

Major General William E. Ingram (Ret.), President, NGAUS

PRESIDENT'S MESSAGE

THE SELECTIVE SERVICE DECISION

In August 1941, the military draft survived in Congress by just one vote—203–202—in the House of Representatives. It was enacted for a one-year trial a year before the beginning of World War II in Europe, a war in which the United States was not yet involved.

This year the issue was and is draft registration, not actual conscription. Still, the image of the United States' national will to provide for a strong defense survived yet another test when the Supreme Court ruled in July that Congress indeed did have the power not only to require registration, already pretty much decided in another case, but also had the power to enforce that decision by denying federal aid to male college students who would not register.

The student-aid provision, called the Solomon Amendment after its author, Representative Gerald B. Solomon (R–New York), simply stated that college and university students had to certify they had registered with the Selective Service System before they could qualify to receive federal student aid or federally guaranteed student loans. A number of institutions of higher education objected to the provision, asserting they were being asked to enforce a law (draft registration) they didn't support. Several students objected and filed suit, charging they were being unconstitutionally punished and being forced to admit guilt to a felony (failure to register) in violation of the Fifth Amendment's guarantee against self-incrimination. It is these two latter contentions that the Supreme Court rejected in a 6–2 vote.

What is especially gratifying in this decision is that the Supreme Court agreed with the intent and what has turned out to be the effect of the Solomon Amendment. That is to encourage young men to register and deemphasize the threat of felony prosecutions (a \$10,000 fine and/or five years in prison). Both penalties are needed, but the denial of federal benefits seems to us to be not only the most effective

but also the most appropriate enforcement tool.

As Major General Thomas Turnage (ret.), director of Selective Service, has put it so many times, the idea is not to put young men in prison for failure to register; the goal is to get them to register. If they do that, whether or not student aid is involved, the mission has been accomplished.

It was interesting in this regard that U.S. Solicitor General Rex E. Lee, in arguing this case before the Supreme Court earlier this year, noted that when the Solomon Amendment was adopted two years ago, compliance with the registration law was about 94 percent; today it is 97 percent and rising.

Chief Justice Warren E. Burger picked up on the compliance argument with this statement in his opinion for the court. He said the amendment was not a punitive measure, but rather "clearly furthers non-punitive legislative goals." He said Congress passed the Solomon Amendment "not to punish anyone, but to promote compliance with the draft registration and fairness in the allocation of scarce federal resources."

Another factor involved with the Solomon Amendment we like to emphasize is that it underscores Americans' duty to their country. It has been said that if a young man is unwilling to register for the draft, he surely has no legitimate entitlement to the benefits dispensed by the federal government, such as federal student aid. Several members of Congress have proposed to carry the theory behind the Solomon Amendment a step further by adopting legislation that would prohibit non-registrants from being hired for federal Civil Service jobs. Other amendments would bar welfare aid to non-registrants or perhaps federal aid of any kind.

These are not bad ideas if they fit the goal articulated by Turnage: gain 100 percent compliance with the registration law. The goal is not punishment, but compliance.

While we're on the subject of registration, a related topic is worth discussion: the proposal now before Congress to permit a designation of conscientious objector status on the draft registration form. Superficially, this may seem to have merit, but it really is a bad idea.

Advocates of this proposal admit it will have little legal effect, since conscientious objector status will only be determined if or when actual conscription is undertaken, not at the time of registration. However, they argue that such a checkoff is harmless and a way to encourage registration.

We would argue that such a procedure is both deceiving to young men registering and a potential area of dishonest actions. Conscientious objector status is not a matter to be lightly sought, nor easily granted.

It is interesting, and therefore convincing in this regard, that the push for the objector checkoff comes not from traditional religious conscientious objector groups, such as Quakers or Mennonites, but rather from political organizations who believe they are making a statement about U.S. foreign policy by objecting to registration. It also is ironic that most Mennonite young men, to cite only one example, have registered, understanding fully that they will apply for conscientious objector status when or if conscription resumes and local draft boards go into action to make such determinations.

It is such men who have in the past and presumably will in the future be approved as conscientious objectors. We must not, by casually endorsing any idea of a checkoff at registration time, encourage the idea that there is a valid political reason for non-registration or gaining objector status. The fact that an individual opposes this or that administration's foreign policy, which requires an armed force for national defense, can never be permitted to be used as an excuse for avoiding proper military service.

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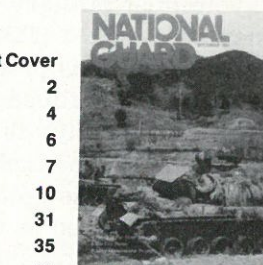
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COVER: TEAM SPIRIT, like its European cousin REFORGER, is a large allied exercise conducted in South Korea and designed to sharpen soldier skills. Photo, Staff Sergeant Kermit Edmonds, 103d Public Affairs Detachment, Montana Army Guard. Design, Johnson Design Group.

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