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AMERICAN SELECTIVE SERVICE

A Brief Account of Its Historical
Background and Its Probable

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SELECTIVE SERVICE EXTENSION COURSES

Under the general authority extended by the Secretary of War and the Secretary of the Navy to the Joint Army and Navy Selective Service Committee to conduct extension courses on the subject of emergency personnel procurement for the armed forces, this pamphlet is published for use as an instruction text by the students of such courses.

(II)

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(III)

AMERICAN SELECTIVE SERVICE

A brief account of its historical background and its probable future form

SECTION I

INTRODUCTION

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1. Basis of American Selective Service.—After raising its wartime armies by wasteful and unsatisfactory expedients for many generations, the United States upon entering the World War in 1917 adopted a system which proved sound and economical to the Government and acceptable to the people. Under it an adequate number of men was procured for the duration of the war by a National selective draft administered through the machinery of local self-government. Service of the selected individuals was compulsory and without the exercise of any option on their part. Exclusive control of officer procurement and of the organization, training, and employment of the forces thus raised was exercised by the Federal Government. Applied initially only to the Army, this system eventually was extended to include the Navy and the Marine Corps.

The conception rested upon three propositions. One of these, as old as mankind, is that every citizen is obligated to join in the common defense. The second, not readily agreed upon in the early days of the Republic, is that in a National emergency the authority of the National Government over its armed forces is paramount and exclusive. The third proposition is that local self-government is the fundamental basis of American democracy.

The process of recruitment employed under this conception was called Selective Service. Selective Service, its historical background and its future use, is the subject of this study.

2. Obligation of Military Service.—“The obligation to contribute military service in defense of the common safety is as old as the law of self-preservation.” Men of all races, and wherever found, have accepted this obligation as an inherent part of communal existence. In the first chapter of Numbers, the Bible relates that Moses and Aaron registered and classified the Jews, and placed 603,550 in Class I. The greatness of Rome was built upon its citizen soldier, who furnished his own arms and equipment and served without pay for 10 years or longer. The decline of Rome came when its

defense was wholly entrusted to professional troops and the citizens lost their skill with arms.

In the modern world, many countries have extended the obligation of military service by giving every man several years of peacetime training; and since the World War universal peacetime training has been further extended by adding years of instruction for boys below military age. Italy, which approaches the ultimate in preparatory training, has abolished recruit instruction in the Army because the new conscript is already a trained soldier with some 10 years of progressive development.

Although the obligation of the citizen to give military service has been universally accepted at all times, the background of American Selective Service lies in the history of Great Britain and of our own country. The historical discussion will therefore be limited to those two countries.

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3. Britain before the Stuart Kings.—In the earliest Anglo-Saxon days, every free man was obligated to respond to the summons to arms, and to furnish his own arms and equipment and maintain himself in the field at his own expense. "The host," says Stubbs in his *Constitutional History*, "was originally the whole free population, whether landowners or dependents, their sons, servants, and tenants. Military service was a personal obligation—the obligation of Freedom." The old English *fyrd* or militia was the Nation in arms. Service was incumbent upon all able-bodied males between 16 and 60. This obligation had no relation to the feudal system; it was centuries older.

The Norman kings continued the ancient militia, and extended its liability to service on foreign soil. In 1073 the *fyrd* fought for William the Conqueror in Maine; in 1094, with William II in Normandy; in 1138 and in 1174 in Scotland. In 1285 the great Edward I recognized it afresh and decreed that every man between 15 and 60 should keep in his house "harness for to keep peace after the ancient Assize." The temper of the armed militia was essentially defensive, and in 1352 Parliament, while sustaining the obligation of universal military service, decreed that only with consent of Parliament should any man be obliged to go beyond the realm. After

the War of the Roses, the militia was the only military force which remained. It was the only army England had when the Spanish Armada in 1588 threatened a landing in force.

Thus until the accession of James I, England's traditional defense was the armed militia, the Nation in arms. As a fighting force it was inefficient, ill-trained, undisciplined, incapable of prolonged campaigning, and constitutionally exempt from foreign service. This instrument of war was inherited by the United States in all its congenital weakness.

4. Britain from 1603 to 1914.—During the 300 years between the accession of James I and the World War, the militia gradually declined into a mere theory, and Britain came to rely upon professional troops.

James I was a Scot, a foreigner from a traditionally hostile country, to whose dynasty the English militia was a latent threat. In the first year of his reign, he excused its members from the burden of providing their own weapons, and from this time the militia declined. It was hopelessly divided in the Civil War (1642–48). Cromwell created a disciplined standing army—significantly called *The New Model*—with which he won the war and thereafter ruled England. Cromwell's military rule is significant in American history, for it gave the English that profound distrust of standing armies which has been one of our most deep-rooted traditions.

After the Stuart Restoration in 1660, the militia was formally reestablished, but England's island immunity from invasion deprived it of vigorous life, while the ever-growing demand for expeditionary forces and colonial garrisons put the emphasis increasingly on professional troops because the militia was exempt from such employment. The principle of universal obligation indeed survived; as late as 1803 there was a *levee en masse* of all men between 17 and 55 to meet an expected French invasion. But during the Nineteenth Century, while the continental nations of Europe developed the modern practices of universal military training, Britain fell ever further away from it, and concerned herself more and more with professional units for colonial warfare.

5. Beginning of the World War.—It was not until 1914 that Britain came face to face with a situation long familiar on the continent—she must organize "the nation in arms" for a long and exhausting war on foreign soil. The principle of universal service was a thousand years old in England, but its application had never extended to long periods of training nor to prolonged campaigns, and for over 600 years it had been limited to service within the kingdom. In their insular safety, the British had developed a strong prejudice against conscription as it existed abroad. The government ap-

proached the inevitable with hesitation and timidity, clinging to its established system of voluntary enlistment with almost unreasonable tenacity. In less than 2 months the first enthusiastic rush of volunteers was ended; thereafter the numbers of volunteers always ran far behind requirements. The most drastic pressure was aroused to compel men to "volunteer." The spirit of the volunteer principle was soon lost, yet from fear of political repercussions the government clung to the empty form, while it exerted every kind of moral compulsion and finally used the threat of conscription as a persuader. As always happens, this threat was ineffective; the nation's manpower remained unwilling to enlist.

6. National Registration (July 1915).—The National Registration Act, passed after a year of war, authorized a complete inventory of manpower. It was not a law for compulsory service, but it was intended as a further means of "inducing" shirkers to volunteer. The scheme in brief was that after the registration men would be asked to "attest" their willingness to go when needed. The joker was that the need already existed. Moreover, married men who attested were explicitly promised that none of them would be taken until *all* single men, whether attested or not, had been called up.

7. Conscription (1916).—And so, 6 months after the attesting scheme was launched, Britain came in January 1916 to conscription of unmarried men, not on the broad and sound principle of obligation, but as a means to clean up the single men and thus get at the married men who had attested. And, finally, in May of the same year, new legislation gave Britain that complete control of her entire male strength which is essential in a major war. (Ireland was excepted.) This inevitable position had been reached by shifts, evasions, and piecemeal expedients which gravely hampered the national effort, and even now there were dangerous flaws. Men were called into service solely by their years of age, a method of classification which never works in an industrial nation. A selective balance between the needs of essential industries and of the armed forces is the only suitable process: this was not provided until great damage had been done. A number of independent authorities could grant exemptions: this process also never works. Unless a single authority has charge, nobody can make accurate calculations of the manpower situation. Moreover, when the power to exempt is given to authorities who are not responsible for recruitment of the armed forces, it always becomes a means of evading military service by favoritism. The history of the blanket exemptions granted by the South in our Civil War illustrates the vicious abuses which occur in such cases. (See par. 19.)

8. Conscription (1939).—Facing in 1939 the threat of a world upheaval, the British Government reluctantly fell in step with the practice of other European powers and adopted compulsory peace-

time training. When war actually began, this innovation was still too recent to permit any conclusions; but the very fact that Britain took a step so repugnant to its national prejudices is significant. Modern conditions constantly shorten the time available for training after war has begun, and necessitate a constantly increasing degree of readiness on M-Day.

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THE UNITED STATES BEFORE THE WORLD WAR

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9. The Original American Draft System.—The drafting of soldiers in the United States did not begin in 1917, nor even in 1863; it is as old as white America. The first settlers brought with them the English militia system, the self-armed citizenry; and the grim necessities of pioneer existence strengthened the already recognized obligation of universal military service. The Continental Congress, among its earliest measures for the common defense, recommended "to the inhabitants of the United English Colonies that all able-bodied, effective men, between 16 and 50 years of age, be formed into companies of militia * * *" (July 18, 1775); the ancient obligation was thus reaffirmed at the very birth of the United States.

But while frontier conditions had strengthened the established principle, and the Continental Congress confirmed it for the new nation, the conditions of American development had also accentuated the weaknesses of the ancient militia system. The thirteen Colonies were in effect separate and jealous nations, unwilling to relinquish power to the central Congress. Communities were widely separated, the men were but little influenced even by State authority, and it was inevitably difficult to get the militia very far from home, or to keep them in the field long enough to acquire discipline and training, much less to conduct a long campaign. The resolution of the Continental Congress, cited above, conceded that the militia could only be called out by the consent of the State legislature; it was intended for local

defense, while a Regular Army, the "Continental Army," was created (mostly on paper) for the general war effort of the combined States.

In short, the raising of armed forces by the draft is the oldest military policy of the United States. But as exemplified in the old militia, the draft was ineffective, first because the drafted men were not available long enough for training, conditioning, and campaigning, and second because the militia was by tradition and practice a local defense force.

The evolution from the militia draft to 1917 Selective Service was long and difficult. The newborn United States received from the mother country a deep distrust of standing armies and a habit of relying on an unregulated militia. To these inherited handicaps in its conduct of war, the peculiar origin of the Nation added State sovereignty as another obstacle to the National authority. The difficulties which resulted, the expedients which were employed, and the gradual development of a sound policy, will be reviewed briefly in succeeding paragraphs.

10. The American Revolution.—As has been said, Congress very early authorized a Regular force for the general operations of the United States, and recommended that the States organize their militia for home defense. But sufficient men could not be induced to enlist in the Regular force. Even with offers of large cash bounties, voluntary enlistment was unsatisfactory. Washington therefore had to call constantly on the States for militia to assist in his operations. The militia by its very nature was completely unsatisfactory. The American army was in constant danger of final disaster. For example, Washington reported from Morristown, New Jersey, on March 14, 1777, that he had but 1,000 Regulars, and 2,000 militia whose engagement expired that same month, to face over 20,000 British in and around New York. Because the central government lacked power to raise an effective army, the war dragged out for 7 years, during which the Americans employed a total of almost 400,000 men while the greatest strength of the enemy in any 1 year (1781) was but 42,000. Without arguing each point, it may be asserted as true that—

- (1) The only effective troops were those enlisted for the duration of the war.
- (2) The method of voluntary enlistment was not able to supply adequate men.
- (3) State troops were not satisfactory instruments for the National Government.
- (4) The militia system was wasteful of money and completely ineffective as a means of conducting war.

11. Formation of the Republic.—The Constitution gave real powers to the central government, and thereby tremendously increased

the war-making effectiveness of the Nation. On this point the Supreme Court said in 1917:

"When the Constitution came to be formed, it may not be disputed that one of the recognized necessities for its adoption was the want of power in Congress to raise an army and the dependence upon the States for their quotas. In supplying the (military) power, it was manifestly intended to give it all and leave none to the States, since besides the delegation to Congress of authority to raise armies the Constitution prohibited the States, without the consent of Congress, from keeping troops in time of peace or engaging in war."

The Supreme Court has thus most positively stated the power received by the Federal Government, and affirmed the deliberate intent to grant that power. But there were practical difficulties in translating theory into action. The Federal Government was at first an experiment, and was viewed with much distrust. The old English traditions were strong. Public opinion was entirely in favor of leaving national defense to the militia, the farmers with rifles, who were the heroes of the Revolution. It took generations to overcome these prejudices.

Washington, Knox, and Steuben believed in the militia. Indeed, they could hardly look toward anything else. But during the Revolution they had seen far too much of the old-style militia, and felt most strongly that it must be converted into "well-regulated militia," a vastly different thing. Washington proposed to the First Congress a true selective service. To avoid calling forth indiscriminate levies, of all ages and no training or discipline, he proposed to classify the men by age and physical fitness; to segregate the fit men between 18 and 25 years of age into separate tactical units; and to give them special training by selected instructors. He thus hoped to develop an effective citizen army.

Despite repeated recommendations by Presidents Washington, Jefferson, and Madison, these proposals never became law. Instead, the Militia Law of 1792 was enacted. This law did provide for universal military service, but the militia it organized was, if anything, worse than that of the Revolution. It arranged for the same old untrained and unregulated mobs, of every age and physical condition, and grandiosely combined them into innumerable regiments, brigades, and divisions. In 1808 there were 1,033 infantry regiments in the country. Arms, equipment, and horses had to be furnished by the individual. Withal, no penalties were provided to give the law force. Training under this law consisted in most places of one annual "muster day," usually the occasion for a grand spree. It would have been difficult for Congress to have disregarded more completely the mature advice of our Revolutionary leaders and early Presidents.

Between Washington's conception of a "well-regulated militia" and its fulfillment lay over a century of mistakes. The first calling-forth of "well-regulated militia" in the history of the Nation was the Selective Service of 1917.

12. The War of 1812.—The lessons of the Revolution were repeated in the War of 1812. We employed all told 527,000 men, while the enemy never had over 16,500 in the field against us at any one time. The war dragged out futilely for 3 years.

A Regular Army of numbers adequate to win the war was authorized but could not be recruited. Even when bounties were offered, the volunteer system broke down. Conscription for the National Army was then proposed, but the old prejudice in favor of the State militia was too strong, and it was decided to rely on it again. The States accordingly turned out their levies, undisciplined mobs under untrained officers, and all of the old weaknesses were demonstrated once more. But an additional difficulty arose in this war: the militia claimed that they were constitutionally exempt from serving outside of the National boundaries; they could be used "to *repel* invasion" but not to invade. On at least three occasions they refused to cross the border, once abandoning to annihilation a force which had already crossed into Canada. The action at Bladensburg, in defense of the National Capital, illustrates perfectly the working of the militia system: 4,400 men were drafted a day or two before from their fields and shops, and obediently answered the summons; but they fled at the first shot. The obligation of military service which brought into battle merely untrained levies was obviously not enough; success could be achieved only by properly trained troops. Moreover, the authority which conducted the war, the National government, could not operate effectively with troops which were responsible to another authority, the State; nor could it hope for victory with troops which were exempt from entering foreign soil.

13. The War with Mexico.—The Mexican War (1845) did not throw sufficient strain on National manpower and endurance to create proper laboratory conditions for studying recruitment policies. It offers one lesson. In this war, two kinds of troops were employed, regulars enlisted for 5 years and "Volunteers" enlisted for only 12 months. As one result of the short enlistment period for "Volunteers," General Scott had to send home 4,000 men, over 40 percent of his army, when he was in the middle of his advance to Mexico City, and at a time when Santa Anna was admitting that Mexico "no longer had an army." Scott then had to wait weeks for new regiments, while the enemy recovered. The mistake of not making enlistments for the "duration of the war" greatly prolonged hostilities.

14. Beginning of the Civil War.—The first troops raised by the North in 1861 were 10 companies of District of Columbia militia, which could not be used outside the District, an area 10 miles on each side. Next Lincoln called for 75,000 militia for 3 months, and their commander found he was expected to win the war in that time. The South began with a 1-year enlistment, which of course proved unsatisfactory but was a decisive advantage in the first battle. The Union troops in the Shenandoah region refused to remain beyond their 3 months and the Confederate troops there were free to move to Manassas, where they proved to be the decisive reinforcement. Union troops in the Manassas area actually marched away to the sound of the cannon, because their time had expired. Lincoln, meanwhile, had begun recruiting for "3 years or the war," but within a year voluntary recruiting had virtually collapsed (July 1862). In desperation the Government ordered that "a draft of 300,000 militia be immediately called into the service of the United States, to serve for 9 months, unless sooner discharged." The State Governors were called upon to raise their quotas of this force, and regulations for carrying out the draft through the agency of the State Governors were issued by the President. But calling militia for 9 months killed whatever vitality remained in the efforts to recruit volunteers for 3 years or the war. The grim fact became clear, that unsound recruiting policies had crippled the Northern war effort at the very hour when the South was winning everywhere; when Jackson's Valley Campaign, McClellan's failure at Richmond, and the Second Battle of Manassas, all cumulatively darkened the Northern skies. Such troops as were raised under this militia call were too green for use during the summer and autumn crises; they were maintained at great expense throughout the inactive winter period; and they claimed discharge when, in the spring of 1863, they could have been used to advantage. The only profit from this militia call was that it prepared public opinion somewhat for the inevitable: the words "draft" and "conscription" had been spoken out loud. For if the North wished to win the war, there remained only one way to raise the necessary armies.

15. Introduction of the Civil War Draft.—National conscription was accordingly introduced in the spring of 1863. The methods employed furnish a text on "How Not to Do It." They aroused public resentment so greatly that the authority of the Federal Government was gravely threatened in many of the States which had remained loyally in the Union. For students of Selective Service, the Civil War draft is a rich collection of "Don'ts."

16. Mistakes of the Civil War Draft.—In the first place, the draft was introduced 2 years after war began. Instead of being a

popular measure to insure orderly mobilization of the Nation's manpower, it was by now only a means of coercing those who had declined to volunteer. It was not made the sole method of recruitment; on the contrary, voluntary recruiting continued full blast, and the draft was applied only in those districts which failed to fill their quota with volunteers. Hence public odium quickly attached not only to the drafted man, but to the district where the draft was necessary. It was obvious that a drafted man represented a community which was unwilling to perform its duty.

Second, the machinery set up to conduct the draft was simultaneously assigned the duty of apprehending spies and deserters. The draft registration was conducted by the military, using force when necessary. Men were registered by a house-to-house canvass, and hunted down when they hid. In the public eye, the manhunt for deserters and for registrants were similar enterprises, and the draft was further stigmatized.

Third, the Federal Government alone conducted the draft machinery. The local governments of States and counties were not made parties, either in action or in responsibility. Draft quotas were allotted from Washington to each Congressional district, which was a casual division of the National system and not an organized unit of local self-government. It was made to seem that the Federal Government was using its army to drag men away without regard to fundamental democratic processes.

Fourth, the recruiting process was vastly expensive. Since the local communities wished to avoid the stigma of the draft by producing a full quota of volunteers, large cash bounties were offered for recruits. General Crowder reports that the cost of recruiting each man in the Civil War was \$228, as against \$8 in the World War. Even if considerable errors were found in either figure, the comparison would still remain staggering.

Fifth, the law fell heavily on the poor and allowed the rich to escape. After being drafted a man could either hire a substitute, or purchase exemption outright for \$300. These provisions favored not only the rich individual but also the rich district. The rich districts filled their quotas from the poor districts by purchasing substitutes, and by offering lavish bounties for volunteers. The poor districts, whose men were thus credited to rich districts, still had to fill their own quotas as well. In a saying of the time, it was "the rich man's money and the poor man's blood."

Sixth, the Civil War draft induced corruption on a vast scale. "Substitute brokers" traded in the sale of substitutes. This commerce created "professional substitutes," who, after getting their money, deserted and sold themselves again and again in new locali-

ties. "Bounty-jumpers" similarly lived well by repeated enlistments and desertions. Corruption also enriched many civilian officials and army officers concerned with draft administration.

17. Summary of the Civil War Draft.—In short, the Civil War draft was enforced not by the will of the people but by the weapons of the army; it was a coercive factor in a vastly expensive recruiting process; its weight fell wholly on the poor; it nourished vicious forms of corruption. It was begun too late, after enthusiasm for the war had died. It aroused bitter hatred and was resisted by riots amounting to serious insurrections. It can perhaps be excused as the measure of a desperate government; but it was about as bad as it could have been.

18. Report of Brig. Gen. James Oakes.—In one of the most valuable reports ever put in a pigeonhole, Brig. Gen. James Oakes, who as "Assistant Provost Marshal General for Illinois" administered the draft in that State, clearly explained (in 1866) the faults of the Civil War draft and made suggestions for better procedure in a future emergency. A full 50 years later, long after he was dead, General Oakes rendered his country a splendid service, for his report was exhumed and its lessons carefully noted in preparing a wise and completely successful conscription. His excellent recommendations are worth summarizing: (1) Registration by personal report to a registration office, not by house-to-house census. (2) Crediting draftees to the district of their permanent residence and not to a casual place of registration. (3) Allotment of quotas to States instead of to Congressional districts, with further redivision of the allotment by a central State headquarters. (4) No substitutes. (5) No bounties. (6) Service for the duration of the war. (7) Provision of medical advisors and legal aides to State headquarters to assist in administration of the draft. All of these suggestions were followed in our World War Selective Service.

19. Conscription in the Confederacy.—In the beginning, the Southern forces were raised by enlisting volunteers for 1 year. Within the first year, voluntary enlistment was replaced by general conscription, which was employed during the rest of the war. The student of personnel procurement in time of war should consider Confederate history as attentively as that of the North. A most instructive and thorough study is "Conscription and Conflict in the Confederacy," by Prof. Albert B. Moore of the University of Alabama. The Southern conscription laws were as bad and as unpopular as those of the North, and illustrate some additional blunders.

In the first place, the early change from voluntary to conscriptive recruiting was motivated by the purpose to hold in the army against their will all of the men who had volunteered in good faith for 1 year.

Second, a rich draftee could hire a substitute at wages agreed between them. With brisk competition for his services, the substitute's wage for soldiering soon became many times that of his squadmate, who received only government pay. Thus was bred profound bitterness, especially among those who had enlisted from real love of country. In the Southern version, "It was the rich man's war and the poor man's fight."

Third, occupational exemptions freed from service huge categories of minor officials, clerks, teachers, lawyers, newspapermen, druggists, officers of militia, and literally dozens of other callings. It is the flat truth that every exempted occupation was crammed with draft dodgers who used any technicality or pretense to escape service. "Teachers" ran schools without salaries; newspapers, post offices, and drug stores multiplied wonderfully; "home guards" abounded hundreds of miles from the battlefields.

Fourth, substitution and exemption nourished flagrant fraud and corruption in the South exactly as in the North.

20. The War with Spain.—Neither the length of this war nor the numbers of men required placed enough strain on the Nation to offer useful conclusions.

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21. Legislation.—Although upon entering the World War the United States adopted compulsory universal service, it would be a mistake to think that the country as a whole had perceived the errors of the past and was agreed upon the remedy. On the contrary, the public temper was far from certain. It was a courageous President, backed by wise advisors, who induced a hesitant Congress to begin the national effort on a sound basis.

The Selective Service Law, signed by the President on May 18, 1917, was, in its own words, "based upon the liability to military service of all male citizens." It authorized "selective draft" for the Army from citizens between their twenty-first and thirty-first birthdays; authorized concurrent voluntary recruiting, at Presidential discretion; and prescribed service for the period of emergency. It forbade bounties, substitutes, and purchased exemption; exempted

outright only ministers, divinity students, and a few groups of high public officials; exempted conscientious objectors from combatant service only; and authorized exemptions at Presidential discretion for essential occupations and dependency. It established the State as the unit for quota allotments; based allotments on total population; authorized local boards and district boards. It authorized the President to use all departments and personnel of States and their subdivisions as necessary, and required these persons to carry out his instructions. Penal provisions gave the law teeth.

Three subsequent acts amended the original law. The first (May 16, 1918) changed the quota basis from total population to total Class I registrants, thus removing a hardship on States with large alien populations. The second (May 20, 1918) clarified the President's power to conduct registration whenever he saw fit for men who had become of draft age since the last registration. The third (August 31, 1918) extended the draft ages from 21-31 to 18-45, inclusive; and placed Navy and Marine Corps recruitment under the Selective Service, a measure which had become essential to accurate and orderly control of the pool of manpower.

All of these laws vested in the President plenary powers for the regulation of administrative details to give them effect.

The Selective Service Law of May 18, 1917, was upheld by the Supreme Court in the most unequivocal terms. (See Appendix C.)

22. Organization.—In November 1918, a force of almost 200,000 persons was organized as follows:

(1) The Provost Marshal General, an Army officer, operated National Headquarters with a total of 430 persons, only 45 of whom were Army officers.

(2) Fifty-one Governors and their State Headquarters, the intermediate links between National Headquarters and the roots of the system, aggregated only 1,000 persons, less than 150 of whom were Army officers.

(3) A local board in each county or urban group of 30,000 was the real instrument of selection and exemption. There were 4,650 local boards, with a total membership of over 14,000, all civilians.

(4) Consultant and appellate agencies, wholly civilian, consisted in each State of district boards (i. e., appeal boards), boards of instruction, medical and legal advisory boards, industrial advisors, and Government appeal agents.

23. Administrative methods.—The governing principles were supervised decentralization, and selection by the neighbors and fellow-civilians of the drafted men.

National Headquarters was primarily a center of instruction and guidance. It dealt with the Governors, and as a rule decided general

questions only; individual cases it refused to consider until they had been severely sifted through the lower channels. Its field force of traveling inspectors visited the State Headquarters to coordinate and explain. National Headquarters contained 13 divisions under the Provost Marshal General, or about twice as many as good administrative practice suggests.

State Headquarters directly controlled the operating machinery. They supervised the local boards and other agents, brought the problems of operating units before the Provost Marshal General, and distributed his decisions and instructions downward.

The local boards carried the load. Their duties included every step of the transit from home to camp. Composed generally of able and respected men, their very ability invited those in authority to increase their burdens. They were responsible for registration, classification, physical examination, induction, transportation, rail routings, passport permits, reports, tabulations, records, investigations; and they very quickly became information centers and counsellors upon every possible question from proper clothing to non-support. Probably no group in the war effort worked harder or more intelligently than the local boards.

The district boards have been referred to (par. 22) as "appeal boards." In addition to reviewing appeals from local boards, they had original jurisdiction of registrants engaged in industry, including agriculture.

24. Registration.—General Crowder and his assistants had not waited on the passage of the Selective Service Law, but by warning letters to the Governors and by unauthorized printing of the necessary forms had made ready for registration at an early date. So complete were these preparations that registration could have been held within a week after the law became effective on May 18. A few additional days were allowed for disseminating the Presidential proclamation and the necessary instructions. On the date set, June 5, almost 10,000,000 men registered at their regular precinct polling places. The precinct registrars were supervised by temporary county control boards, appointed for the occasion and instructed by the Governors.

There were three subsequent registrations. In June and in August 1918, about 900,000 men who had recently become 21 years old were registered at their local board offices. In September 1918, over 13,000,000 men between the ages of 18 and 45 were registered at the polling places, under supervision and control of the local boards. The total World War registration was over 24,000,000.

25. Classification.—The first draft of 1917 furnished 687,000 men to the Army. Under emergency conditions, classification was simple, expeditious, and uncritical. According to their order num-

bers in the National drawing, men were first examined physically and then called before their local boards. Each man was then, on the merits of his case, either drafted or exempted, subject to appeal to the district board. While this summary method served to meet the first draft, it was obvious that any real strain on manpower would demand a more fluid and continuing classification of the exempted cases in place of the single permanent decision to exempt. After the first draft had been met, therefore, a more flexible system was put in force by Presidential regulations. The first step was the introduction of the Questionnaire. From the information furnished in this 16-page document by each registrant, he was placed in one of five classes. These classes did not signify specific reasons for exemption; they merely graded into degrees of liability for service, Class I containing those immediately available and Class V those most permanently deferred. Physical examination now *followed* classification into Class I, instead of preceding it as was done for the first draft. With time available to evaluate lengthy questionnaires and inquire further when necessary, this system worked; the feasibility of such labor in time for the first draft would have been questionable.

26. Induction and mobilization.—When the local board received a call for a certain number of men, it selected them from Class I according to order number and mailed each man a notice, directing him to report at a stated hour, date, and place for military duty, and informing him that from the stated hour and date he was automatically in military service. At the assembly place, the local board publicly appointed from the group of inducted men a leader for the whole group, and an assistant leader for each eight men. The leader was given transportation, lodging, and meal tickets for his group and was made responsible for them until they reported at the mobilization camp.

27. Some special problems.—Problems which may recur in any future Selective Service were those relating to: (1) Aliens; (2) conscientious objectors; (3) recruitment by uncoordinated agencies; (4) blanket occupational exemptions; and (5) the "Work or Fight" order.

(1) Aliens resident in the United States were more numerous in 1917-18 than they are today. Aliens of draft age had to register, and were then given classification on their individual merits. Reciprocal conventions with certain of the Allied governments subjected their citizens in this country to our Selective Service, and vice versa.

(2) Members of recognized religions whose beliefs forbade participation in war were exempted by the Selective Service Law from combatant service only. A loophole was thus opened for shirkers.

"Conscientious objectors," whether honest or fake, were very unpopular with the public and received little sympathy from the draft agencies.

(3) Until late in the War, the Navy and Marine Corps continued recruiting on the volunteer basis and were wholly independent of the Selective Service system. The Army too, continued voluntary recruiting for some time. The Selective Service System soon found its estimates and quota statistics getting out of control. Eventually all Army, Navy, and Marine Corps recruiting had to be brought under Selective Service procurement.

(4) Because of the paramount importance of shipping, a special protection was set up for ship-building labor, in the form of the Emergency Fleet Classification List. An estimated 100,000 Class I men were thus exempted on demand of any of the three separate agencies concerned with procuring such labor. The Emergency Fleet List was in effect a blanket industrial exemption, and like all such blanket exemptions it speedily became a national scandal. (See the history of blanket exemptions in the South in our Civil War, par. 19.) Shipyards became refuges for thousands of able-bodied men with no special qualification for such employment except a desire to shirk their military duty. Men who thus escaped military service were soon marked for public revulsion, and the whole episode furnishes a lesson that when the Nation is behind a war effort, as it was in the World War, any blanket industrial exemptions are going to arouse public anger. By the summer of 1918, it was possible to discontinue further exemptions of Class I men for the Emergency Fleet Classification List.

(5) The "Work or Fight" order was issued on May 17, 1918, after some months of consideration. Briefly, it provided that any registrant who was idle or engaged in a nonproductive occupation became liable to induction immediately, regardless of his class or order number. Nonproductive occupations included, for example, gamblers, bartenders, bell boys, elevator boys, ushers, waiters, sales clerks, professional athletes. The order was inspired partly by a sense of the unfairness of drafting useful workers while other men loafed, and partly by the intent to push into essential industry a flow of replacements for men taken into military service.

It may be stated here that the plans for future emergencies now under study by the Joint Army and Navy Selective Service Committee do not extend to a future "Work or Fight" order, as various unofficial publications have alleged. The social implications of such a regulation are so broad as to go far beyond the proper field of military planning. If and when a National emergency becomes so

acute as to raise the "work or fight" question, the highest civil authorities will settle it.

28. Reasons for success.—Selective Service was instituted at the proper time—the beginning—and thus avoided the effect of belated coercion after other methods had failed. The obligation of service was held to be personal and nontransferable; devices favorable to the rich, such as purchased substitution and purchased exemption, were forbidden.

Responsibility was dispersed to units of population so small that officials were accessible to the public. The officials were not military men but civilians, well known in their communities. A man's liability and availability for service were decided by his own neighbors. If favoritism crept in, it did so in full view of the community and no blame attached to the armed services. By careful education, the understanding and confidence of the public were obtained, so that the draft received popular support, and odium attached to those who tried to evade it.

Thousands of drafted men thoroughly disliked military service; resentment and disgust made the Army unpopular for several years after the war. But these sentiments only emphasize the absence of such reactions against the Draft itself.

The dominating features of Selective Service were its strictly civilian nature and its intimate local administration. The armies were raised by the Nation itself, and public realization of this fact was the strongest element in the success of the system.

It is planned to follow the same principles in any future Selective Service. The military services will expect the Nation to produce the men and deliver them for duty.

SECTION V

CURRENT PLANS FOR SELECTIVE SERVICE (1939)

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29. Authority for planning.—Planning for future Selective Service is authorized by Section 5*b* of the National Defense Act, which reads in part:

“The duties of the War Department General Staff shall be to prepare plans for national defense and the use of the military forces for that purpose, both separately and in conjunction with the naval forces, and for the mobilization of the manhood of the Nation and its material resources in an emergency * * *”

The Selective Service Laws lapsed at the end of the World War emergency, and there is today no legal base upon which definitive plans may be erected. All plans rest on the assumption that Congress, after considering past experience, will enact Selective Service legislation very shortly after a National emergency arises. It is expected and hoped that any Selective Service thus instituted will resemble closely that of the World War.

30. Joint Army and Navy Selective Service Committee.—This committee is both the nucleus for National Headquarters of a future Selective Service Administration, and the instrument for planning wartime personnel procurement in obedience to that portion of the National Defense Act just quoted.

Its present (1939) membership is:

From the War Department

One Regular Army officer of the Personnel Division, War Department General Staff.

One Reserve officer of the same division, with experience in the 1917 draft.

One National Guard officer of the same division.

One Regular Army officer of The Adjutant General's Office.

From the Navy Department

One Naval officer of the Bureau of Navigation, Planning Division.

One Marine officer of the Headquarters, Commandant of the Marine Corps.

Additional members from the Joint Munitions Board

One Army officer of the Office, Assistant Secretary of War.

One Naval officer of the Office, Assistant Secretary of the Navy, Shore Establishment Division.

Members have been selected because of their qualification to inform the committee upon particular aspects of its problems, but they are not for that reason the representatives of particular interests; their mission is the broad consideration of National advantage.

Allocated to the committee are about 100 Reserve officers of the Army, Navy, and Marine Corps. These officers have been so chosen as to give the committee the broadest possible information on the relation of Selective Service to many occupations and interests in all sections of the country. In an emergency they would go at once into the Selective Service machinery, some in Washington and some in the field.

Thus constituted and reinforced, the Joint Army and Navy Selective Service Committee undertakes the following responsibilities:

(1) Maintains in tentative form a proposed Selective Service Law.

(2) By contact with the War and Navy Departments and the Joint Munitions Board, keeps abreast of changing problems of mobilization.

(3) Studies draft procedure, blank forms, etc., with a view to simplification and time-saving in emergency operations.

(4) Maintains Selective Service Regulations based on the three foregoing factors.

(5) Maintains a plan for the National Headquarters of which it is the peacetime nucleus.

(6) Corresponds with the State Adjutants General about State Selective Service Plans; and maintains a file of the State plans.

(7) Conducts correspondence course instruction for State Staff officers, selected Reserve officers, and other individuals who will be concerned with Selective Service.

(8) Conducts annually four regional Selective Service conferences, each lasting two weeks, for the discussion of personnel procurement problems with representatives of the corps areas, the naval districts, the Marine Corps recruiting system, the State staffs, and Selective Service Reserve officers.

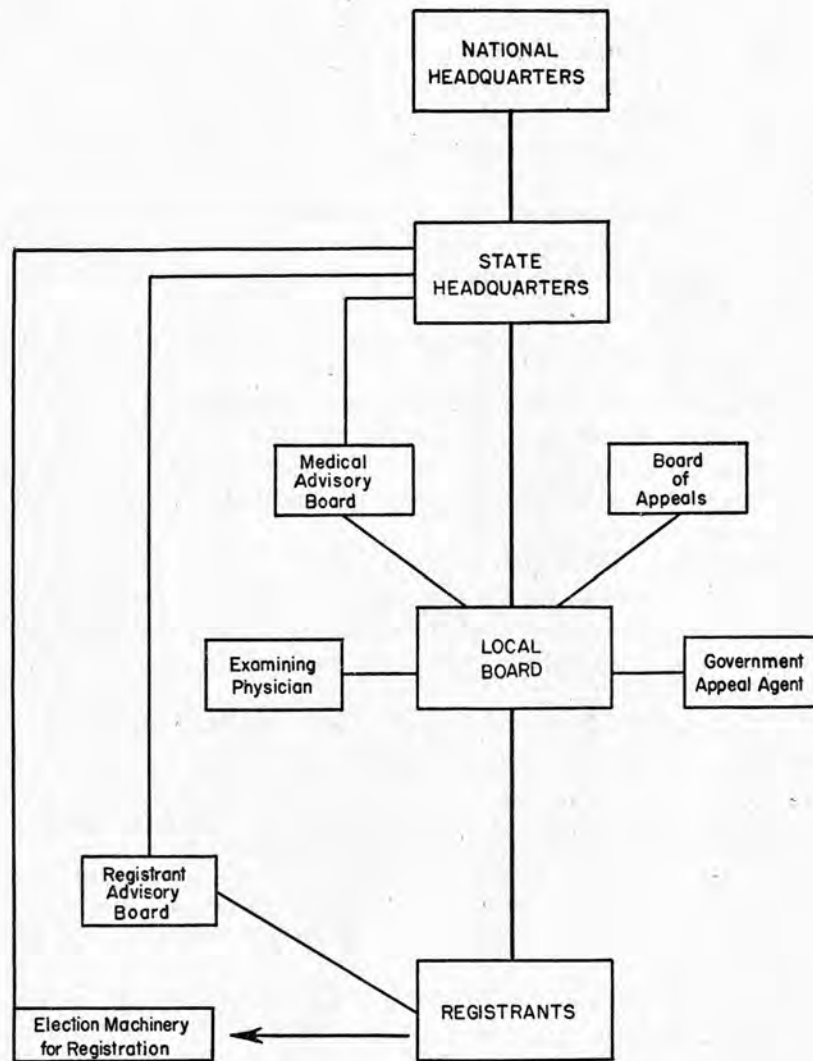
31. State Staffs, National Guard.—State Staffs of the National Guard have as their mission (par. 3*b*, N. G. R. 15):

“To constitute a nucleus of personnel for the administration, sanitation, supply, transportation, mobilization, and recruiting of the National Guard in both State and Federal service.

“To constitute for use in a national emergency, a nucleus of National Guard officers and enlisted men trained to prepare and place in operation plans for procurement of personnel by recruiting and by Selective Service.”

Under the second part of this directive, each State Staff is the nucleus of State Headquarters in a future Selective Service Administration, and maintains a State Plan coordinated with the National plans of the Joint Selective Service Committee. The training of State Staffs for such purposes is an expanding activity at this time (1939). In some States, the field training period of the State Staff is devoted to studies and exercises on the subject. Selected staff

ELEMENTS OF THE SELECTIVE SERVICE SYSTEM



officers of a number of States are taking the Selected Service extension course in lieu of armory drill training. (See also par. 41.)

32. The proposed law.—The latest (1937) revision of the proposed Selective Service Law is simple and broad. It authorizes the President to register, select, and induct into the land and naval forces from such age groups between 18 and 45 as he prescribes, and to promulgate necessary regulations to give the law effect. The individual has the duty of registering. Only members of the armed forces and foreign diplomatic personnel are excused from registration. Each inductee becomes subject to military law upon the date and hour stated in his induction notice and remains liable to serve until 6 months after the date set by the President as the end of the emergency. Bounties, substitutions, and purchased exemptions are forbidden. Only the highest Federal and State officers are exempted outright and these only while in office; the President is authorized to defer service for essential occupation or dependency; members of recognized religious sects, whose teachings are opposed to war, are exempt from combatant service only. The President is authorized to set up a Selective Service System, including local boards and appeal agencies; to provide for classification (i. e., to investigate the registrant's private affairs); and to use both Federal and State departments and personnel as needed in the Selective Service. Quotas are to be balanced according to the numbers of men available for service (i. e., the number in Class I), but quotas for the earliest drafts may be based on estimated figures. Penalties give teeth to all sections of the law. All conflicting laws or parts of laws are suspended for the period of emergency.

It will be seen that this projected law follows very closely the final form of World War Selective Service. Its text contains only those provisions necessary to accomplish that result. Experience with legislation indicates that various unpredictable provisos and riders will be hung on this essential framework before it is enacted into law. The first Selective Service Law of the World War included numerous extraneous provisions related to organization of tactical units, pay of enlisted men, control of liquor and prostitution near military camps, etc. However, in view of the outstanding success of the World War draft system, it is believed that the Selective Service of the future will not be materially different.

Court decisions bearing on the right of Congress to raise armies and on the 1917 Selective Service Law have been studied most carefully in drawing the proposed law. The opinion of the Supreme Court upholding the Act of May 18, 1917, is a powerful and eloquent exposition of the entire subject (245 U. S. 366). The Syllabus

of that Decision has been included in this text (Appendix C) as a résumé on the constitutionality of this law.

33. "Selective Service Regulations."—Regulations to govern the details of administration have been prepared. They are never considered permanently crystallized; one phase or another is always under study.

In the following paragraphs the procedure which is proposed at the present time (October 1939) is described in general terms only.

34. Registration and numbering.—On the day set by the President, all men between the prescribed ages (probably 21 to 31) register in their voting precincts. The registrars of the precincts deliver their cards to the county clerks, who distribute them to the proper local boards. Each local board then shuffles its cards haphazard and gives them serial numbers according to this accidental sequence. The National Headquarters next makes up a national "Code List," on which the serial numbers are arranged in the order they are drawn by a lottery in Washington. The serial number "1" which each local board assigned after its shuffle may turn out to be the last number drawn in this lottery and therefore the last number liable for selection for military service. The purpose of so much effort to arrange the numbers accidentally is to assure completely impartial and impersonal determination of the order in which registrants become liable for selection.

35. Classification.—Within a few days of the registration, each registrant receives a Questionnaire, which when answered fully will give his local board a basis for classifying him. If he needs help in completing this document, a "registrant's advisory board" assists him. The registrant is allowed 5 days to return his Questionnaire. The local board then studies it and places him tentatively in one of four classes:

- Class I. Available for service immediately.
- Class II. Deferred because of the importance to the Nation of the services being rendered in civilian life.
- Class III. Deferred because of dependents in the meaning of the law.
- Class IV. Deferred by law or because induction for obvious reasons, such as insanity, physical unfitness, alienage, etc., is undesirable.

The ruling principle is that *every registrant is in Class I until cause for deferment is positively established*. The local board has broad powers of investigation and wide discretion. When it finds no cause for deferred classification, it causes the registrant to be physically examined, and then assigns its final classification. From this decision either the registrant or the Government may appeal.

There is an appeal board for approximately each 600,000 of population.

A number of advisory agencies assist in classification. Government appeal agents protect the Government from deferments by reason of favoritism or corruption. Industrial advisors protect essential industries. Medical advisory boards of eminent specialists are consulted about doubtful physical cases. All of these agencies are self-contained within each State.

While every registrant is entitled to fair treatment, including review of his case by the appeal board, the war is not going to wait while every slacker resorts to endless appeals to higher and higher authority and thus delays entering the service. After all, he *owes* military duty, and any deferment is an act of grace by the Government. For this reason, appeal beyond the appeal board to the President is difficult.

For the same reason, the necessity to make expeditious decisions, the Selective Service Regulations provide that appeals shall be based on documentary evidence, and decided by appeal boards on the evidence submitted. Neither oral nor written arguments by counsel are admissible.

36. Quotas and calls.—Each local board reports its total of Class I (A)¹ registrants to the State Headquarters. Each State Headquarters reports its consolidated total to National Headquarters. Requiring a draft of a certain number of men, National Headquarters issues a "general call" on each State for a quota proportionate to its Class I (A) strength. The State similarly apportions a quota to each local board. Each State and each local board area receives credit, against its quota, for men it has already furnished to the land and naval forces.

The local board then selects the proper number of men according to their order number in the National lottery, skipping the number held by any man who is in Class II, III, or IV.

There are also provisions for "special calls" for men of particular qualifications, and "individual calls" by name for men of exceptionally rare qualifications.

37. Induction and mobilization.—Under the present regulations, the process remains identical with that of the World War (see par. 26). The local board mails each inductee a notice to report at a stated date, hour, and place, and he is subject to military law from the stated date and hour, and is a deserter if he fails to appear. At the assembly place, the local board checks all papers, publicly

¹ Class I (A) contains men available for general service. Class I (B) contains those available for limited service. Limited service does not necessarily mean noncombatant service. The local board may call up only the number of limited-service men which is indicated in its "call." Quotas are based solely on Class I (A).

appoints a leader and assistant leaders, issues transportation, meal, and lodging tickets to the leader, and starts the group for camp. Now under study is the possibility of delivering the registrants to the military service at points near the local board offices, the physical examination, acceptance or rejection, and induction to be made by the Service.

38. Local boards.—It is obvious that the procedure which has been outlined distributes the burden and responsibility as they were in the World War draft. National and State Headquarters are coordinating and instructing agencies, but the real work of classification, selection, and induction is on the neighborhood committee, the Local Board. Thus every step in the process of bringing a citizen into military service is performed in his full sight by men to whom he has personal access. In the World War there were 4,450 local boards; in an emergency today it is expected there would be over 6,500 of them.

39. Law enforcement.—The student of the proposed Selective Service should note that *enforcement* of the Law is not in the least a function of the Selective Service Administration. Under no circumstances should the draft authorities be placed in the man-hunting role which damned the Civil War draft. The Department of Justice will be responsible for arrests and prosecutions. Selective Service agencies will of course maintain liaison with the Department of Justice in order to assure execution of the Law, but they will not do police work.

SECTION VI

CURRENT PLANS (1939) FOR VOLUNTEERING IN WARTIME

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"The Civilian Effort".....	41
Peacetime planning for "The Civilian Effort".....	42
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40. The problem.—Selective Service is a fair and efficient method, but it cannot be expected to produce a single man in the first 60 days of mobilization. The law must be enacted; the machinery set up; registration, classification, and selection must consume many days before a single man reaches camp. Were a Selective Service Law enacted before M-Day, there would still be a lapse of perhaps 30 days before it produced any men.

Yet any war plan is useless unless it rests on a workable mobilization plan; and mobilization schedules depend utterly upon getting the necessary men. In the first 60 days, the Protective Mobilization Plan and corresponding Navy Department plans call for 790,000

new men. They must be obtained by competing agencies of the Regular Army, National Guard, Navy, and Marine Corps. In the World War, these agencies enlisted 290,000 men in the first 60 days.

Personnel procurement in the first 60 days

[Figures are approximate]

	Required M-30M	Required 30M-60M	Enlisted in April-May 1917
Army.....	300,000	200,000	205,000
Navy.....	125,000	125,000	77,000
Marine Corps.....	25,000	15,000	8,000
	450,000	340,000	
		450,000	
Total, 60 days.....		790,000	290,000

It cannot be hoped that official recruiting parties such as are used in peace and were used in 1917 will ever secure men enough to carry out the mobilization schedules. Recruiting offices will of course continue, in greatly increased numbers, and will accept suitable applicants, but far more effective means are required.

While the solution of this problem has not been worked out in complete detail, a comprehensive plan has been outlined and steady progress is being made toward its completion. This plan is called "The Civilian Effort."

The Army and Navy are not expected to produce money and supplies; these things are furnished them, and their job is to use them in the war effort. The same principle applies to manpower. The Selective Service process is production of men by each community according to its just quota. The idea behind "The Civilian Effort" is the same; each community of the Nation shall contribute its share of the necessary men, as it contributes its share of the money and munitions. The armed services will be responsible for making soldiers of them.

41. "The Civilian Effort."—Like the Selective Service system, "The Civilian Effort" is decentralized to the Governor of each State, whose peacetime planning agent is his Adjutant General. (See par. 31 for responsibility of the State Staff.) When the emergency arises, each Governor will be called upon to organize a State-wide recruiting drive.

The agencies in direct contact with each Governor are the Army corps area, the Naval district, and the Marine Corps recruiting division, in which his State lies. Each of these agencies will allot a quota of men expected from that State, and will arrange to receive the men at its recruiting stations.

The Governor in turn will suballot a quota to each county or urban unit. A civilian committee in each community will produce the recruits. The promotional work to accomplish this result in each community is similar to other "drives" the mechanics of which are well-understood and frequently employed. It can be boosted to some extent by National and State promotional efforts, but ultimately the burden rests upon the leading men of each local area, and will furnish a real test of leadership.

To summarize, the center of "The Civilian Effort" is the Governor of each State. The Army, Navy, and Marine Corps tell him their needs; he apportions the combined requirement among the local communities and guides their efforts to move recruits to the places where they can be absorbed.

42. Peacetime planning for "The Civilian Effort."—The Joint Army and Navy Selective Service Committee endeavors to assist the State Adjutants General in their efforts to coordinate their plans with those of the several recruiting services.

The Army corps areas, Naval districts, and Marine Corps recruiting divisions are breaking down their mobilization requirements into State quotas; and are informing the State Adjutants General of these quotas, the plans for recruiting stations, etc. Each Adjutant General also has his own National Guard plans.

Some States have made splendid progress with their plans for "The Civilian Effort." A few have done very little. The Joint Army and Navy Selective Service Committee is including "The Civilian Effort" in the agenda of its annual Selective Service Conferences. It is encouraging the attendance at these conferences of National Guard officers representing the State Staff of each State.

43. Differences between Selective Service and "Civilian Effort."—The Selective Service Administration is a semipermanent organization; "The Civilian Effort" is an affair of two months. Selective Service, selecting men who have no choice but obedience, is fundamentally a judicial process; "The Civilian Effort," existing purely to induce voluntary enlistment, is a promotional activity. Selective Service requires complete and careful organization from top to bottom in order that its records and paper work may be properly handled; "The Civilian Effort" requires only sufficient organization to coordinate local drives, and can easily defeat itself by too much organization.

It sounds well to say that in wartime the people must furnish the soldiers to the Army, that the Army has no responsibility for getting them. But we know from history that the people will NOT furnish them for any length of time by voluntary enlistments. The Government must sooner or later use some form of draft, and the

longer this measure is delayed, the more confusion is bred in the entire war effort, military and industrial. "The Civilian Effort" which has just been described cannot be puffed into an alternative to Selective Service. It is only a makeshift, adopted more in the hope than in the conviction that it will meet the situation for a couple of months until Selective Service can begin producing men at the training stations.

"The Civilian Effort" is a stopgap. Selective Service is the only sound measure yet devised for the United States.

APPENDIX A
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SECTION II

- 3-4. Crowder, p. 51 et seq.; 245 U. S., pp. 378-379.
- 5-7. Crowder, p. 176 et seq.

SECTION III

9. Upton, p. 8; 245 U. S., p. 379.
10. Palmer, p. 35 et seq.; Upton, p. 25, p. 59, p. 67; 245 U. S., p. 380.
11. Palmer, Chs. VIII-X, p. 84 et seq.; Ch. XXIV, p. 263 et seq. Upton, Ch. VIII, p. 68 et seq.; 245 U. S., pp. 381-384.
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18. Oakes; Second Report, pp. 7-8.
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21. Selective Service Regulations (World War): "Statutes", p. 349 et seq.
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- For a general narrative, somewhat propagandist, see Crowder, Ch. V, p. 115 et seq.
- Information on the Emergency Fleet Classification List (par. 27) was also obtained from Lieut. Col. V. J. O'Kelliher, O. R. C.
- For probably the best exposition of the legal background and standing of Selective Service ever written, read the entire opinion of the Supreme Court on the Selective Service Law, 245 U. S., p. 366 et seq.

APPENDIX B

QUOTATIONS FROM THE CONSTITUTION OF THE UNITED STATES

"ARTICLE I. (Powers of Congress.)

"SEC. 8. (1) The Congress shall have Power to lay and collect Taxes, Duties, Imposts, and Excises, to pay the debts and provide for the Common Defence and general Welfare of the United States; but all Duties, Imposts, and Excises shall be uniform throughout the United States;

"SEC. 8. (11) To declare war, grant letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

"SEC. 8. (12) To raise and support Armies, but no Appropriation of Money to that use shall be for a longer Term than two Years;

"SEC. 8. (13) To provide and maintain a Navy;

"SEC. 8. (14) To make Rules for the Government and Regulation of the land and naval Forces;

"SEC. 8. (15) To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

"SEC. 8. (16) To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

"SEC. 8. (17) To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dockyards, and other needful Buildings;

"SEC. 8. (18) To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer Thereof.

"SEC. 9. (2) The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

"SEC. 10. (3) No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

"ARTICLE II. (Powers of the President.)

"SECTION 1. (1) The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same Term, be elected.

"SECTION 2. (1) The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and he shall have the power to grant Reprieves and Pardons for Offenses against the United States, except in cases of Impeachment.

"ARTICLE III. (Judicial Power.)

"SECTION 1. The Judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

"SECTION 3. (1) Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

"ARTICLE IV. (Protection of States against Invasion.)

"SECTION 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence."

"AMENDMENT II. (The Right to Bear Arms.)

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

"AMENDMENT XIV. Section 1. (Citizenship.)

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

APPENDIX C

THE SUPREME COURT ON SELECTIVE SERVICE

(United States Reports, Volume 245, Cases Adjudged in The Supreme Court at October Term, 1917, from October 1, 1917, to March 4, 1918, p. 366)

SELECTIVE DRAFT LAW CASES¹

ERROR TO THE DISTRICT COURTS OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA AND THE SOUTHERN DISTRICT OF NEW YORK

Nos. 663, 664, 665, 666, 681, 769. Argued December 13, 14, 1917.—Decided January 7, 1918

The grant to Congress of power to raise and support armies, considered in conjunction with the grants of the powers to declare war, to make rules for the government and regulation of the land and naval forces, and to make laws necessary and proper for executing granted powers (Constitution, Art. I, Sec. 8), includes the power to compel military service, exercised by the Selective Draft Law of May 18, 1917, c. 15, 40 Stat. 76. This conclusion, obvious upon the face of the Constitution, is confirmed by an historical examination of the subject.

The army power, combining the powers vested in the Congress and the States under the Confederation, embraces the complete military power of government, as is manifested not only by the grant made but by the express limitation of Art. I, Sec. 10, prohibiting the States, without the consent of Congress, from keeping troops in time of peace or engaging in war.

The militia power reserved to the States by the militia clause (Art. I, Sec. 8), while separate and distinct in its field, and while serving to diminish occasion for exercising the army power, is subject to be restricted in, or even deprived of, its area of operation through the army power, according to the extent to which Congress, in its discretion, finds necessity for calling the latter into play.

The service which may be exacted of the citizen under the army power is not limited to the specific purposes for which Congress is expressly authorized, by the militia clause, to call the militia; the presence in the Constitution of such express regulations affords no basis for an inference that the army power, when exerted, is not complete and dominant to the extent of its exertion.

Compelled military service is neither repugnant to a free government nor in conflict with the constitutional guaranties of individual liberty. Indeed, it may not be doubted that the very conception of a just government and its

¹The docket titles of these cases are: *Arver v. United States*, No. 663, *Grahl v. United States*, No. 664, *Otto Wangerin v. United States*, No. 665, *Walter Wangerin v. United States*, No. 666, in error to the District Court of the United States for the District of Minnesota; *Kramer v. United States*, No. 681, *Graubard v. United States*, No. 769, in error to the District Court of the United States for the Southern District of New York.

duty to the citizen includes the duty of the citizen to render military service in case of need and the right of the government to compel it.

The power of Congress to compel military service as in the Selective Draft Law, clearly sustained by the original Constitution, is even more manifest under the Fourteenth Amendment, which, as frequently has been pointed out, broadened the national scope of the government by causing citizenship of the United States to be paramount and dominant instead of being subordinate and derivative, thus operating generally upon the powers conferred by the Constitution.

The constitutionality of the Selective Draft Law also is upheld against the following objections: (1) That by some of its administrative features it delegates federal power to state officials; (2) that it vests both legislative and judicial power in administrative officers; (3) that, by exempting ministers of religion and theological students under certain conditions and by relieving from strictly military service members of certain religious sects whose tenets deny the moral right to engage in war, it is repugnant to the First Amendment, as establishing or interfering with religion; and (4) that it creates involuntary servitude in violation of the Thirteenth Amendment.

Affirmed.

