according to Taft, the draft is not constitutional.

## **The Court Rules**

Two unfortunate Supreme Court decisions in 1918 and 1968 claimed the draft was constitutional. The fact that the Supreme Court has, on two occasions, ruled this way gives the conscriptor "credibility" and power, but it is hardly enough to make it morally correct and Constitutional. The Supreme Court has been in error before. Obviously a reversal of the opinions would be required if the draft is ever to be outlawed. These rulings permit the draft, but do not compel it-only Congress and the President can force the draft on our children.

And fortunately, we still do have something to say about who our representatives are and how they should act. The responsibility of interpreting the Constitution and imposing or not imposing the military draft still lies with the people through their representatives.

In the 1968 case, the *United States vs. O'Brien*, Earl Warren said that the power "to classify and conscript for military service is beyond question." This is the same Earl Warren who, as California Attorney General, helped inter Japanese-Americans in concentration camps and defended this action as being constitutional. Warren was notorious for ignoring the Constitution if it conflicted with his political prejudices.

For those who are pro-life, an analogy of the rights of the unborn to the rights of the teenage draftee are worth considering. If rights are universal, those two groups should be treated equally. The life of the unborn and the life of the 18-year-old should both receive equal protection under the law. The Supreme Court decision of 1973 said there was a relative value placed on *in-utero* life as being less valuable than *extrautero* life.

A decade of struggle has not yet erased this inconsistency, but if we are to survive as a free and moral nation, this decision must also be reversed. Without its reversal, the relative value placed on life will lead to infanticide, euthanasia, and human experimentation. History has proven this, and consistent conservatives have supported this view. Relative value placed on human life by conscription is not unlike the examples above, which are arbitrary and discriminatory. Good conservatives fight for the right of even an unwanted, deformed, unborn child to live, yet at the same time seal this same child's fate through a lottery system that issues death sentences to be carried out on distant foreign soils for causes unknown.

### Chapter 3 – The Draft or Freedom

During the Civil War, with Lincoln's assumption of war power, the issue of the draft never made it to the U.S. Supreme Court. Although, in a practical sense, the draft was a total failure for the Union, the fact that there was never a Supreme Court ruling against the draft meant the legal stage was set for the acceptance by the courts in 1918.

By then the growth of the collective mentality of the twentieth century permitted the general acceptance of compulsory military service. The cause of declining personal and economic freedoms since 1914 parallels the rise in popular support for compulsory military service-not surprisingly since they are one and the same.

There was one case of great importance in 1863, *Kneedler vs. Lane*, heard before the Pennsylvania Supreme Court, where the issue of conscription was considered in detail. The draft was ruled unconstitutional, only to be reversed by a new majority on the court two months later. The complainants based their case on the claim that the federal government had no power to compel military service, even in fight of "insurrection," for the Constitution says that "repelling insurrection and repelling invasion will be a responsibility of the state militia," not the federal government.

In the majority opinion given at Pittsburgh, Pennsylvania, on November 9, 1863, which ruled the draft unconstitutional, the following comments were made by Chief justice Lowrie:

If Congress may institute (a draft law) as a necessary and proper mode of exercising its power 'to raise and support armies' then it ... may compel people to lend it their money (or) take their houses ... I am quite unable now to suppose that so great a power could have been intended to be granted, and yet be left so loosely guarded.

Two other Justices, Woodward and Thompson, agreed with Chief Justice Lowrie by adding:

... assuredly the framers of our Constitution did not intend to subject the people of the states to a system of conscription which has applied in the mother country only to paupers and vagabonds ... Times of rebellion, above all others, are the times when we should stick to our fundamental law, lest we drift into anarchy on one hand, or into despotism on the

other. The great sin of the (present) rebellion consists in violating the Constitution, whereby every man's civil rights are exposed to sacrifice ... the argument is that the exigencies of the times justify the substitution of martial law for the constitution.

And Justice Thompson further added:

We cannot suppose that at the moment the country had achieved its liberty ... that such a despotism over the lives and liberties of men, would be incorporated into the Constitution as conscription. As if by the agency of the pressgang ... the Constitution was adopted in ignorance, certainly, of any such power, if it does exist, it has required the lapse of three-quarters of a century to develop its latent evils. The moral evidences are all against the idea (of the draft).

Two months later Chief Justice Lowrie's term expired, and the opinion was reversed by a court order vacating the injunction against the draft, in itself an unconstitutional maneuver. The only proper means by which a ruling like this could be overruled would be for a higher court to do so, and in this case it would have had to be the U.S. Supreme Court. No new facts were entered, no new affidavits were entered; the injunction was merely vacated.

J. L. Bernstein, who wrote up this case in the American Bar Association journal in 1967, said:

In my reading of law, I have never come across a more fascinating opinion than *Kneedler* ... It was obvious that the government had no desire for a full-dress review in the court of last resort, despite President Lincoln's (publicly) expressed hope for it. "

That forthcoming ruling was not to appear until 1918, following the imposition of the draft in the First World War. Without the chance of the Pennsylvania case going to the Supreme Court, the squelching of the real constitutional dissent for the draft set the stage for the first disastrous U.S. Supreme Court ruling on the draft in 1918. In dealing with the issue of the Thirteenth Amendment, it was clear that the justices in 1918 believed in the constitutionality of the draft only in a declared war. The need for a draft should come only "as a result of war declared

## Chapter 3 – The Draft or Freedom

the great representative body of the people."

The Court was hardly thinking about our adventures in Korea and Vietnam as qualifying. Since they did not comment, we will be fighting undeclared wars. Justice Douglas in his dissent on May 20, 1968, in a similar case contested this precise point-that if a draft is constitutional, it is definitely limited only to times of declared war by the Congress, and should not apply to careless police actions engaged by an ill-advised Administration:

This is undoubtedly true (the right to conscript) in times when by declaration of Congress, the nation is in a state of war. The underlying and basic problem in this case, however, is whether conscription is permissible in the absence of a declaration of war. That question has not been briefed nor was it presented in oral argument, but it is, I submit, a question upon which the litigants and the country are entitled to a ruling.

Justice Douglas is absolutely correct on this point. But I believe the American people are entitled to a complete hearing on the entire point of constitutionality-with the viewpoint expressed that would defend individual liberty more consistently, getting a better hearing than we have had in these past two Supreme Court rulings. A ruling limiting the draft to declared war only would be beneficial, although far from perfect.

Current court opinion claiming the constitutionality of conscription should not sway our opinion, since we know the history of this decision, as well as other decisions of the Supreme Court.

The Congress is given the primary responsibility-one they have flagrantly ignored-for interpreting the Constitution. The people, with their voice in Washington, can reverse the trend of freedom erosion whenever they put their mind to it. Then the oath taken by each Representative to uphold the Constitution will mean something.

### **The Draft: the Final Blow**

Military dictatorships are usually built on brute force, but on occasion one is built on deliberate court and legislative actions. The attitude expressed by the Supreme Court as it declared a male-only draft constitutional,

opens the door to abuse by the military and encourages the conditions that are destined to drive us to war.

A constitutional crisis has been ongoing in this country for decades.

On opinions regarding busing, bilingual education, hiring procedures, prison reform, taxes and abortion, the courts have ignored the Constitution and rewritten laws to impose social reforms of their choosing.

This attitude could not have been more evident than in the Supreme Court ruling that permits registration of some men (18-21-year-olds) and no women. This ruling, *Rostker (Director of the Selective Service) vs. Goldberg* 1981, dramatizes this crisis and demonstrates to what depths we have fallen.

It is apparent that the official regard for the Constitution, for individual liberty and constitutional principle, is so calloused as to prompt great disenchantment with the judicial system. The Court held on June 25, 1981:

The act's registration provisions do not violate the Fifth Amendment. Congress acted well within its constitutional authority to raise and regulate armies and navies when it authorized the recognition of men and not women.

The conclusion, therefore, is that rights are relative, allowing some citizens to be victimized more easily than others. If the "due process" clause of the Fifth Amendment affords no protection, why doesn't the Ninth, or Tenth, or the Thirteenth?

This question was not even addressed by the Court. Even the equality they refuse to protect was an aberrant version. The desire of some women for "equality" by demanding equal injury with men by being drafted has hardly an appropriate way to demand equal justice before the law. Nevertheless, the Court was deliberate in ignoring the issue of equal justice.

Assuming that any function of government can be accomplished by conscripted labor is a dangerous and untenable assumption in a free society. Authority "to raise an army" cannot be construed as power to force service while ignoring the Ninth, Tenth, and Thirteenth Amendments.

If this is the case, power to conscript Supreme Court Judges at \$10 per week, civil service workers to deliver the mail, or workers in plants providing weapons for military use would then be acceptable. This possibility cannot be ignored and remains a true danger as one studies exactly what the Court said in *Rostker vs. Goldberg*.

### Chapter 3 – The Draft or Freedom

At the rate we are going, it is not impossible to assume someone will actually include these other functions of government as well. The mere fact that the Constitution authorizes certain precise responsibilities to government is no justification for the use of force to conscript persons to perform those functions or services. The exact opposite is the case.

This one assumption can serve as the ultimate tear, never to be repaired again, in the document meant to preserve our liberty from men determined to rule over other men. The story of history is the story of men seeking control over others, ignoring the desire of most who demand and expect that their lives be their own, uncontrolled by others. This ruling further confirms my concern that personal liberty is on the wane and constitutional protection of all our liberties is threatened.

If ever there was an area needing constitutional restraints placed upon an Administration or Congress, it is in the area of “military affairs.”

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***The mere fact that the Constitution authorizes certain precise responsibilities to government is no justification for the use of force to conscript persons to perform those functions or services***

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All areas of concern should be treated exactly equally; however, a constitutional responsibility of the courts should be exactly the same regardless of the issue at hand. Yet the Court assumes a relative responsibility (Rostker vs. Goldberg):

The customary deference accorded Congress's judgments is particularly appropriate when, as here, Congress specifically considers the question of the acts' constitutionality, and perhaps in no other area has the Court accorded Congress greater deference than in the area of national defense and military affairs.

Great deference in "military affairs" is not what is needed to prevent war. This "great deference" in the twentieth century for military affairs has brought us four major wars and hundreds of thousands of deaths and injuries.

The Court further confirmed this rejection of responsibility by saying

they were anxious to: "dispel any concern that we (the Court) are injecting ourselves in an inappropriate manner in military affairs."

The Court describes a horrible attitude toward war preparation:

Congress's determination that any future draft would be characterized by a need for combat troops was sufficiently supported by testimony adduced at the hearings so that the courts are not free to make their own judgment on the question.

"Need for troops" is all that's required as determined by Congress, and to the Court the purpose of the troops was unimportant, as was the concept of individual liberty.

The Court further stated that: "Congress was entitled in the exercise of its constitutional powers to focus on the question of military needs rather than 'equity'." The thought that "military needs" is deserving of greater protection than "equity" and justice before the law is a staggering thought and the fertile ground on which military dictatorship can flourish.

In other words, there are no restraints on Congress as long as what is done is in the name of "military need." That fact should frighten any decent, peace-loving American.

The Court, to describe its indifference to addressing the rights question involved, both to individuals facing the draft and to women being treated differently from men, used words like "strict scrutiny" being replaced by "minimum scrutiny."

Minimum it was; a rights concern it was not! This deference to Congress in military affairs is done by applying the "important government interest" test. In other words, "government interests" are superior to "individual rights."

I have sensed this for years, but to read this in a Supreme Court ruling is nevertheless frightening and exasperating. To our Supreme Court, important government interests are superior concerns to important individual rights of life and liberty.

The Court in *Rostker vs. Goldberg* admitted that there was no "area of governmental activity in which courts have been less competent" than in military matters. In this case a lot more was involved than a military opinion on training, a most basic question of protecting individual liberty. To that qualification, I agree; the courts are "incompetent."

Their main concern and argument was that Congress had previously written legislation prohibiting women from engaging in combat and

### Chapter 3 – The Draft or Freedom

were justified in doing so. Therefore, it was impractical to register women. The military argued that those behind the lines may be pulled up in emergencies; if women were involved, they could not be brought to the front lines. In essence, the law and military needs supercede the constitutional protection of individual rights.

If a voluntary military were to exist, and the military were to exist for the defense of one's homeland, no prohibition against women engaging in combat would be necessary. Women are capable of defending their families and homes and country, and outright prohibition against even their voluntary participation in combat should be an insult to an of us.

Recently, a woman who had just witnessed her husband being shot by two burglars was forced to a decision as they held a gun to her son's head. Calling upon her recent pistol training for such an occasion, she pulled out two pistols and shot and killed both intruders.

Defense in combat, done voluntarily and for actual defensive purposes, is the responsibility of all citizens of a free country. Prohibition against some participants in combat and compelling others against their wishes to participate in worldwide military adventurism (sanctioned by the Court) is a significant reason for sorrow for those who love freedom and the Constitution.

The Court claims that the Constitution grants "explicit" authority to draft men by the clause in the Constitution permitting Congress to "raise" an army. This should not even be implicit, since all authority not given specifically is denied by the Ninth and Tenth Amendments. Raise an army? Yes. Conscript an army? No!

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***If a voluntary military were to exist, and the military were to exist for the defense of one's homeland, no prohibition against women engaging in combat would be necessary***

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The argument that the Court should not concern itself with individual rights and thus grant "deference" to the Congress on military matters is unbelievably shallow. The Court claims they should not interfere in matters of the military -- i.e. the draft, discipline in the military, who shall serve, etc. -- because they (the Court) don't want the military "intervening in judicial matters."

The Supreme Court put great weight on the Senate report which claimed that rapid mobilization of troops for combat was "essential to the preservation of our national security." And, "a functioning registration system is a vital part of any mobilization plan."

Yet the plain truth is that rapid deployment of American youngsters (unwilling to enter battle) to troubled spots throughout the world in a quick decision by a nervous Defense Secretary in the middle of the night is a threat to our national security. It is not something that would enhance it.

Rapid deployment of troops and accelerated call-ups of young men, even without a declaration of war, should not be encouraged by our top court. Deployment should be dealt with in a constitutional and deliberate manner, for the issue is of a profound nature and has most serious consequences.

Let there be no doubt as to the courts' interpretation of Congress' intention in requiring registration: "The purpose of registration, therefore, was to prepare for a draft of combat troops" (their emphasis). Since women are not permitted in combat by law, they are thus rejected from registration.

A lower court, in ruling that social security numbers cannot be required at the time of registration, stated: (U.S. District Court, District of Columbia, November 24, 1980) "Citizens have a duty to serve in the Armed Forces and a correlative right to register unimpeded by an invasion of their privacy unless statutorily authorized."

This remarkable sentence tells us of the gobbledy-gook coming out of our courts. Those required to register deserve "privacy" and should not be required to provide their social security numbers, yet no concern whatsoever was shown for an individual's "privacy" being protected from being sent by force to some battlefield to face death or crippling in a no-win undeclared war.

The remarkably shallow understanding and callous disregard for individual rights seen in this ruling is demonstrated by the suggestion that even this pittance of privacy afforded by the Privacy Act needs only be eliminated by a crass piece of congressional legislation-which they subsequently passed in July 1981. They couldn't care less about the real privacy protection afforded by the U.S. Constitution!

In ruling against women being required to register, the Court uses the Senate report's statement that this view "is universally supported by military leaders" ignoring the basic issue of individual rights. If a

## Chapter 3 – **The Draft or Freedom**

violation of individual rights can be justified because "military leaders support it" and the real issue ignored because of the demands of the military leaders, woe be unto us-for our whole judicial system then is threatened.

The ruling was principally defended by quoting from the Senate report as if it were the supreme law of the land. The Constitutional questions of forced servitude and individual rights were totally ignored. Their attitude was that if Congress ignored the Constitution in their deliberations on the draft, and felt registration and the draft necessary for military needs, then they, the Court, need not concern themselves either.

The two dissenting views offered no hope. These views merely argued for the rights of some to be victimized equally as men, for the sake of military matters. No principled argument was presented to demand equal protection of the law by insisting neither men nor women be forced to serve against their wishes.

The low regard for constitutionally protected individual rights as expressed in this Supreme Court ruling is disconcerting and is further evidence that the direction in which this country is going is discouraging and dangerous. The fact that the courts now have reneged on their responsibility for evaluating what Congress is doing with regards to conscripting a small segment of the population to serve another larger segment, is essentially sanctioning any authority the Congress wants in preparation for and entering into war.

Economic conditions as they are and military preparations going on -- in spite of the fact that we are not at this particular time in conflict -- are indicative that there are strong forces determined to lead us unwisely into armed conflict.

For the first time in our history, we significantly increased the military budget 70 percent to be used to defend nations other than America, even though we are not in a war. This, along with the Supreme Court's sanctioning the drafting of men for the purpose of combat, is certainly a sign that we are closer to war than we have been in many years.

### **The Draft and Economics**

Not only is the draft ill-advised for patriotic, moral, and constitutional reasons, it is harmful for economic reasons as well. The draft is a form of tax -- a very unfair one at that-and is economically inefficient. Many supporters of conscription sincerely believe we could not afford to pay

for the services we need. But in the reality of this modern age, we cannot afford to allow low-paid, unhappy conscripts to work with the high technology required to defend America.

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***The draft is a form of tax -- a very unfair one at that-and is economically inefficient.***

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If we are looking for ground troops for some ill-advised unnecessary armed conflict, possibly a role for an 18-year-old toting a rifle can be found. Even then it's doubtful, since the cost/benefit calculations do not justify it. We need highly skilled technicians today and decent pay is essential.

I've never heard suggestions that crucial jobs such as a jet pilots or ship captains be filled by draftees. Skilled jobs in the Navy, Air Force, and Marines have always been filled by volunteers for a specific reason: efficiency.

The late Admiral Ben Moreel, whose Seabees set such a magnificent example during World War II, refused ever to accept draftees. His reason for this was that the draft was not only an intrusion of the individual's freedoms, but it was also militarily inefficient.

Training draftees and preparing them for battle is very inefficient and expensive; time and money is always wasted. Defenders of the draft are quick to point out that defense manpower costs increased from \$22 billion in 1964 to \$50 billion in 1976.

But in 1977, a Rand Corporation study showed that virtually none of this increase could be attributed to the all-voluntary-force: "The end result is that the voluntary force has added less than \$300 million to the cost of defense manpower, a fraction of the defense budget." Even this would not be necessary if the numbers were adjusted to needs and commitments throughout the world were changed.

Nobody has proven that large numbers of troops with rifles are superior to highly paid volunteers trained in modern technology for the defense of our country.

Today the United States is the most highly industrialized nation in the world. It has the largest accumulation of capital and its economy is the most efficient on earth, despite the current meddling by government planners.

### Chapter 3 – The Draft or Freedom

We cannot hope to match the manpower of the Soviet Union or Communist China. It would be madness to send American men or women to fight the masses that the world's dictatorships can mobilize with nothing more advanced than a rifle and a bayonet.

Our armed forces should be capital-intensive, not labor-intensive, just like our agriculture. The masses of China cannot out-produce our farmers. The same is true in the military. A strong national defense can be achieved with a smaller, well-paid, highly trained defense force dedicated to making peace and avoiding war. The military needs to be equipped with the most sophisticated weapons that our scientists can develop. Masses of manpower provided by a draft would be useless to this type of military, and would actually be harmful.

Dean Russell emphasized the economic advantage of a voluntary army by comparing it to slavery.

Actually, as any student of human action and motivation in a free market can understand, the slave owners could have made more money by freeing their slaves and paying them wages. For the same reason, conscripts and conscription are less effective and less efficient than volunteers and voluntary action ... the average conscript will always cost more to do less than the average volunteer.

In the scramble to reinstate the draft, it is rarely pointed out that the great shortage is with experienced men who, out of frustration with morale and pay, are getting out of the service. The draftee won't help solve this problem. A Brookings Institute study in June 1979 said \$300 million could be saved by retaining older personnel and decreasing the number of new recruits.

The wages of the first-termers have decreased by 15 percent, as compared to civilian employees in the three years prior to 1982. When this is compared to civilian government employees, the relative decrease is even more. It is natural to see less interest when real pay decreases. It is an utter disgrace to see our military personnel qualify for food stamps.

Milton Friedman has pointed out that the draft is nothing more than a vicious and unfair tax. Economist William Meckling agrees:

Once we understand that conscription is a tax, it is easy to see why Congressmen find it appealing, especially at a time when they are under a great popular pressure to reduce taxes.

Reinstitution of a specialized hidden tax will enable them to preserve a larger government than would be possible if they were forced to rely entirely on explicit general taxes.

This is particularly appealing to the average conservative who is anxious to keep up the military and cut taxes. This gets them off the hook and takes a little bit of pressure off cutting well-guarded domestic programs.

The true cost to society of a drafted army is never apparent to us. The concept of hiring cheap labor and saving dollars can be seen as a tax on those drafted, causing them to pay an unfair share of the defense bill. The total cost to society is a little more difficult to see and cannot be measured.

If an engineer is conscripted to peel potatoes, society loses the economic contribution of an engineer and gains a potato peeler. If the engineer generates \$60,000 worth of productive effort, and the potato peeler \$10,000 of productive effort, the net productive effort has been reduced by 84 percent. The true measurement of economic loss is not a comparison to the fair wage to do the job in the military, but the wage (productive effort) which that person would have earned or performed had he not been drafted.

Professor Friedman, in claiming the draft is the most vicious and unfair tax which any government can place on a particular group, says that it is also unnecessary and inefficient. It is the opposite of the graduated income tax. With the income tax, the more you earn the more you pay at a higher percent.

But an 18-year-old is supposed to owe a debt to the government and must pay this heavy tax to provide freedom for the 40-50-year olds who may never have served. It is more of a transfer payment from the poor defenseless young to the middle-aged wealthy, protected by the congressmen, who believe this form of taxation is an example of American patriotism and absolutely necessary. Why does a businessman or a congressman who has reaped many blessings from our country owe less than the 18-year-old?

In today's world of advanced technology, don't the middle-aged have a lot more to contribute to the military than the young? The answer given me when I ask this is that disrupting a man's life in the middle of his career is annoying and inconvenient. Don't they consider the "annoyance" and inconvenience to the 19-20-year-old who has his education, his marriage, his fatherhood, his career canceled by the government

### Chapter 3 – The Draft or Freedom

so that he can go to Korea or Vietnam to suffer loss of limb or life?

Basil Liddel Hart, the distinguished British military historian, came to his "present conviction of the supreme importance of freedom through the pursuit of efficiency" and for this reason after 25 years of study:

... changed my earlier and conventional belief in the value of conscription. It brought me to see that the compulsory principle was fundamentally inefficient and the conscription method out of date -- a method that clung like the ivy, to quantitative standards in an age when the trend of warfare was becoming increasingly qualitative. For it sustained the fetish of mere numbers at a time when skill and enthusiasm were becoming ever more necessary for the effective handling of the new weapons. Conscription does not fit the conditions of modern warfare.

The claim made by many government draft proponents and especially those advocating universal service, is that it is good and necessary

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***But an 18-year-old is supposed to owe a debt to the government and must pay this heavy tax to provide freedom for the 40-50-year-olds who may never have served.***

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discipline. If parents fail in their responsibilities, they reason, the army can fulfill the role of disciplinarian and builder of character. Russel Kirk in his article *Conscription Ad Infinitum* (1946) demolishes this idea as impractical and mere wishful thinking.

Abstract humanitarianism has come to regard servitude-as long as it be to the state -- as a privilege. Greater self-love has no government than this: that all men must wear khaki so that some men may be taught to brush their teeth. Apologists for Negro slavery claimed for their peculiar institution the virtue which humanitarians now ascribe to the draft: that it instills healthful discipline.

I cannot imagine anything more preposterous than the "efficiency experts"

at the Pentagon (or any part of government) being responsible and expected to teach discipline to supposedly "free" individuals. The two are incompatible. This notion of the state disciplining youth prompts the "training" and conditioning of youths in all fascists and communist societies. For a nation to remain free, the role of the State must certainly never be seen as that of "disciplinarian" or as that of a "builder of character."

### **Efficiency of the Draft**

If one cannot oppose the draft for the moral, economic, constitutional, and patriotic reasons already given, it should be rejected for military reasons alone. Since the declared purpose of the draft is to provide for a strong military, and since it does not achieve that, there is no purpose in it. It is assumed by most that war could not be fought without a draft. This may be true for offensive unpopular wars, but not for defensive warfare.

How effective would you be if your neighbor forced you into his service, to go with him to procure cattle from another neighbor, with weapons to kill if anyone interfered?

Compare this to defending your family from an armed hoodlum who bursts into your home to steal and threatens the lives of your family. In the defensive situation, it would be much easier to shoot to kill.

Although done with noble intentions, Korea and Vietnam can hardly be compared to defending your family from an armed aggressor. There is good evidence to show that, in these careless wars, most conscripted soldiers never shoot to kill.

A conscripted army is more likely to precipitate, expand, and prolong a war. Senator Robert Taft in a lesser-known "Gettysburg Address" given by him on May 30, 1945, at Gettysburg Cemetery, agreed that a drafted army was much more likely to lead to war than to peace:

Military conscription is essentially totalitarian. It has been established for the most part in totalitarian countries and their dictators led by Napoleon and Bismarck. It has heretofore been established by aggressor countries. It is said it would insure peace by emphasizing the tremendous military protection of this country. Surely we have emphasized that enough in this war. No one can doubt it. On the contrary, if we establish

### Chapter 3 – The Draft or Freedom

conscription every other nation in the world would feel obliged to do the same. It would set up militarism on a huge pedestal throughout the world as the goal of all the world. Militarism has always led to war and not peace.

Some outstanding historians present a good case for a stalemated, early settlement of World War I had we not entered into it with a holy cause to make the world safe for democracy. Without the First World War, the peace settlement that helped precipitate the Second World War would not have been drawn up.

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*A conscripted army is more likely to precipitate, expand, and prolong a war.*

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In totalitarian societies, conscripted armies are the norm and are "useful" at times, but only when the spirit of freedom lies dormant.

Since the spirit of freedom never completely dies, even the military cannot be trusted when civil strife erupts, as the South American dictators have experienced for decades. When a dictatorial system suppresses individual liberty and economic liberty on a daily basis, rebellion among the ranks may be held in check for a time, and the people can be forced to fight aggressive, offensive wars.

Today Russia can still use her people to fight in Afghanistan, but the troops of Poland cannot be trusted to toe the line and suppress their own people when their real desire is to maximize their own personal freedom. The free Polish spirit could burst the bonds of oppression, and both the Polish and Russian communist dictators know it.

Americans would never have fought in Vietnam had our love of freedom not suffered the erosion during this century, for there would not have been a conscripted army to draw upon.

In a free society, patriotism and love of one's country serve to bring out the very best in its citizens-just as we would all struggle to the death if we saw our families being threatened by a murderer-when the nation is in jeopardy and needs to be defended. Under these conditions, force would add nothing but confusion.

In a free nation, if force-in the form of a draft-is necessary, the war is wrong or the spirit of freedom is too weak. Rarely does anyone

fail to respond to an attack as a natural reflex in the defense of their person, their family, or their country. Aggressive intervention is unnatural. Most participants have to be taught job psychology or literally forced to kill. In defensive war, killing (if necessary) is a mere reflex and need not be taught.

The draft is never a sign of strength unless the nation is not free and offensive war is planned. In the congressional debates of 1979-1980 for the reinstatement of registration for the draft, the main argument of the proponents was that it was to be "a sign of strength," a "symbol" to Russia to persuade them to forgo any future aggression. This was prompted by the invasion of Afghanistan by Russia, and was to be our answer to communist expansion and threat of expansion around the world. Dictatorial communism was to be stopped by diminishing basic freedoms in America-an absurd notion.

Claiming that the draft or the threat of a draft with registration is a sign of strength, while continuing to finance the enemy through unwise foreign aid and loans through the Export-Import Bank, Commodity Credit Corporation, and other International Development banks, is self destructive on the part of America.

We paid for the road to Afghanistan, built by the American Corps of Engineers, and subsidized the Russian truck plant that built the trucks that hauled the troops through a subsidy from the Export-Import Bank. After getting concerned about the threat of Russian invasion into Poland, we quickly sent millions in loans to solidify the power of the communist dictators.

Instead of eliminating all of these subsidies to our enemies, we respond by delivering up our children.

In the last ten years, the Communist block has borrowed over \$90 billion from the West, and the borrowing continues at the American taxpayers' expense, indirectly through the international banking institutions such as the International Monetary Fund, by protecting all banks who loan money through various government regulations.

These self-destructive acts cannot be canceled out by this show of strength, the draft. The registration/draft, especially under these conditions is a sign of weakness, not strength, and confirms our intent on self-destruction.

The concept of voluntarism in raising an army guards against unwise military involvements and thus acts to prevent war. Our Constitution was written to make sure a President could not enter into war without a declaration from Congress. Even if this were done and not endorsed

by the people, the people would have another vote. Their lack of support would prevent the pursuance of war. The people could refuse to loan the funds to the government and could refuse to join the military if, in their opinion, it was unwise.

We should insist on these restraints provided by the Constitution to prohibit a war from occurring without the consent of the Congress and the people, and insist on a voluntary military and legitimate means to finance the war. Then those who would get us carelessly involved in war could not do so.

Today there are minimal restraints on military adventurism. Both Korea and Vietnam were fought without declaration, financed by congressionally created inflation, not legitimate taxation or borrowing, and fought with a conscripted military. The constitutional protection against careless war has been entirely removed. The ultimate protection against careless war in a free society is prohibition against the draft, allowing the citizens a choice about serving.

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*The constitutional protection against  
careless war has been entirely removed.*

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If conscription is good for privates on the front line, why don't we conscript generals from the corporate world?

Brigadier General S.L.A. Marshall in analyzing World War II, agrees with Liddell Hart. He claims that after deep study he found between 12-25 percent of those expecting to fire weapons actually did all the shooting required to win the war. He described one episode on Makin Island, overrun by the Japanese, in which only 37 out of over 1,000 American soldiers fired their weapons. In another battle on Chance Island, out of the 100-plus well-trained riflemen trapped, only 14 did the firing. General Marshall reports the record was even worse in Korea.

James Martin in his excellent article "A Look At Conscription Then and Now," quotes from Colliers magazine:

In an attempt to increase the percent of those firing their weapons, psychiatrists were called in for recommendations. The report said: 'The most efficient method is to prompt them to lose their individual identities by prompting mob psychology for the purpose of breaking down inhibitions against killing.'

As a physician myself, I find this professional medical advice repugnant. Having been trained to preserve life and help bring new life into the world, reading physicians descriptions of how to condition men to kill against their nature is atrocious -- especially since it's only in offensive or unnecessary war where killing is not a matter of reflex (as it is when we are truly defending our family or our country).

Dan Smoot took a principled, consistent stand against the draft for the benefit of an efficient national defense:

If we concentrated on the kind of homeland defense we need, it could be manned by a relatively small group of professionals who could be hired in the open market for salaries attractive enough to compete with those offered by private industry and who could be given the intensive, extensive training necessary for their duties.

Many people make their decisions for or against the draft for different reasons: moral, constitutional, military, or economic. Ayn Rand claimed, "There is no contradiction between the moral and the practical: a volunteer army is the most efficient army, as many military authorities have testified. "

A free country has never lacked volunteers when attacked by a foreign aggressor, but not many men would volunteer for such ventures as Korea and Vietnam. Without drafted armies, a foreign policy of military adventurism would not be possible.

A great Congressman, Howard Buffett, on the House floor in 1951, predicted that the acceptance of the draft idea would lead to the downfall of America as a great nation, and supported his contention with a review of 150 years of world history. Where American and Great Britain grew with classical liberalism and rejection of the draft idea, the twentieth century has shown a decline of both nations as they endorse conscription, a result of a less vigorous defense of individual liberty. Buffet stated:

Universal military training brought defeats and disaster to France, Germany, Italy, and Japan. In none of these nations were the civilian components then able to maintain the necessary supremacy over the military ... what sound reason can anyone give to support the claim that the fatal germs contained in peace time conscription elsewhere will not develop here?

### Chapter 3 – **The Draft or Freedom**

He concluded by saying that universal military training will not prevent war and will not assure victory in case of war. Certainly the entry into defeat that we experienced in Vietnam bears out his prediction. Let us hope we can act to prevent the disaster which faces us unless we change our ways.

Milton Friedman said that over the years he has come into contact with many persons concerned with the draft, those who favor it and those who oppose it. He has seen many who initially favored the draft change their minds after studying the issue, but he has “never observed anyone who was initially in favor of a voluntary force reverse his position on the basis of further study.”

At one time I endorsed the draft as a “necessary evil” to preserve freedom, but on further study of this issue, I have reversed my position. As my ideas of freedom have matured, my hostility and disdain for compulsion (as so clearly practiced in conscription) has grown. I have concluded that the draft, as a legitimate function of the state, can never be justified.