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Floor Statement on the Selective Service Act of 1971

Edmund S. Muskie

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Senate

Mr. MUSKIE. Mr. President, the major question confronting the Senate in its consideration of the Selective Service Act of 1971 is whether to continue the present draft system or to abolish it and rely upon a volunteer army for our military manpower needs in the future. This is an extraordinarily complex decision. It involves some of the most basic social and political questions a nation must face, as well as the myriad issues of military requirements and cost.

One of those questions that we must face is the issue of individual conscience and the values of individual freedom and liberty, upon which our free system of Government and all our historic traditions are founded. Those values reflect a respect for the individual which should train the Government, whenever possible, from forcing an individual to perform an act which is abhorrent to his conscience.

On the other hand, our society also values social equality and responsibility, the obligation of an individual in a free society to share the burdens of that society equally, without regard to social status or income. One such burden is national defense. It is a burden which, I would hope, will grow increasingly lighter. But when our Nation faces military manpower needs during a period of war or national emergency, a free society based on the principle of social equality cannot permit the more affluent to escape the obligation of service simply because they are affluent while the poor—without viable alternatives—serve.

I believe that no military manpower plan offered to the Senate this year satisfactorily meets the competing goals of military need, maximum personal freedom, minimal costs, and equality of military service. But no system can satisfy these somewhat mutually exclusive goals. So our task must be to fashion a system that balances these competing goals in the best way.

THE DRAFT VERSUS VOLUNTEER ARMY

After careful study, I believe that the best way to strike such a balance is to reform our draft system, especially with additional financial incentives so that draft calls can approach zero during times of peace. I believe this is the best way to move toward a system for fulfilling our military manpower needs in peacetime without large draft calls, while providing the necessary manpower and a random distribution of the burdens

of fighting a war for times of crisis. Moreover, our servicemen should be provided adequate compensation during their service.

We are now in a transitional stage: We are slowly, too slowly, emerging from a massive combat commitment; we are redefining the scope of our commitments around the globe, and we are reevaluating the need for the draft system to meet those requirements. I do not think at this time we can predict just what the best form for meeting these needs will eventually be. Nor do I think that we should hastily jump toward solutions that may not be satisfactory 5 years hence.

Therefore, I think it best for us now to make substantial increases in military pay to see if we can lower draft calls. If this experiment prove successful, we may be able to fashion a peacetime draft system which will satisfy our manpower requirements with no draft calls at all.

Not only do I believe that an extension of the draft is, with modifications to approach zero draft calls, the more prudent course, but also I believe fundamental values of our society demand the continuation of the basic elements of the draft for times of war or emergency.

First, and most important is the question of what means a society uses to select those young men who will fight and perhaps die in a war. We will be asking these men to take risks in exposing themselves to the greatest sacrifice any society can demand. What are the most just means of selecting these young men during war in a democratic society? When all is weighed, I think there can be only one answer: That all the young men in that society, rich and poor, majority and minority, must be presented with an equal risk of undergoing the danger of those sacrifices. I see no other fair way of distributing this potential for death, since all men cannot serve in battle.

The proposed alternative to a draft system is a volunteer army. The major inducement for service in such an army must be economic, whether volunteering is for pay, training, education, or escape. There are disputes over which group in our society would volunteer under such a system—middle class, lower-middle class, urban black, rural white, and so on; but essentially it makes no difference, for whoever does volunteer will do so because he finds the incentives in the Army better than those in private life.

Such a system allows the more afflu-

ent members of society to avoid the obligations of defending that society during times of crisis. It was followed in the Civil War when wealthier young men could avoid the draft by buying a substitute for something like \$300. I think, over a century later, with a greater appreciation for the demands of equal protection, we must reject such a method of selection during wartime.

I am deeply troubled by the fact that the draft currently operates to compel some young men to fight in a war which they consider wrong.

But the dilemma—and the tragedy—is that abolishing the draft does not eliminate for them this compulsion. It merely lifts it selectively—from those who have sufficient economic status and opportunity to resist the incentives offered by the military. The people who would fight are those whose opportunities in the private marketplace are so limited that they are attracted to "volunteer" for military service and, perhaps, to fight in a war which they consider wrong or senseless.

To call people "volunteers" does not give them true free choice. The fact is, the economic system which shuts off real opportunity—and real choice—operates as a compulsion to military service just as surely as an induction order.

The debate over the draft has been inextricably enmeshed with the concern for setting limits over the power that a President has to commit our Nation to war. I feel that we have committed too much human and economic treasure in Vietnam without formally facing the democratic procedures for declaring war. Then, after being committed, we have found it difficult to reverse that decision through our normal procedures of Government.

We must search for ways of changing our procedures to insure that a commitment like Vietnam is not made by a President alone. We must restore balance to our system by insuring that the Congress and an informed citizenry also participate in the decision to go to war.

This concern has reinforced my belief that the draft is the best system during periods of war for only the draft imposes the greatest cost of the war—military service—uniformly throughout the country. A volunteer army would impose the burden of service upon those least likely to protest politically and upon those least likely to do so effectively, even if they wanted to do so. Through increased mili-

tary appropriations, a process which is easily accomplished because of the committee structure of the Congress, a President can easily escalate a conflict using a volunteer army without confronting those political forces in our Nation which would be best able to oppose such escalation. We would reduce citizen impact on foreign policy.

In contrast, the draft system imposes service upon all, and if a President increases military manpower commitments, he must face the task of convincing all segments of society that such an increase is necessary for the public good.

Finally, I believe that a volunteer army during war might be prohibitively expensive. Our society cannot afford to spend billions of dollars for the primary purpose of avoiding military induction during times of war for those who would rather not serve this Nation's defense. We have too many other urgent priorities to which we must devote our precious resources—including the development of economic opportunity for those who now find such opportunity only in military service.

For all of these reasons, I have decided to support a continuation of the draft system for use during times of war or national emergency.

LIMITING THE PRESIDENT'S POWER

In addition to supporting the draft during wartime to assure that the President must convince all segments of our society of the need for our participation in foreign combat, I supported two other amendments to the draft bill which would help reassert congressional authority in foreign affairs.

Senator KENNEDY offered an amendment to the draft bill that would prohibit the President from inducting more than 130,000 men next year without special congressional authorization. It passed the Senate. This amendment will go a long way toward preventing a President from making a major military commitment without the consent of Congress. I supported the amendment wholeheartedly and the successful efforts to eliminate the exceptions to the limit that were added to it in committee.

Furthermore, I supported the amendment of Senator SCHWEIKER to limit the extension of the Selective Service System to 1 year. The best way to limit any Presidential reliance on the draft as an automatic source of combat troops is to make it renewable each year. Each year

it would be subject to congressional amendment and each year draft authority would lapse unless Congress took the positive step of renewing it. This would force the President to consult more with the Congress before embarking upon extensive foreign military commitments. Unfortunately, this amendment was defeated by six votes.

I believe all of this—the uniform burden of the draft, the limitation upon the number of men who could be drafted each year, and the yearly renewal of draft authority—is one important way that Congress can exercise its proper share of control over our conduct of foreign and military policy.

THE WAR AND THE DRAFT

Some people argue that the elimination of the draft is a way to end the Vietnam war. I disagree. First, with decreasing manpower requirements in Vietnam and increasing appropriations for military pay, it is possible the conduct of the war could be continued without the draft system. Perhaps the way the war is conducted will be altered, but the war will not be ended. Just as important, the way we wind down the war in Vietnam is absolutely crucial. I believe that we should set a date certain for withdrawal of all military personnel in Vietnam; for this is the best way to assure that our prisoners-of-war are released and to avoid the prospect of a residual force remaining in Vietnam for the indefinite future.

Therefore, I voted for the amendment to the draft bill that will require the withdrawal of our military personnel from Indochina by December 31, 1971.

DRAFT REFORM

Those of us who ask for the extension of the draft have an obligation to make certain that the system of random selection operates in a fair and equitable manner. Today, the Selective Service System is neither fair nor equitable. Some steps in that direction have been taken in the past few years. But we must do much more.

Draft policy and draft calls must be made uniform. Draft boards must be made more responsive and representative of the areas they administer. Student deferments should be eliminated. Registrants should be given the right to counsel and to present witnesses before draft boards. Judicial review of a reasonable nature must be provided to insure that the administrative actions of the

Selective Service are neither arbitrary, illegal or unconstitutional. And the draft should not be used as a punishment for legal dissent. All these reforms must be implemented if we are to continue the draft system.

Finally, the coercive nature of a military Selective Service System would be less objectionable if we could find a way to provide a workable system of alternative national service. But such a system of alternative national service presents many practical difficulties.

If we broaden the choice of service, we must broaden it for all Americans. We should not permit the educated to escape military service, dooming the poor—black and white—to its limited opportunities.

Alternative national service should be as open as military service. And its tasks should be no less taxing. Its aims should not be subject to question. It should not create a haven for draft dodgers, a program providing for 2 or 3 years of fun, or a series of makework projects.

We have seen the successes of the Peace Corps, the Teachers Corps, VISTA, and some of the other community action programs in the public and private sector. We have seen how young people will respond to the opportunity to mix their idealism and humanistic vision with the responsibility to serve their Nation.

I hope formulas can be found to provide for these service options while maintaining necessary military manpower.

Next year, and the years after, we must continue to modify our draft system so that it can better reconcile the value of equality with the desire for maximum individual freedom. Our ultimate goal must be—as a nation—to conduct a foreign policy which brings peace to the world and makes any draft calls unnecessary and obsolete.