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# Curtailing of Student Deferment in the Late 1960s as a Motivation for Violent Student Protests at Columbia University

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A Thesis in the Field of History

for the Degree of Master of Liberal Arts in Extension Studies

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## Abstract

When President Lyndon Baines Johnson escalated the Vietnam War in 1965, he ordered more man to fight. The Director of Selective Service System, General Lewis B. Hershey, ordered local draft boards nationwide to curtail the granting of student deferment in order to induct more men to the military. In 1965 to 1968, many college students saw themselves being reclassified. In 1966, when General Hershey reissued the dormant Selective Services Qualifying Test (SSQT) for registrants who wanted to keep their student deferments, angry students began disruptive, war-related protests. On October 26, 1967, Hershey sent his "Hershey's Directives" to local and appeal boards nationwide, in order to punish registrants who protested against the Vietnam War and the changing draft laws.

This thesis will address this primary question: Were students at Columbia motivated to take part in demonstrations because of "Hershey's Directives?" In addition, the secondary questions are: Were student activists motivated to act violently and disruptively because they were suspended for participating in previous demonstrations? Did local boards send disciplined students to Vietnam? This historical case study of student activism at Columbia in the late 1960s focus on four issues such as the loss of student deferments, General Hershey's attitude toward student deferments, arguments for and against student deferments, and war-related student protests. This thesis concludes that a majority of Columbia students, as well as a majority of students throughout the

United States, were motivated to take part in demonstrations because of “Hershey’s Directives” and the changing draft laws since 1967.

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I would like to thank my thesis advisor, Dr. Donald Ostrowski, PhD, of Harvard University Extension School for being available when I needed to see him during his office hours, for ample advice in thesis writers' meetings, and for quick responses to my emails during the process of my research and writing a thesis. I also want to give thanks to Brett Flehinger, PhD, of the History Department in Harvard University, for agreeing to act as my thesis director, and to Candace Kant, PhD and a Professor Emerita of College of Southern Nevada, for looking at my thesis proposal draft and then giving me advice and tips.

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# Introduction

> [A]fter a long and fruitless effort at discussion and negotiation by officers of the administration, many devoted faculty members and helpful persons from outside the university, it became clear that either grant student demands, including full amnesty for all participants, or we could request the City police to remove the students by force. We were not willing under any circumstances to grant amnesty for these illegal acts, so we began to make the necessary arrangements for police action.[1]
>
> *Grayson Kirk, June 1, 1968*

In 1966, General Lewis B. Hershey, Director of the Selective Service System, ordered draft boards nationwide to curtail the granting of deferments, particularly student deferments. When Hershey reissued the dormant Selective Services Qualifying Test (SSQT) for registrants who wanted to keep their student deferments, angry students began disruptive, war-related protests. On October 26, 1967, Hershey sent his "Hershey's Directives" as a letter to local and appeal boards, as well as to government appeal agents across the nation, because he wanted to punish registrants who protested against the Vietnam War and the changing draft laws. Many young men who went to college usually chose not to fight in the Vietnam War, at the same time General Hershey had been vigilant in inducting more men by curtailing student deferments. Even before students and faculty members participated in violent demonstrations at Columbia in 1968,

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[1] Grayson Kirk, "A Message to Alumni, Parents and Other Friends of Columbia University," in *Image and Event*, ed. David L. Bicknell and Richard L. Brengle (New York: Meredith Corporation, 1971) 6.

a few student activists were on probation for participating in previous disruptive protests and were already at risk of losing their student deferments. Most of the scholars who have examined student protests have been critical toward the student activists without examining the history of the Selective Service Act and the higher education system since the Second World War.

This thesis will address this primary question: Were students at Columbia motivated to take part in demonstrations because of "Hershey's Directives?" In addition, the following secondary questions are significant to this thesis: Were student activists motivated to act violently and disruptively because they were suspended for participating in previous demonstrations? Did local boards send disciplined students to Vietnam?

This thesis is a historical case study of student activism at Columbia in the late 1960s, focusing on four issues: 1) The loss of student deferments, 2) General Hershey's attitude toward student deferments, 3) Arguments for and against student deferments, and 4) War-related student protests. In order to engage in historical research investigation, I examined primary sources and secondary sources as described in the Methods section below. I consulted with Christian Appy's *The Working Class War,* because he used relevant primary and secondary sources on veterans' experiences when they fought in Vietnam.[2]

Since the late 1960s, there have been numerous studies on student protests against the Vietnam War. Some scholars have argued that a majority of violent or disruptive

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[2] Christian G. Appy, *Working-Class War: American Combat Soldiers and Vietnam* (Chapel Hill: University of North Carolina Press, 1993).

protesters were privileged white, middle-class students who wanted to remain in cushioned college lifestyles while disadvantaged men sacrificed their lives fighting in the war. In previous studies, there was criticism against student activists, and greater sympathy for working-class and poor men who were drafted to fight in Vietnam. However, these researchers did not address the history of the Selective Services Acts from 1940 to 1969 and advanced technology of weapons in Vietnam War. The Selective Services Act of 1940, as well as greater opportunities for poor and working-class men to enroll in college with the help of GI Bills and liberal college admissions policies, changed the American cultural landscape.[3] These scholars did not analyze how students could meet national defense by going to college for their educational and job training for their civilian occupation, meaning they could meet national needs without joining the military. There had been reports that the U.S. Armed Forces did not provide intensive 12-month training for newly drafted soldiers during the Vietnam War.[4] Most college students of the late 1960s grew up in this culture of changes.[5] Most scholars who have written about the Vietnam War have not considered the differences between the Vietnam War and the previous wars.

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[3] Charles H. Wilson, Jr., "The Selective Service System: An Administrative Obstacle Course," *California Law Review* 54 (December 1966): 2124-2125, accessed October 30, 2012, <http://www.jstor.org/stable/3479345>.

[4] Nicholas Lehman, "The Great Sorting," *Atlanta Monthly*, September 1995, 91, accessed October 30, 2012, < https://webspace.yale.edu/anth254/restricted/press/Atlantic-Monthly_9509_Lemann.pdf>.

[5]Shlomo Swirski, "Changes in the Structure of Relations between Groups and the Emergence of Political Movements: The Student Movement at Harvard and Wisconsin, 1930–1969," (PhD dissertation, Michigan State University, 1971) 34-36, accessed July 6, 2014, <http://eric.ed.gov/?id=ED055004>.

## Methods

I examined primary source documents from the archives at Columbia University. This includes documents about the protests, such as the Cox Commission's *Crisis at Columbia*,[6] books and documents written by student activists, bystanders, professors, deans, Vice President David Truman of Columbia, and President Grayson Kirk of Columbia. I consulted primary sources and government documents about the Vietnam War, the Selective Service System from 1940 to 1970, and the changing draft policies in the late 1960s. Finally, I consulted secondary sources about student protests at Columbia, the Vietnam War, and the history of student deferments as a part of the draft law from 1940 to 1969.

In addition, I reviewed oral history documents from Columbia University Oral History Collection. I limited my focus to the curtailment of student deferment after the escalation of the Vietnam War in 1965, General Hershey's statements in hearings and in national news, and the Hershey's Directives as motivating factors for violent student demonstrations at Columbia.

I chose Columbia University as a case study to examine violent student demonstrations, because Columbia University was the first university where violent student demonstrations took place. Since students at Columbia had unlimited access to media, they were aware of Hershey's Directives, the curtailment of student deferments, and the fact that the escalation of the war were reasons for these issues.

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[6] Cox Commission, *Crisis at Columbia: Report of the Fact Finding Commission Appointed to Investigate the Disturbances at Columbia University in April and May 1968* (New York: Random House, 1968).

I hypothesize that student demonstrators were motivated to engage in violent protests after they were suspended from college. They knew that upon losing their student deferments, they would be drafted to fight in Vietnam. Student activists were aware that General Hershey and President Lyndon Baines Johnson were principal decisions makers of the draft policies that could negatively affect them and their family. Protesters were angry about the possible disruptions and uncertainty in their lives, because of draft policies and General Hershey's seemingly negative attitude toward student deferments and young men who refused to fight in Vietnam.[7]

In addition, activists, particularly radical students, were aware that most returning Vietnam War veterans were dealing with serious injuries, and unexplained illnesses or psychological distress that later became known as Post-Traumatic Stress Disorder (PTSD). It was not until after the Vietnam War era that researchers and doctors discovered that Agent Orange was the reason why numerous Vietnam War veterans suffered from cancer and other illnesses, including PTSD. Some Vietnam War veterans also fared poorly socially, compared to veterans who fought in previous wars.[8]

This thesis will cover four chapters and then a conclusion. The Introduction chapter introduces my thesis questions, research methods, and hypothesis. The first chapter discusses the backgrounds of problems and literature reviews. The second chapter discusses General Hershey's argument for the Selective Service System, the

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[7] United States, Congress, Senate, Committee on Labor and Public Welfare, Subcommittee on Employment, *Manpower Implications of Selective Service: Hearings, Ninetieth Congress, First Session, March 20-23, April 4-6, 1967* (Washington: U.S. Government Printing Office, 1967), accessed February 26, 2015, <http://hdl.handle.net/2027/uc1.$b644101>.

[8] Appy, *Working-Class* War, 3-4.

formation of the Selective Service Act of 1940, which included student deferments, and arguments for student deferments. The second chapter also analyzes the Pentagon's bias against volunteers that were responsible for draft laws, Selective Service System, and the curtailment of student deferments. The third chapter analyzes and discusses the curtailment of student deferment from the escalation of the Vietnam War in June 1965 to the night of the first nationwide draft lottery on December 1, 1969.[9] The fourth chapter gives details about the changes in the draft laws in 1967 as a motivation for violent student protests, Mark Rudd's authorship of violent student protests, and Paul Vilardi's plans of violent actions against radical protesters. I analyzed the beginning of the draft resistant movement and protests against draft policies, and how the "Hershey's Directives" of October 1967 became a factor for the first violent student protests that took place at Columbia University in April 1968. The fourth chapter also discusses disciplinary actions taken against violent student protesters by their university and the city of New York, and students' experiences with their local draft boards. The concluding chapter discusses answers to my questions, and provides conclusions and recommendations for future research projects.

[9] Lyndon Baines Johnson, *Nation's Commitment in Vietnam, Statement by the President of the United States, July 28, 1965* (Washington DC: U.S. Government Printing Office, 1965) accessed July 23, 2015, <http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t47.d48.12677-4_h.doc.256?accountid=11311>.

# Chapter I

## Background of Problem and Review

A year after General Hershey sent his controversial letter, known as "Hershey's Directives," to state directors of local and appeal boards throughout the nation, the National Student Association, Inc., et al., filed a lawsuit, because they believed that Hershey violated young men's First Amendment rights. Selective Service laws prohibited registrants from obtaining a legal counsel or an attorney who could have represented them in their personal appearance with their local board. Registrants who exhausted all appeal options for a reclassification from 1-A (ready to serve in the military) to an exempted or a deferred status had three undesirable choices: join the military, go to jail, or leave the country. According to the lawsuit, General Hershey sent Local Board Memorandum 85 two days before he sent his directives. In Local Board Memorandum 85, Hershey claimed that registrants who protested against the Vietnam War and draft policies had violated the Selective Service Act. Registrants who returned their draft cards and Selective Service documents violated the act and it was contrary to national interests. Hershey believed that in the national interests, the draft and appeal boards throughout the nation should deny further deferments to anti-draft and anti-Vietnam War protesters.[1]

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[1]*National Student Association v. Hershey*, 412 F.2d 1103 (Court of Appeals, District of Columbia Circuit Court, 1969) Google Scholar, accessed October 4, 2014.

Hershey argued that protesting against the Vietnam War, particularly the changing draft laws, was an illegal activity. Because he believed that protesters interfered with military recruiting or were responsible for registrants refusing to fight in a combat unit in Vietnam, Hershey wanted draft board members to reclassify protesters as 1-A. The National Student Association understood that General Hershey sent his letter to the national headquarters, and the state, local, and appeal boards, when they said "to any segments of the Selective Service System." However, the National Student Association was unsure of which segments. After the state directors received Hershey's letter and memos, they forwarded a copy of Local Board Memorandum 85 and Hershey's Directives to all local and state appeal boards throughout their state.[2]

After local board members received Hershey's Directives and Local Board Memorandum 85, they reopened cases for the purpose of reclassifying registrants who protested and returned Selective Service documents, and sent registrants a letter notifying them to report for induction, as they have been classified as delinquent 1-A. I found four lawsuits registrants filed against General Hershey, because volunteers of their local draft board reclassified them. These lawsuits are evidence that some local board members obeyed "Hershey's Directives." When local board members "found" that a registrant "violated" the Selective Service Act by protesting against the Vietnam War or draft laws, they declared him as "delinquent." Hershey wanted all reclassifications done as quickly as possible, also known as the acceleration of induction.

In Local Board Memorandum 85, Hershey instructed state and local board members to forward all abandoned or mutilated draft cards they received to registrants'

[2]*National Student Association v. Hershey.*

home draft board. After a registrant's local board received a returned draft card, board members processed the owner of the card as "delinquent." Hershey argued that since a registrant failed to perform any duty or duties required of him under the Selective Service Act by not carrying a draft card as a part of their protest against the draft laws, local board members should declare him as "delinquent."[3]

By law, all registrants had to keep their draft cards in their possession at all time, and to notify their home local draft board of any changes of their addresses and of their claims for their deferred or exempted status. When registrants returned or burned their draft cards, they "failed to perform their duties" and violated draft laws. Thus, Hershey ordered local board members to reclassify all "delinquent" registrants and to accelerate their induction by moving them first in the induction list above volunteers. The plaintiffs, the National Student Association et al., filed a lawsuit in the U.S. Supreme Court, because civilian defense attorneys could not represent registrants with their Selective Service cases. Hershey's Directives obviously forced young men into involuntary servitude and a death sentence.[4]

Since the Hershey's Directives was in nationwide news in October 1967, students engaged in violent, disruptive protests. Furthermore, scholars engaged in their studies on the Vietnam War, draft policies, and/or student demonstrations. In November 1969, researchers at Harvard, Leon Mann and Thomas C. Daschiell recruited Harvard College seniors for their research project where they investigated whether young men's post-college career goals changed after they received a low (draft-vulnerable) number in the

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[3]*National Student Association v. Hershey.*

[4]*National Student Association v. Hershey.*

first national draft lottery that took place on December 1, 1969. Researchers gave the questionnaires to all participants five days before the national lottery. After the lottery, participants were split into two groups. The first group got a questionnaire one day after the lottery and the second group got a questionnaire ten days after the lottery. The researchers found that men who received low draft numbers would find: (a) a decrease in attraction toward draft-vulnerable options after college graduation (travel, graduate school, non-teaching job), because they produced a threat to the draft, and (b) an increase in attraction toward draft-exempted options (divinity school, medical school, teaching) because they represented the means of avoiding the draft. Men who received high numbers (safe numbers) found draft-vulnerable options more attractive than draft-exempt options. Almost all research participants found draft-vulnerable options more attractive than draft-exemption options initially.[5]

Barrie Thorne, a participant-researcher and a draft counselor for two draft resistant groups in Boston area from 1967 to 1969, the years of the draft resistant movement, helped registrants to obtain information about the Selective Service System, draft laws, deferments, and exemptions. In 1969, Thorne and her colleagues quit the draft resistant movement, because they noticed that more middle-class men came to them for help to avoid the draft than did working-class and poor men they hoped to help.[6]

According to Thorne, affluent registrants qualified for more deferments than registrants from other social classes did. Although poor and working-class registrants

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[5]Leon Mann and Thomas C. Dashiell, "Reactions to the Draft Lottery: A Test of Conflict Theory," *Human Relations* 28, no. 2 (1975) 155, 158-160, 162-169.

[6]Barrie Thorne, "Resisting the Draft: An Ethnography of the Draft Resistance Movement," (PhD dissertation, Brandeis University, 1971, Proquest 7130154) 4, 258-312.

could get 1-Y deferments for not meeting physical, mental and moral standards for the military services, and became rejected prospective volunteers, they still had a greater chance of serving in the military during the war than affluent registrants. If working-class and poor men wanted to avoid the military services, they had fewer options, as there were fewer deferments or exemptions available for them.[7] These previous studies mentioned above show that most registrants were motivated to evade draft by looking for deferments or exemptions, because they did not want to fight in Vietnam.

In his dissertation published in 1987, Richard L. Howell was critical of student anti-war activists. He noted that thirty-five students lost their scholarships after Harvard suspended them for their disruptive protests at Paine Hall in December 1968, but he did not say what happened to students who lost their scholarships, or to students who were expelled from Harvard. The Administrative Board, in which they examined the cases of 115 students, found that only fifty-seven students actually disobeyed Dean Fred Glimp's order to leave the hall. Five students who participated in the previous disruptive protests were suspended for the rest of the year, and fifty-two students were placed on probation.[8]

Howell mentioned a research study conducted by a faculty member at Harvard, Seymour M. Lipset, where Lipset examined the situations of 118 out of 138 students who were arrested for occupying University Hall on April 9, 1969.[9] Howell reviewed

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[7]Thorne, "Resisting the Draft," 4-6.

[8]Richard Lee Howell, "Harvard University and the Indochina War: From the Takeover of University Hall in the Spring of 1969 through the Aftermath of the Invasion of Cambodia and the Kent State Killings in the Spring of 1970," (PhD dissertation, Michigan State University, 1987, Proquest 8814860) 38-41, 56, 59-60, 72-73, 251.

[9]Howell, "Harvard University and the Indochina War," 72-73, 251. According to Howell, Seymour M. Lipset was a professor who conducted this study.

Seymour's study and claimed that these students did not have scholarships; therefore, they did not have financial need. In addition, Howell believed that Harvard-Radcliffe radical students were beneficiaries of the American capitalist society, and were the most privileged students economically and socially in a very selective and elite institution such as Harvard. However, twenty-one Harvard and six Radcliffe students who were arrested did hold scholarships, and of course, there were Harvard students who participated in ROTC programs.[10]

In his book entitled *Campus Wars*, published in 1994, Kenneth Heineman noted that not all students who were involved in anti-Vietnam war protests were middle-class and privileged. He believes that one reason for these stereotypical images of student activists was that the media paid greater attention to activists in elite universities, and paid scant attention to their counterparts in non-elite universities, unless tragedies such as those at Kent State and Jackson State warranted media attention. Heinemann studied student activism in public universities, and noted that less privileged activists had to pay for their education or received financial aid and scholarships. Some poor or working-class activists had parents who did not support their decision to go to college, or who could not afford to pay for their education. If poor and working-class activists lost their scholarships, were on probation or expelled from college, they had a lot more to lose. They probably lost their student deferments and possibly had to fight in Vietnam.[11]

In his *Working Class War*, Christian G. Appy argued that many working-class

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[10]Howell, "Harvard University and the Indochina War," 72-73; Scott W. Jacobs, "Who Are Those Kids in the University Hall? A Study of Students Who Took a Building," *Harvard Crimson* (June 11, 1970) accessed October 3, 2014, <http://www.thecrimson.com/article/1970/6/11/who-are-those-kids-in-university/?page=single>.

[11] Kenneth J. Heineman, *Campus Wars: The Peace Movement at American State Universities in the Vietnam Era* (New York: New York University Press, 1994*)* 79-82.

veterans and soldiers at first felt pride in their participation in America's tradition of military victory. However, Vietnam veterans did not receive rewards for their services, or feel a sense of appreciation. They had to find other ways to feel proud of their experiences fighting in Vietnam and to compensate for their losses. Vietnam veterans believed that the nation as a whole did not appreciate their sacrifice and service. American soldiers dealt with contradictory messages regarding President Johnson's official justifications of the war.[12]

Many soldiers arrived in Vietnam believing the government sent them to Vietnam, so they could help to stop the spread of communism and to help South Vietnam to preserve its democracy. In his speech at John Hopkins University in April 1965, President Johnson claimed that American soldiers were in Vietnam to help South Vietnamese citizens, to protect villagers from the Viet Cong's aggression, and to help the U.S. and South Vietnam prevent the spread of communism. What these soldiers found was completely opposite of what President Johnson had told them. They found widespread antagonism to their presence from Vietnamese civilians, including children and elderly people. When they followed military orders, they noticed that they destroyed villages and terrorized civilians. They discovered that South Vietnamese civilians already supported the Viet Cong and their enemies from North Vietnam. A vast majority of American soldiers spent most of their time looking for their elusive enemies. However, these search and destroy missions also proved futile since they could not find their enemies. Then they learned that the body count (numbers of enemies who died) were important to American policymakers.[13]

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[12]Appy, *Working-Class War*, 7, 209-212.

[13]Appy, *Working-Class War*, 7-8, 126, 212-217.

By the late 1960s, soldiers became familiar with land mines and booby traps that killed or maimed soldiers. Civilians and the Viet Cong created and assembled booby traps and land mines, and hid them in places that only the Vietnamese knew where to find. American soldiers, who stepped on these explosives, lost their limbs or received invisible injuries such as blindness, hearing loss, or PTSD. Some soldiers died because of these explosives.[14]

Apply argued that returning Vietnam veterans blamed anti-war activists for the poor treatment they received from society. Working-class and poor men who were unable to get deferments felt anger, hostility, envy, and insulted when they saw anti-war activists at home. In addition, rebellious soldiers who refused to fight, wore long hair, smoked marijuana, and took drugs detested anti-war activists who went to college. Apply watched a documentary, *Charlies' Company* (1970), about a group of eight rebellious soldiers who claimed that they were true activists, real hippies, and the ones who would end the war by refusing to fight. Like Thorne and Howell before him, Appy criticized the Vietnam War-era draft laws and deferments. All three researchers believe that deferments created social class-based divisions between those who could afford to go to college full-time and those who could not. However, none of these researchers addressed scholarship students who were poor or working-class, prospective volunteers rejected by draft boards, or soldiers who were willing to invite a student activist, such as Mark Rudd, to join them in the Underground Coffee and the military anti-war movement.[15]

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[14]Appy, *Working-Class War*, 170-171.

[15]Appy, *Working-Class War*, 220-223; Mark Rudd, *Underground: My Life with the SDS and the Weatherman* (New York: William and Morris, 2009) 125-130.

For her dissertation published in 2011, Tiffany Davenport examined the voting patterns of registrants with low lottery numbers and their parents in the 1972 elections. Davenport found that registrants who felt they were at risk of being exposed to draft policies were motivated to vote for a president who would change draft laws to their preferred policies, meaning those who did not want to fight hoped they would not be drafted if they voted for a right president. Davenport stated that she offered a preliminary finding on mass policy feedback and voting participation motivated by the mechanism of "self-interest." Parents of registrants who received a low number in the draft lottery, and who lived in a town, from which a local man had died from fighting in Vietnam, felt a greater loss and anger since their son was at risk for military induction and possible death. Parents who feared that their son would die in Vietnam were more likely to vote in 1972 elections than did parents who lived in a town with little or no casualty.[16]

The results of Davenport's study also show that exposure to conscription policies induced first-time voter participation at higher rates among registrants who were drafted since the implementation of the new draft lottery policy in December 1969. However, affluent registrants with a losing number were less likely to vote than poor and working-class registrants did. It was possible that affluent registrants could take advantage of draft-exempt options such as teaching, or going to medical or divinity school.[17]

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[16] Tiffany Christine Davenport, "The Draft and the Ballot Box: The Effect of Conscription Risk on American Political Behavior: 1969–1972" (PhD dissertation, Yale University, 2011, Proquest 3467414), 66-70, 80-81, 91-92, 120.

[17]Davenport, "The Draft and the Ballot Box," 80-81, 117, 120.

## Chapter II

### General Hershey's Flawed Argument for the Selective Service System

General Hershey once told an interviewer the purpose of the Selective Service System, "The Selective Service has been established because we need more men for the Armed Forces than can be procured by a volunteer system unsupported by compulsion. Therefore, its most fundamental purpose is to ensure that the Armed Forces get enough men. The very existence of Selective Service prompts many men to enlist voluntarily who otherwise would not. Even so, the enlistment falls short, and the System provides the rest by induction."[1] Unfortunately, because of his position as a National Director of Selective Service System, and of his determination to draft as many men to the armed force, Hershey held biased interpretation of the history of military in America. There were also numerous flaws in his arguments, as you will see throughout this thesis.

General Hershey studied military history in America, and after he became a Director of the Selective Service System in 1941, he published books related to the Selective Service System and draft laws. Hershey believed that military failures in the Revolutionary War, the War of 1812, and the Civil War inspired Congress to enact the Selective Services Act of 1917, a predecessor to the Selective Training and Service Act of 1940. Unfortunately, Hershey left some historical details out in order to buttress his argument. His negative attitudes toward men who refused to volunteer, and protested

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[1] Michael Harwood, *The Student's Guide to Military Service,* newly revised edition (New York: Bantam Books, 1966) 4.

against the Vietnam War and draft laws led him to write Local Board Memorandum 85 and Hershey's Directives in late October 1967 (Appendixes C and D).

Hershey used two wars to point out the gravity of American loss in battles when the government did not have a draft law: the War of 1812 and the Civil War. Hershey claimed that President James Madison invited volunteers, offered them bounties for enlistments and three months of pays to recruits who would complete their services.[2] Congress eventually learned that their legislation and recruitment did not produce enough soldiers. President Madison and Congress tried to pass draft laws without military conscription. Then Hershey stated without checking out facts, "[T]he American Army, without offering any resistance and in the presence of the President of the United States and members of his cabinet, threw down their arms and fled from the field. Without any opposition just 3,500 British paraded into the National Capitol, sacked the White House and burned" down the original White House.[3] Hershey also claimed that military officers were inexperienced, and untrained and undisciplined soldiers routed retreated immediately after they "heard the rumbling roar of the first shots fired."[4] He was wrong.

American soldiers did not throw down their arms and flee from the field, leaving British unopposed. Military officers who were involved in the battles at Bladensburg, Maryland had experience except for General Winden, and untrained and undisciplined soldiers did not retreat or rout immediately after they heard the rumbling roar of the first

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[2] United States, Selective Service System, *Backgrounds of Selective Service: A Historical Review of the Principle of Citizen Compulsion in the Raising of Armies, Special Monograph,* no. 1, Vol.1 (Washington DC: U.S. Government Printing Office, 1947) 60-61.

[3] United States, Selective Service System, *Backgrounds of Selective Service,* 61.

[4] United States, Selective Service System, *Outline of Historical Background of Selective Service, from Biblical Days to June 30, 1965,* rev., 1965 ed. (Washington DC: U.S. Government Printing Office, 1966) 4.

shot fired. General William H. Winden actually received warnings to order his troops to retreat after they fought for over four hours. The Secretary of War, John Armstrong, and the Secretary of State, James Monroe, told Winden to order all troops to retreat and rest for the night. They were aware that British soldiers would burn down the White House and American soldiers did their best to defend the city of Washington. Monroe and Armstrong told General Winden it was impossible for troops to make an effective resistance to their enemies and defend the Capitol when they were exhausted, hungry, and fatigued in an extremely hot day in August. Soldiers were disappointed when they received orders to retreat so some went home while others went to a place where they could get their meals and rest.[5] They did not drop their weapon, rout, or retreat immediately when they heard the first rumbling shot fired as Hershey claimed. They followed the orders, whether they wanted to or not.

Hershey probably did not know of or ignored many witness statements shown in the *Capturing the City of Washington*. When Hershey claimed that inexperienced and undisciplined militia fled quickly as soon as they heard the first rumbling shot fired, he did not mention General Winden's orders to inexperienced soldiers to stand in the second line and expose themselves to their enemies. Hershey failed to mention that these untrained soldiers routed and fled only after two or three rockets got near their heads. It was also probable that Hershey and secondary sources he consulted with chose to use statements written by British Major General Robert Ross and possibly from General

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[5] United States, Congress, House, Department of War, *Capture of the City of Washington: Communicated to the House of Representatives on the 29th of November, 1814, in the House of Representatives of the United States, 23rd of September, 1814* (Washington, DC: US Government Printing Office, September 23, 1814) 530, accessed August 20, 2015, <https://books.google.com/books?id=iJUbAQAAMAAJ>.

Winden.

British Major General Ross noted that he saw soldiers routing after rockets got near their heads. Ross wrote: "His first line, giving way, was driven on the second, which, yielding to the irresistible attack of the bayonet, and the well directed discharge of rockets, got into confusion and fled, leaving the British the masters of the field."[6] Ross claimed it was a "rapid flight of the enemy," but did not give more details.[7] General Winden claimed he rallied soldiers who fled and they came back to fight. After he left their unit to check on other units, he noticed they fled again and other officers rallied them back. Lieutenant Colonel Tobias E. Stansbury, a commanding officer of 1,350 troops from Colonels Ragan and Schultz's units in Baltimore, noted that Schultz and Ragan made efforts to rally these men until they gave up. They came up with at least forty routing soldiers who came back. Unfortunately, British troops passed them and fought against the units in the third line composing of troops under the command of Commodore Joshua Barney and Brigadier General Walter Smith. After Barney's troops died or were wounded and Barney was seriously injured, General Winden conferred with Armstrong and Monroe. They agreed to have the remaining soldiers, mostly from Smith's unit, to retreat in Georgetown and Washington. Winden feared that the British would kill, maim, and capture his soldiers if he let them fight further.[8]

However, General John P. Van Ness, who resigned from his officer position four days before the battles at Bladensburg began, wrote a statement to a committee who

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[6] "The Attack on Washington," *Niles' Weekly Register (1814-1837)* no. 174 (Dec 31, 1814) 7-8, accessed September 10, 2015, <http://search.proquest.com.ezp-prod1.hul.harvard.edu/docview/136752673?accountid=1131>.

[7] "The Attack on Washington," 7-8.

[8] United States, Department of War, *Capture of the City of Washington*. 557-563.

inquired and investigated the cause for British's success in the city of Washington. Van Ness believed that Armstrong and Winden's poor military manpower planning, egotism, and poor war strategies were reasons the United States lost, and those 1,300 troops who fled after being exposed to two or three rockets were not at fault. While Van Ness witnessed the battles from afar, he blamed Winden and Armstrong for their failures. Armstrong did not request experienced and trained troops Van Ness had recommended in a meeting they had with the War Department. Van Ness kept on reminding Armstrong to request experienced and trained troops, to start training volunteers, and to make sure that soldiers would encamp nearby Bladensburg and other areas near the City of Washington.[9] One hundred years later, researchers at Fort Benning, Georgia noted that General Winden was an inexperienced commander who served for the first time in 1812. He was an attorney who was promoted twice during the War of 1812.[10]

Brigadier General Walter Smith, a commander of the District of Columbia militia, reported that all remaining troops received multiple orders to retreat rather than continuing to fight against the British. General Smith admitted that he had problems with Winden's order, so he asked Winden for a short conference. Winden gave Smith several orders to have his troops retreat, stand in line, or halt before he had a short conference with Armstrong. After they talked, Winden told Smith that Armstrong wanted all soldiers to retreat to Washington and Georgetown.[11] Smith and his troops

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[9] United States, Department of War, *Capture of the City of Washington*. 557-563.

[10] United States, Infantry School, Fort Benning, GA, *Battle of Bladensburg* (Fort Benning, GA: Infantry School Press, 1921) 8, accessed September 10, 2015, <http://hdl.handle.net/2027/loc.ark:/13960/t8gf0w04h>.

[11] United States. Department of War, *Capture of the City of Washington*. 563-565.

were extremely disappointed with the orders. Some soldiers went home to spend time with their family and came back to the capitol to fight, only to learn that they still had to retreat. Smith was incensed when he saw the media vilified him and all soldiers for their "failures" to defend the city of Washington. Frustrated soldiers "have heard of them with indignant astonishment. Conscious that in no instance have they been wanting in the duty they owed to their country or to themselves, but…obeyed its orders."[12] Smith's troops did not flee and rout as soon as they heard the rumbling first shot fired. Reports written by British and American officers involved in the Battle of Bladensburg were evidence that the American Army did not throw down their arms and flee from the field without offering resistances to their enemies as General Hershey claimed.

Hershey used the Civil War as another example of why the United States government needed the Selective Service System and draft laws. The Civil War was the first war where the draft laws took place, and Americans witnessed violent draft riots that took place in New York City in August of 1863. Americans saw how draft laws angered many young men who did not want to fight or re-enlist. Americans began to complain that they were not free from oppression in the United States. Hershey argued that all able-bodied young men needed to fulfill their obligations to serve their country in the national interest, so he did not care if draft laws angered many young men and their families. Hershey described the Civil War as "a story of bungling, mismanagement, graft, and bloodshed, characterized by almost every conceivable kind of mistake, beginning with the control of the draft by the military, and the provision which permitted

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[12] United States, Department of War, *Capture of the City of Washington*. 565.

the hiring of the substitutes."[13] Hershey claimed that a corruptive system of substitutions was as bad in the North as it was in the South, as rich men could pay poor men to take their place in the draft, while some poor men became professional substitutes who never fought in the war. Hershey called the war as a poor man's blood for a rich man's war. He called President Lincoln a sitting lame-duck president who did nothing until he realized the Union needed more soldiers.[14]

Unfortunately, Hershey did not take into account that the Militia Laws of 1792 and of 1795 prevented President Abraham Lincoln from raising armies who would serve longer than three months. The Civil War, known as the War of Rebellion in the 1860s, began on December 20, 1860, when South Carolina declared their secession from the United States after a Republican won the Presidential Election in November of 1860. At that time, Republican Party was an anti-slavery party. By February 1, 1861, six other states followed suit by seceding from the United States. After the Confederates beat the Unions at Fort Sumter on April 14, 1862, four additional states joined the Confederates, including Virginia. The Union lost its weapons and an important military base when it lost the campaign at Fort Sumter. After Virginia joined the Confederates and gave the Confederate armies access to their new home base in war, which was near Washington, DC, the Unions were in trouble, and President Lincoln and Congress had to get tougher on raising armies.[15]

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[13] United States. Selective Service System. *Outline of Historical Background of Selective Service,* 5-6.

[14] United States. Selective Service System. *Outline of Historical Background of Selective Service,* 5-6, United States, Selective Service System, *Backgrounds of Selective Service,* 62-66.

[15] Emory Upton, *The Military Policy of the United States*, Document, United States, War Department, No. 290 (Washington DC: U.S. Government Printing Office, 1912) 225-229, 232, 402-415, accessed August 30, 2015,

Before the fall of Fort Sumter, Lincoln ordered 75,000 men to join the militia and serve for three months. Lincoln even sent letters to governors of southern states that did not secede yet to supply a certain number of men from their state to help the Union. The governors of southern states, including Virginia, chose not to supply their men to help the Union defeat the southern states that had seceded. President Lincoln and Congress did not plan to enact draft laws until two years later. President Lincoln had problems with raising armies, because of the old Militia Act of 1792 that was more than 65 years old. He was obliged by law to limit the service to three months. The Confederate States of America chose not to obey American military laws when they considered themselves a "foreign country."[16] Confederate troops served for one year and received training in advance of the war, while the Union soldiers served for three months. After the fall of Fort Sumter, President Lincoln and Congress attempted to call more volunteers, but were limited to calling 75,000 men to join the militia for three months, based on the Act of 1795.[17]

In late 1861, the Joint Committee on the Conduct of War investigated why the Union failed to win a campaign against the Confederates at the Battle of Bull Run. General Robert Patterson of Pennsylvania was unable to convince "3-months men" to stay a little longer to help his units win a campaign while they waited for their replacements. These short-term soldiers refused to stay longer because they wanted to go home. They complained that the government failed to pay them for their services, or they

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<https://books.google.com/books/about/The_Military_Policy_of_the_United_States.html?id=ExISAAAAYAAJ >.

[16] Upton, *The Military Policy of the United States*, 229.

[17] Upton, *The Military Policy of the United States*, 230-235.

needed shoes or pants.[18] Patterson's experiences with 3-month men's refusal to stay longer became one of the issues behind President Lincoln's decision to change military laws within the next two years. President Lincoln and Congress changed laws several times so they could call more men to serve at least six months to three years, and help the Union to win the war.[19] The Union army did not win all of its campaigns against the Confederate army; furthermore, President Lincoln with Congressional approval came up with the first draft laws in American history known as the Enrollment Act of 1863.[20]

In the meantime, in 1862, it became apparent to General McClellan that many soldiers "became absent" or deserters after they convalesced at a hospital for their injury or illness. McClellan was suspicious that many soldiers went home from hospital instead of returning to the military in order to finish their remaining term of services. McClellan counted the number of soldiers who were absent when they stayed in a hospital, and how many returned to the military. When McClellan noticed that a high majority of absentees never returned, he started sending notices to President Lincoln and the War Department. The worst case was 87,164 men fought in the Battle of Antietam and 101,746 were absent. The Union was about to lose the state of Maryland to the Confederacy when the Confederate States invited the Governor of Maryland to join them in secession.[21]

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[18] United States Congress, and Carl Sandburg Collections, *Report of the Joint Committee on the Conduct of the War, Part 2: Bull Run and Ball's Bluff* (Washington, DC: U.S. Government Printing Office, 1863) 136-140, 196-197, accessed September 20, 2015, <http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t29.d30.hrg-1861-cwj-0002?accountid=11311>.

[19] Upton, *The Military Policy of the United States*, 244-245.

[20] Galusha A. Grow, Solomon Foot, Abraham Lincoln, and the United States Congress, House, *An Act for Enrolling and Calling out the National Forces, and for Other Purposes* (Washington, DC: U.S. Government Printing Office, 1863) accessed August 30, 2015, <https://books.google.com/books?id=ffotAAAAYAAJ>.

[21] George B McClellan, *Report of Major-General George B. McClellan (*Washington, DC: U.S. Government Printing Office, 1864) 10-11, 214, accessed October 19, 2015, <http://congressional.proquest.com.ezp-

The Surgeon-General received an order on July 14, 1862, to send all men home from the federal government-run General Hospital to their home state's hospital via trains or steamers. On September 22, 1862, five days after the Battle of Antietam ended, General McClellan sent a letter to General Halleck informing him that Dr. Hitchcock and the Honorable Mr. Crocker of Massachusetts, as representatives of the Governor of Massachusetts, agreed to take only seriously wounded men home and send other men back to the military. McClellan requested that the authorities would send home the most severe cases of wounded soldiers who were not fit to fight within 30 to 45 days. McClellan wanted one or more surgeons and a Medical Director of the army to inspect each man before he filled out a discharge form. General Halleck approved of McClellan's request for their authorization as they discussed, and added an army surgeon to take charge of the hospital discharge process.[22]

On September 28, 1862, General McClellan wrote a letter to General Halleck exasperated when he learned that every commander reported that 90 percent of sick soldiers went home instead of rejoining the military. These soldiers became physically well enough to rejoin the military, but chose to take advantage of the hospital discharge system and lenient doctors who would give them a discharge slip. A soldier who worked as a depot guard for one year told McClellan that about 500 sick soldiers were sent home after they recuperated in a hospital and only 15 or 20 returned. McClellan heard that "one corps of this army" had 13,000 men presented to fight and 15,000 were absentees. Of these 15,000 absentees, about 8,000 absent soldiers worked at home. McClellan

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prod1.hul.harvard.edu/congressional/docview/t47.d48.1187_h.exdoc.15?accountid=11311>; Upton, *The Military Policy of the United States*, 408-409.

[22] United States, Senate, and Benjamin Franklin Wade, *Report of the Joint Committee on the Conduct of the War at the Second Session Thirty-eighth Congress. Army of the Potomac* (Washington, DC: U.S. Government Printing Office, 1864) 497, Emory Upton, *The Military Policy of the United States*, 409.

furiously called these men "deserters" and begged the Government to find ways to get these men to rejoin the military.[23]

Emory Upton, an author of *The Military Policy of the United States*, believed that if more soldiers rejoined the military, the Union would have won their campaigns against the Confederates during the first year of the Civil War. Many soldiers chose to take advantage of their lenient governor who let them go home from the hospital. Governors by law were allowed to take their soldiers home; thereby, making it extremely difficult for President Lincoln to raise armies. Governors also ignored or did not honor President Lincoln's requests for more volunteers to replace men who did not rejoin the military.[24] Upton believed that governors and state legislatures wanted these soldiers home so they would vote for them in the 1862 election.

Because of this hospital desertion business, President Lincoln assigned more officers to work as adjunct-generals (police officers) for each state and, if needed, for each district within a state. With fewer men fighting on the Union side, they failed to win many of their earlier campaigns against the Confederacy, and ended up fighting in a series of bloody campaigns for four years instead of winning one or two campaigns at the beginning of the war.[25]

In 1940, supporters of the Selective Service and Training Act of 1940 made somewhat similar arguments, and used desertion and faulty military laws during the Civil

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[23] Upton, *The Military Policy of the United States*, 409; United States, Senate, and Benjamin Franklin Wade, *Report of the Joint Committee,* 506.

[24] Abraham Lincoln, *Calling for Three Hundred Thousand Men to Serve for Three Years, or the War, October 17, 1863* (Washington, DC: U.S. Government Printing Office, 1863) accessed August 30, 2015, <http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t53.d54.00013-stat-0006-000009?accountid=11311>.

[25] Upton, *The Military Policy of the United States*, 410-415.

War era as examples of the reasons the U.S. Armed Forces needed draft laws and the Selective Service System. They also argued that if the first President of the United States, George Washington, had his way, there would have been compulsory military training and draft laws before the War of 1812 and the Civil War came into picture.

### Arguments against the Selective Service System and the Draft Laws

In 1873, Honorable Joel Taylor Headley argued against military conscription, "The ostensible cause of the riots of 1863 was hostility to the draft, because it was a tyrannical, despotic, unjust measure—an act which has distinguished tyrant the world over and should never be tolerated by free people. Open hostility to oppression was more than once hinted…as not only a right, but a duty."[26] Headley noted editorial comments printed in *London Times*, where an author argued that American people should refuse to submit to a despotic government that chose to declare or prosecute any war, and to raise armies through conscriptions, and through the naval and the military training schools. The editor questioned whether the government meant to raise armies as a measure to protect itself and its own people. The editor also said, "Besides, there is a great difference between measures that are despotic, which are put forth to save the nation's life, or honor, and those put forth to destroy freedom, and for selfish ends."[27] Although Headley believed that conscription was a despotic measure, he was aware of argument in favor of draft laws, such as the government's right to employ enough men to fight in a war by enforcing draft laws and calling every abled-bodied man to fight.

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[26] Joel Taylor Headley, *The Great Riots of New York, 1712 to 1873: Including a Full and Complete Account of the Four Days' Draft Riot of 1863*, 19th-century Legal Treatises; No. 37076-37079 (New York: E.B. Treat, 1873) 135, accessed August 30, 2015, <http://hdl.handle.net/2027/miun.afj8079.0001.001>.

[27] Headley, *The Great Riots of New York,* 135-137.

However, there had been questions of equity in raising armies when rich men could buy substitutes and poor men had to fight; otherwise, they would face prosecution up to death sentence. The issues of equity of raising armies cropped up during the Vietnam War era when some politicians, military leaders, and General Hershey believed that student deferment helped rich men to avoid combat while poor men had to fight since they had fewer deferment options.[28]

Fast forward sixty-seven years later, during the summer of 1940, representatives of religious, educational, and social services organizations made their statements against the draft laws in the Senate and House hearings respectively for the Selective Training and Service Act of 1940. In the Senate version of the hearings for the Burke-Wadsworth bill, Rowland Watts, a Chairman of Baltimore Peace Conference, was the first person who stated his opposition to the bill.[29] Watts did not think that training men for eight months would prepare them to defend our country if Hitler, Mussolini, or Stalin ever chose to invade us, and did not believe that peacetime conscription was necessary. Senator Robert R. Reynolds of North Carolina told Watts that military officers who spoke on behalf of the Burke-Wadsworth bill disagreed with his argument. Reynolds asked Watt questions such as, "You believe we ought to be in a position to defend ourselves in case we are attacked by a foreign enemy?" and "Do you believe in adequate defense?"[30]

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[28] Headley, *The Great Riots of New York,* 138-140.

[29] Senator Edward Burke of Nebraska and Congressman James Wadsworth of New York sponsored the Burke-Wadsworth bill. James B. Conant, *My Several Lives: Memoirs of a Social Innovator* (New York: Harper and Row, 1970) 331.

[30] United States, Congress, Senate, Committee on Military Affairs, *Compulsory Military Training and Service, Hearings before the Committee on Military Affairs, on S.4164…* Revised, July 3, 5, 10, 11, and 12, 1940 (Washington: U.S. Government Printing Office, 1940) 140-141, accessed March 30, 2015, <http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t29.d30.hrg-1940-mas-0025?accountid=11311>.

Watts believed the War Department did not need to conscript men a large army of 400,000 men for peacetime conscription, and was concerned that if this bill became a law, it would not help the United States build a strong army. Instead, the draft boards would yank young men out of their jobs without a plan for their job reinstatement.[31]

Catherine Fitzgibbons, a member of Women's International League for Peace and Freedom, claimed that her group did not oppose defense programs but they were concerned that the passage of this bill would negatively affect young men's lives.[32] Frizgibbons believed that the universal compulsory service during peacetime was undemocratic and completely opposite of freedom in America, and that peacetime conscription was a part of European tradition as seen in Germany, Italy, and Soviet Union. Senator Reynolds interrupted Fitzgibbons by telling her those military officers found out it was virtually impossible for them to procure a desirable army of 400,000 men by voluntary enlistment. Fitzgibbons suggested that one way the government could make army attractive to prospective volunteers was to offer comparative wages and benefits to those who worked in civilian jobs, and that their proposed $5 per month for trainees or $21 per months for soldiers in Regular Army was too low.[33]

Fitzgibbons opposed Burke-Wadsworth bill, because "it approximates Hitlerism. Under the cover of democracy, its provisions are totalitarianism in essence."[34] Peacetime conscription and universal military training were parts of military traditions that Hitler,

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[31] United States, Congress, Senate, *Compulsory Military Training and Service, Hearings*, 140-141.

[32] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 141-142.

[33] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 144-147.

[34] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 147-148.

Mussolini, and Stalin adopted. Senator Sherman Minton of Indiana snapped, "But totalitarianism dictates that, it dictating the pattern all over the world today. We do not have anything to do about it. Mr. Hitler, Mr. Mussolini, and Mr. Stalin are telling us what to do over here about our own defense…."[35]

Miss Dorothy Day, an Editor and Publisher of *Catholic Worker* paper, opposed Burke-Marshall bill, because this bill would hurt unemployed men who struggled to find a job several years after the Great Depression ended. The *Catholic Worker* provided social services to poor and homeless adults, and in New York City, operated a house that fed 1,000 people per day. They coordinated five farming communities nearby New York City, where unemployed people volunteered. Miss Day who dealt with 15,000 unemployed people was concerned that the proposed bill would hurt unemployed men who could not get an exemption or a deferment. Because they could not get a job, they could not afford to get an education or support their dependents. Miss Day and her colleague, Mr. Zarella, felt that "any arming of youth [would] result in a future of a real army of unemployed, disillusioned, unemployed still, beginning all over against the degrading hunt for work….They will begin to ponder their propertyless state and they will begin thinking in terms of conscription for property, in term of State ownership." [36]

Joseph Zarella, a business manager for the *Catholic Worker* paper said the organization fed 1,000 people per day and provided volunteer work opportunities for unemployed adults. Zarella was concerned the passage of the bill would negatively affect unemployed men, and that peacetime conscription and universal military training laws would crush poor men, as they already had fewer hopes for their future. Taking young

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[35] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 148.

[36] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 152-154.

men during their early adulthood years, removing "them from opportunity to find their way in the world, from the opportunity to do their share of constructive work along social lines for their country… [was] a cruel wrong and a violation of natural rights."[37] Zarella ended his argument by saying, "Peacetime conscription begat Napoleon, Hitler, Mussolini, and Stalin."[38]

A representative of the Youth Committee against the War, Josiah R. Bartlett, opposed the bill, because "it mobilizes our manpower into a vast military machine."[39] Bartlett saw the proposed peacetime conscription and universal military training as "retreating from a program of constructive employment and educational opportunity to make us a part of a war machine and economy. This is similar to the practice of totalitarianism which threatened us."[40] Bartlett questioned the necessity of the bill when he read in *New York Herald Tribune* that the Army and the National Guard already had 423,000 men. The *Army and Register* dated June 8, 1940 claimed that the Marine Corps had 34,000 men and the Navy had 170,000 men. The *Washington Times-Herald* dated May 28 noted that the Air Corps had 70,000 enlisted men. If they added the numbers of men from the ROTC and the CMTC program with the numbers newspaper articles mentioned, the United States Armed Forces already had 750,000 men who were fully trained or ready to defend our country. Bartlett felt that the bill would give us "some millions of half-trained men" and it would be a waste of money.[41]

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[37] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 157-158.

[38] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 160.

[39] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 166.

[40] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 167.

[41] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 168.

Bartlett believed that military conscription would disrupt young men's education and employment opportunity, and young people needed real vocational training rather than learning how to take a tank apart at $5 per month.[42] Bartlett was concerned, because there was no guarantee for men to get their job back. This system could make already poor and unemployed men more dependent on the military in order to survive, since many unemployed men were more likely to volunteer or enlist in the military for a free vocational training program and monthly checks from the government.[43]

A new college graduate and the President of the Class of 1940 in George Washington University, Eugene M. Lerner, opposed this bill. Lerner and his classmates grew up during the Great Depression, thus, they found it hard to reconcile with proposed militarism in the bill. Lerner gave examples of European nations' experiences with military conscription, "They gave German youth arms instead of jobs. They gave the Russian youth a red hammer and sickle on a uniform, but failed to give them the same tools in the great fields, and now the Senator [Edward Burke of Nebraska, co-sponsor of the bill] suggests arms and uniforms instead of employment."[44] Lerner believed that Senator Burke proposed the same methods of military conscription and universal training as those employed by Hitler and Stalin. Lerner and his classmates grew up during the Great Depression, so they saw little opportunity in life, and difficulty, pain, and sorrow of poverty from the military conscription.[45] The Military conscription modeled after Hitler, Mussolini, and Stalin was hard on Great Depression-era youths psychologically.

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[42] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 168.

[43] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 168.

[44] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 172.

[45] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 172.

A representative of American Student Union, Claire Neikind, opposed the bill. Although Neikind believed in defense, she disagreed with peacetime conscription since it was modeled after Hitler's Youth movement.[46] As a young adult growing up during the Great Depression, Neikind questioned the government's priority when they cut back on funds for elementary and secondary education, such as teacher's salaries, in order to pay for draft registrations and universal military programs. It became apparent to Neikind that the government wanted to cut back on 1,400 teaching positions in New York State in order to pay for national defense program. Neikind was concerned that young men would be torn from their families and their plans for their future so they would get eight months of training that would pay them $5 per month and without guarantees that they would get a job back.[47]

A Secretary of the Committee on Militarism in Education, Edwin C. Johnson, opposed the bill because the military conscription was an example of dictatorship and totalitarianism. Johnson said, "Conscription has always been abhorrent to free men because it is ... a seizure of a man's body, time, and service by force and under the threat of penalty."[48] Johnson noted that millions of our ancestors fled European countries because of the military conscription laws there. Johnson believed that the universal military training programs had been a tool used by dictators to suppress free conscience among their people.[49]

Johnson's colleague, Oswald Garrison Villard, opposed the universal military

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[46] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 176-177.

[47] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 178-179.

[48] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 201-202, 203-208.

[49] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 202.

training for many reasons. Villard, a lifelong student of military affairs in America, was in London at the beginning of the Second World War in September of 1939. During the first four months of the war, Villard learned from Nazi Germany soldiers that Hitler did not plan to invade the United States, as Hitler was more concerned about fighting against Josef Stalin. Villard disagreed with Senator Burke's interpretation of George Washington's speech on May 2, 1783:

> It may be laid down as a primary position that every citizen who enjoys that protection of a free government owes not only a proportion of his property, but even of his personal services to the defense of it, and consequently, that the citizens of America from 18 to 50 years of age should be borne on the militia rolls, provided the uniform, arms, and so far accustomed to the use of them that the total strength of the country might be called forth at short notice.[50]

Villard argued that military situations were different when Washington made a speech in 1783, and Washington did not "call for conscripting of men and taking them away from their peaceful pursuits against their wish."[51] Villard believed that Washington meant that the Armed Forces "should be carried out on the rolls of militia, and we know the militia never came together."[52] Senator Burke interposed, "Carried on the rolls and properly trained. And the statement goes on to say they might be called forth on short notice for any emergency, and for these purposes they ought to be duly organized into commands; they ought to be regularly mustered and trained…"[53] Villard still disagreed

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[50] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 237.

[51] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 237.

[52] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 237.

[53] United States, Congress, Senate, *Compulsory Military Training and Service. Hearings*, 237.

with Burke's interpretation of Washington's speech. There were numerous statements against the proposed bill in the House version of the hearings.[54] However, mentioning all statements goes beyond the scope of this thesis.

## Arguments for Student Deferments

James Conant Bryant, President of Harvard University, argued that the Armed Forces should defer students studying chemistry, physics, medicine, and dental sciences in the national interest. At that time, the bill proposed to include students in occupational deferments since they were training for their future careers. Conant read the original draft and made a suggestion to include section 7(c) of the bill that would include students in training for their career in occupational deferment. Conant's recommendation was not an amendment for student deferment.[55]

Conant supported deferments for scientists in the selected fields (engineering, physics, and chemistry) and for doctors and dentists, because he believed that future doctors and scientists needed their training uninterrupted so they could meet national safety, health and interests, and military needs. Students in training for their future careers could eventually meet national needs in military or civilian capacity. However, General Hershey's colleague, Brigadier General William E. Shedd, disagreed. In a hearing, General Shedd recommended Congress to cross out section 7(c) of the final bill. Furthermore, the Selective Service Training and Service Act of 1940 did not include

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[54] United States, House, Committee on Military Affairs, *Selective Compulsory Military Training and Service: Hearings, July 10-August 14, 1940, on H.R.10132* (Washington DC: U.S. Government Printing Office, 1940) 132-138, accessed July 21, 2015, <http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t29.d30.hrg-1940-mah-0004?accountid=11311>.

[55] Conant, *My Several* Lives, 329-335.

occupational deferments for students.[56] After Congress approved the Selective Service Training and Service Act of 1940, several committees in Congress discussed the possibility of including student deferments in an amendment.[57] However, Congress shelved their plans after Japan attacked the U.S. in Pearl Harbor, Hawaii on December 7, 1941. Because Japan and Germany declared war against the United States, President Franklin Delano Roosevelt declared war against Japan and Nazi Germany.

After the Second World War ended, Congress planned to let the Selective Service Training and Service Act of 1940 expire in 1947. However, the War Department wanted to train young men during peacetime so they could be ready to defend our country. Congress passed the Selective Service Act in 1948. The purpose of this bill was to register all men with the Selective Service System and to provide universal military training. The goal was to select certain men and to build corps of trained soldiers during peacetime. Conant was supportive of the proposed universal military training, because it would prepare young men to fulfill their civic duties and obligations to his country, and universal military training "would generate a democratic, classless, burden-sharing spirit that would be both good on its own terms and a bulwark against Communism."[58]

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[56] Conant, *My Several Lives*, 329-335.

[57] United States, Senate, Committee on Military Affairs, *Deferment of Certain College and University Students under the Selective Training and Service Act of 1940: Part 1* (Washington, DC: U.S. Government Printing Office, 1941) accessed July 21, 2015, <http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t29.d30.hrg-1941-mas-0009?accountid=11311>; United States, Senate, Committee on Military Affairs, *Deferment of Certain College and University Students under the Selective Training and Service Act of 1940: Part 2* (U.S. Government Printing Office, 1941) accessed July 21, 2015, <http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t29.d30.hrg-1941-mas-0017?accountid=11311>.

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[58] Lehman, "The Great Sorting,"

On May 20, 1948, General Hershey set up Scientific Advisory Committee for the Selective Service System. The committee analyzed the benefit of student classification system in draft laws, and then argued in support of student deferments. The committee wrote their proposals on how to classify students based on their test scores in an aptitude test and class standing. Because of the Cold War against the Soviet Union, the United States government wanted future scientists, doctors, and dentists to receive their education without interruption from the military conscription.[59] They believed that scientists and doctors would help the United States to succeed when they compete against the Soviet Union, and defend the United States during the prospective nuclear war.

The committee submitted their reports entitled *Student Deferment and Selective Service System*, known as the Trytten Report, to General Hershey on December 5, 1950.[60] The report argued that student deferments was necessary because some men could meet national safety, health, and interests in civilian capacity, such as teaching in elementary and secondary schools, or in colleges or universities where they would also train future scientists, doctors, dentists, engineers, and physicists. Young men in training in these fields could meet military needs in civilian capacity and in some case, in non-combat capacity in military. The committee considered future scientists important resources for the military and for defense of our country; furthermore, scientists-in-training should not have their training interrupted. Future scientists should also get a deferment but not an

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[59] Irving W. Hart, *Outline of Historical Background of Selective Service, from Biblical Days to June 30, 1960*. Rev., 1960 ed. (Washington DC: U.S. Government Printing Office, 1960) 29-32, 42-44, accessed March 6, 2015, <http://hdl.handle.net/2027/uc1.b4236965>.

[60] Merriam Hartwick Trytten, *Student Deferment in Selective Service, a Vital Factor in National Security* (Minneapolis: University of Minnesota Press, 1952) 41-46, 55-60, accessed July 30, 2015, <https://dds-crl-edu.ezp-prod1.hul.harvard.edu/crldelivery/10894>.

exemption from the draft.[61]

In the spring of 1951, the Ford Foundation provided a grant to the National Manpower Group, a group established at Columbia University. The group studied manpower problems at that time and hoped to provide recommendation to the U.S. Armed Forces on how they could improve their planning the country's manpower resources. The council believed that deferment of students and apprentices was important to our country's future strengths politically, economically, and socially as well as an opportunity for the country to improve its military strengths. When students completed their education, training, and apprenticeship, they became tomorrow's teachers, doctors, scientists, tool and die makers, leaders, attorneys, and engineers. The nation could not prosper or be secure if they did not have enough trained and skilled specialists and professionals. Students and apprentices obtained their deferment while the Selective Service System chose which men they would draft for the military.[62]

When Congress rejected universal military training amendments in 1951, they decided that the Armed Forces should use the Selective Service System to determine which men should serve and which ones should get a deferment. The purpose of the Selective Service System was to raise and maintain adequate Armed Forces, to make sure those vital activities were maintained, and that the scarce skills were protected by using student deferment. Student deferment policy was created out of a desire to cause minimum interruption to civilian economy, particularly in science fields.[63]

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[61] Trytten, *Student Deferment in Selective Service,* 41-46, 55-60.

[62] National Manpower Council (U.S.), *Student Deferment and National Manpower Policy: a Statement of Policy by the Council, With Facts and Issues Prepared by the Research Staff* (New York: Columbia University Press, 1952) 6-7, accessed January 16, 2016, <http://hdl.handle.net/2027/mdp.39015002991589>.

Betty M. Vetter, Executive Director of Scientific Manpower Committee, wrote a prepared statement for the Manpower Implication in Selective Service System hearings in March of 1968. Vetter defended student deferment policy at the time when President Johnson and Congress considered eliminating it in the name of "fairness" to poor and working-class men who did not have much deferment options. Opponents of student deferments argued that working-class men with high school and some college educational backgrounds were more likely to receive a call to report for induction. Many poor, educationally disadvantaged young men could get 1-Y deferment after they received low mental test scores, but critics did not address this issue. Vetter argued that student deferment was in the national interest, and it would be a big mistake for Congress to eliminate college student deferments. Student deferments were essential to the United States economy because students could obtain their job training through their college education and internships.[64]

Vetter disagreed with General Hershey's interpretation of military history and the purpose of the Selective Service System based on failures in previous wars. In her take, the U.S. Armed Forces did not have compulsory military law from 1776 to 1948 except during their participation in major wars. Vetter said, "When conscription was needed, it was always accompanied by provision for deferments, although qualifications for deferment varied from war to war."[65] During the First World War, not enough men

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[63] Ralph Emerson Bigelow, "Selective Service and College Student Deferment," PhD Dissertation (University of Southern California, 1971) 11, Proquest 7206038.

[64] United States, Congress, Senate, Committee on Labor and Public Welfare, Subcommittee on Employment, Manpower, and Poverty, *Manpower Implications of Selective Service: Hearings, Ninetieth Congress, First Session. March 20-23, April 4-6, 1967* (Washington, DC: U.S. Government Printing Office, 1967) 263, accessed February 26, 2015, <http://hdl.handle.net/2027/uc1.$b644101>.

[65] United States, Congress, Senate, *Manpower Implications of Selective Service,* 263.

volunteered to fight, so Congress passed the Selective Service Act of 1917. The U.S. Armed Forced drafted almost three million men who were at the age of 21 to 33 by the time the war ended in November of 1918. Vetter claimed the Armed Forces did not draft men again until Congress passed the Selective Service and Training Act of 1948.[66]

The deferment of registrants was based on these young men's essentiality of their war's effort in their civilian jobs. However, the earlier criteria for deferment were so limiting that it became necessary to pull some men out of the Armed Forces in order to have them work in a technical manpower job with a civilian employer. The Selective Service Act of 1948 authorized peaceful conscription for the first time in American history. The Universal Military Training Act of 1951 recognized the universality of the military obligation; however, it allowed the President of the United States to set up regulations for deferments in national interests.[67]

According to Vetter, President Harry S. Truman, not General Hershey, appointed six members of Scientific Advisory Committee to analyze proposed student classification as an amendment for the Universal Military and Training Act of 1951. The regulations of student deferment began in summer of 1951, and in the following fall term, local boards started to defer students who had completed a year of college and already planned to continue their education in the following fall term, and were in the top half of their class in the previous academic year. The Executive Order issued by President Truman a year and a half later established criteria for undergraduate student deferment that were still in effect during the Vietnam War until 1967. In late 1954, President Dwight D. Eisenhower issued an Executive Order to change criteria for student deferment by implementing class

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[66] United States, Congress, Senate, *Manpower Implications of Selective Service,* 263.

[67] United States, Congress, Senate, *Manpower Implications of Selective Service,* 263.

standing or requiring a high score of 80 or higher in the Selective Service Qualification Test (SSQT). Local boards could choose to use class standing or test scores in order to determine whether the student was eligible to keep his deferment.[68]

The United States government deferred students because it was in the national interest for them to go to college and to obtain their training for their future careers. It was in the national interest for them to keep their deferment and be allowed to continue their education without interruption. If they were pulled out of their educational training, the United States would lose valuable contributors to their country. For fifteen years from 1951 to 1966, the student deferment system had been working, as young men were able to serve their country in civilian capacity.[69]

The student deferment did not result in exemption from service. College graduates have served in the Armed Forces during the Korean and Vietnam wars. Six out of ten students who received their deferment ended up serving in the Vietnam War. Of registrants who earned more than one non-medical degree, four out of ten entered the military compared to five out of ten of the whole young male population. At the same time, the population of men who turned 26 had increased. Furthermore, the percentage of men needed in this age group in military had decreased. Ten years earlier in 1956 or 1957, 70 percent of men reaching the age of 26 had served. In 1966, only 46 percent were needed, and the Armed Forces predicted they would need only 42 percent by 1974. The United States would have much more men available than the Armed Forces would need or could use for military services. The Department of Defense, with the help from the Selective Service System, tried to find educated men to serve in the military.

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[68] United States, Congress, Senate, *Manpower Implications of Selective Service,* 263-264.

[69] United States, Congress, Senate, *Manpower Implications of Selective Service,* 264.

However, they did not select all registrants to fight. Some registrants were rejected, some were deferred, and a few were exempted. The selection for deferment was as important as selection for the military services. The U.S. Armed Forces started to select some young men by eliminating undesirable disadvantaged men with mental tests and selecting those who passed mental tests from the 1-A pool if they did not receive a deferment or an exemption.[70]

Vetter noted that fewer young men had the capability to complete their college education. More than 30 percent of young men were capable of completing their undergraduate degree program and only 7 percent could complete their graduate education. Some young men who did not want to go college also had the capability. Vetter thought the U.S. government was wrong for forcing young men to forfeit their college education in the name of fairness to those who did not have intellectual ability to succeed in college. In the 1960s, many poor and working-class men went to college because of liberal admission policies, greater access to scholarships and grants, and affordable tuition in public colleges and universities.[71]

Vetter supported amendments for graduate student deferment and thought President Johnson made a grave mistake planning to eliminate graduate student deferments by his Executive order. First, graduate students in a doctorate degree program might not have been able to return to their program after they served in the military for at least two years. Some graduate students in mathematics and science fields would not have been able to keep track of expanding knowledge in their fields that cropped out since they have joined the military. They would have ended up taking

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[70] United States, Congress, Senate, *Manpower Implications of Selective Service,* 264.

[71] United States, Congress, Senate, *Manpower Implications of Selective Service,* 264.

refresher courses or might have been way behind in graduate school; furthermore, some might have dropped out of the program, switched to a concentration within humanities or social sciences field, or have given up.[72]

Second, some soldiers became mentally or physically worse off, and some soldiers died in the war. The United States lost talented men who could have been important contributors to society. The period of interruption ranged from two years to some unknown number of years. When graduate students came home from Vietnam physically or mentally worse off, they might be mentally unable to complete their graduate school program successfully. Some men could not mentally handle a new life with physical disabilities, particularly if they were in a wheelchair or had lost their limb. When local boards drafted graduate students, they yanked these men out of their occupational training programs, and enforced involuntary servitude upon them. These men became lost resources for the United States because they were unable to complete their educational training.[73]

The interruption of graduate student's education may be fair to working-class men who did not have deferment options as those who enrolled in college. However, not all college students came from middle-class and wealthy families, as many economically disadvantaged students also went to college or university in the 1960s. At the beginning of the Second World War, the Department of Defense and Congress considered studying foreign languages a luxury until Japan bombed Pearl Harbor on December 7, 1941. A student who understood Japanese language almost got drafted until the government realized he could use his skills in Japanese language to help the U.S. to have better

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[72] United States, Congress, Senate, *Manpower Implications of Selective Service,* 264.

[73] United States, Congress, Senate, *Manpower Implications of Selective Service,* 264.

relations with Japan or help the commanders to understand what their enemies were saying when they fought their battles in the Pacific Islands.[74]

Many students in mathematics, science, and medical fields had an easier time obtaining their student deferments than those did in the humanities and social sciences fields. When President Johnson and Congress planned to eliminate graduate school deferment except those in medical or divinity schools, they were thinking about graduate students in humanities and social sciences fields—fields composed of many students who protested against the Vietnam War and draft laws. However, students in humanities and social sciences fields were valuable resources to the country since they could succeed in international diplomacy, dispute mediation, teaching, counseling, leading, or understanding diverse groups of people. People in humanities and social sciences fields have been providing defense to our country since they usually have people skills and the capability to understand others who are different from them.[75]

In the late 1960s, every military activity and occupation meeting national health, safety, and interests depended on knowledge and skills of specialists who received their training in colleges and universities, including graduate schools. In addition, the U.S. Armed Forces depended on officers who received their training in their college's ROTC program. However, if President Johnson or Congress succeeded in eliminating graduate student deferment and local draft boards yanked them out of their program, the United States would have, for example, fewer doctors, teachers, professors, scientists, diplomats,

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[74] United States, Congress, Senate, *Manpower Implications of Selective Service,* 264-265.

[75] United States, Congress, Senate, *Manpower Implications of Selective Service,* 265; Trytten, *Student Deferment in Selective Service,* 41-46.

engineers, and attorneys. These professionals needed graduate level training, and to maintain good mental health in order to perform their job duties adequately. In addition, the Armed Forces would have difficulties finding specialists in engineering and science fields, or professionals like officers and attorneys. The Armed Forces could not expect students to serve in the military before they started college and to serve again after they graduated from college, unless the student enlisted for a career in the military.[76]

The National Manpower Council explained that interrupting student's education would have negative consequences for the country since some were less likely to succeed if they returned college after several years of military services. It could have reduced the number of men who could have completed their training and would become the specialists that this nation needed. General scholarship programs from the Armed Forces might not attract enough men to return to college since some young men could be anxious to start a family and their careers. If students came back, particularly those studying in the fields of mathematics and sciences, they could be behind. Although mathematicians, research scientists, doctors, and dentists were important to the U.S., non-natural science specialists were as equally as important. The teachers, attorneys, accountants, ministers, teachers, social workers, and economists were examples of specialists who could meet national needs and could defend our country as well as research scientists, doctors, and dentists. Students who studied foreign languages were also important to the national defense.[77]

Bigelow explained that the public expected students receiving their deferment would serve in the military after they received their college degrees. However, some

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[76] United States, Congress, Senate, *Manpower Implications of Selective Service,* 265-266.

[77] National Manpower Council, *Student Deferment and National Manpower Policy*, 9-10.

students who received their deferment for their activity in study ended up getting an exemption. The pyramiding of deferment meant that student deferment was "the first of a series of deferments—for study, for dependency, for occupation, and for age."[78] It is probable that Bigelow and many scholars who examined student deferment probably was not aware that the Pentagon wanted Selective Service System to curtail on student deferments, so they could get desirable educated men to fight in Vietnam and continue to reject uneducated, disadvantaged volunteers and enlistees.

## Pentagon Bias against Volunteers

In the late 1960s, Committee of Armed Forces in both Houses of Congress conducted multiple hearings to review draft laws and published their findings. The committee began to analyze how to attract more volunteers among educated and talented men that Pentagon so desired. Pentagon did not want too many uneducated and disadvantaged men to fight in Vietnam, because they held biased views in which they feared that uneducated men could not meet military needs and could not understand advanced technology in the military. The Armed Forces planned to train new soldiers for six months to one year, and many uneducated men needed remedial education and longer military training.

The Department of Defense usually argued that local boards made induction calls only when the numbers of volunteers fell short of what the Armed Forces needed. However, the Department of Defense held negative views that volunteers destroyed the concept of selecting desirable men who had skills and individual strengths that were

[78] Bigelow, "Selective Service and College Student Deferment,"15.

essential to national defense. Bigelow mentioned three theories of manpower procurement that the Selective Service System might follow: 1. to select those who were the least needed in civilian economy, 2. to select those most desirable to the Armed Forces, and 3. to have a universal military requirement but to have various time and length of services in national needs or interests.[79]

In the Manpower Implications of Selective Services hearings in March and April of 1968, the subcommittee reviewed manpower policies and the military needs versus the Department of Defense preferences, and possible remedial educational training programs for disadvantaged volunteers who were rejected for the military service initially. Senator Joseph S. Clark, the chairman of the subcommittee, noted that the Armed Forces viewed manpower policies and draft in terms of the military needs but never on the terms on how it affected civilian society and economy.[80]

The subcommittee also considered deferments for students in vocational schools or in apprenticeship training, in order to make draft laws more equitable to men who could not afford college education or who did not want to go to college. The subcommittee also discussed education and job training, rehabilitation programs, and remedial education for disadvantaged men who did not pass mental exams, and medical rehabilitation for rejectees who had a slight, but fixable disability. The subcommittee also reviewed how the U.S. Armed Forces could make military an attractive alternative so that more men would volunteer and draft boards would have fewer men to call for induction. During the Vietnam War era, registrants would look for areas in the military in which

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[79] Bigelow, "Selective Service and College Student Deferment,"12.

[80] United States, Congress, Senate, *Manpower Implications of Selective Service*, 1-2.

they could serve and not be sent to the combat zone in Vietnam.[81]

General Hershey submitted a report from the Selective Service System to the subcommittee. This report contained statistical data and their findings on registrants who failed to pass examinations for physical, mental, and moral standards. Hershey claimed that the Selective Service System was interested in the possibility of giving rejectees an opportunity to obtain educational and medical rehabilitation. Hershey explained that the Selective Service System had a mission to supply the Armed Forces with adequate supply of men to serve in the military, while at the same time promoting national interests by providing deferments or exemptions to men who met national interests in civilian economy. The function of the Selective Service System was to induce enlistment of registrants who were interested in the military programs such as ROTC, to call those in 1-A pool for induction, and to approve registrants' claims for deferments or exemptions.[82]

Registrants who were in 1-A pool were more likely to receive calls for induction from their local boards than those who were deferred or exempted. Of those who were in 1-A pool and who responded to calls for inductions, about fifty percent became rejectees after they failed physical or mental exams. Rejectees either became deferred with 1-Y (eligible to serve in a national emergency or war) or exempted with 4-F (ineligible) reclassification.[83]

General Hershey noted that many rejectees were prospective volunteers, and that when rejectees contacted him, he encouraged them to obtain rehabilitation they needed that could help them to become eligible to serve. Hershey was supportive of a

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[81] United States, Congress, Senate, *Manpower Implications of Selective Service*, 2-6.

[82] United States, Congress, Senate, *Manpower Implications of Selective Service*, 8.

[83] United States, Congress, Senate, *Manpower Implications of Selective Service*, 6-8.

rehabilitation program called "Project 100,000" since this program helped formerly rejected volunteers to obtain skills and physical conditions that met military standards. However, General Hershey was concerned about millions of registrants who did not volunteer or enlist to join the military. On the other hand, Hershey was aware that a higher majority of enlistees and volunteers were in the Armed Forces as of March 20, 1967, and the Selective Service System had to procure the rest of the needed men with draftees. To support rehabilitation programs for rejectees who wanted to serve, General Hershey served on the President's Task Force on Manpower Conservation by January 1, 1964, and the Economic Opportunity Council.[84]

General Hershey argued that although any rejectees were interested in serving, including higher numbers of rejectees in the military would not be enough for Congress to end draft laws. He also noted that Americans had problems with draft laws in general, because the Armed Forces could not take everybody. The U.S. Armed Forces rejected some registrants who wanted to serve because they did not meet the military's standards, and the armed forced wanted educated and talented registrants. In 1967, President Johnson, General Hershey, and Congress curtailed on student deferments in order to procure desirable men for the Armed Forces. The Armed Forces also turned down some eligible men who wanted to fight in Vietnam or those who offered to re-enlist to fight in a second or third tour of duty.[85]

General Hershey claimed that some men would do better if they worked in civilian jobs and it was in national interests for some men to stay home. For years, General Hershey encouraged young men to go to college instead of joining the military.

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[84] United States, Congress, Senate, *Manpower Implications of Selective Service*, 9-10.

[85] United States, Congress, Senate, *Manpower Implications of Selective Service*, 10-11, 20.

Hershey believed that the great thing about student deferment was that young men received their education and training, and became doctors, dentists, engineers, scientists, and teachers. The numbers of men who received their doctorate degrees went up from 400 per year to 2,000 per year as of 1966. Senator Jacob K. Javits of New York asked General Hershey for a copy of an article entitled "How Good Are Our Schools?" that was published in October 1966 issue of *American Education*.[86] This article discussed the relationship between rejection in the military service and poverty, where the data for a report "confirm[ed] and measure[d] to some degree, the positive relationship between poverty, poor education, and cultural deprivation, and the failure to score well on the Armed Force Qualification Test (AFQT)."[87]

Senator Javits asked General Hershey how the Selective Service System selected men to fight in Vietnam and which men to reject. The logic of General Hershey's argument and the numbers he used were misleading. Senator Javits thought turning down 250,000 to 300,000 men per year was too much. General Hershey did not give specific answers when he said that the Armed Forces could not take everybody, but local board processed registrants and pursued those who failed to cooperate. Hershey claimed that the Department of Justice prosecuted registrants who did not cooperate, and then misled the subcommittee by claiming that the local board took about 75 to 80 percent of their inductees.[88]

Thomas D. Morris, the Assistant Secretary of Defense in Manpower, claimed that the Department of Defense scrutinized the military manpower procurement policy for

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[86] United States, Congress, Senate, *Manpower Implications of Selective Service*, 20.

[87] United States, Congress, Senate, *Manpower Implications of Selective Service*, 21.

[88] United States, Congress, Senate, *Manpower Implications of Selective Service*, 22.

several years. The Department of Defense had great interests and concerns about the selection of men for the military services and training, as well as young men's experiences in the military services. The department reviewed studies on manpower procurement policies and recommendations given to President Johnson and Congress by the President's Advisory Commission on Selective Service (Marshall's Commission Report), and the Report of the Civilian Advisory Panel to the House Armed Services Committee headed by General Mark Clark (Clark's Panel). The Department of Defense needed the military manpower procurement policies to continue in order to make sure they were procuring enough men to join the Armed Forces.[89]

Since the escalation of the Vietnam War in July 1965, the U.S. Armed Forces required higher manpower needs from a pre-Vietnam level of 2.65 millions of men to the Vietnam level of 3.30 million as of March of 1967. The U.S. Armed Forces took one million men for the fiscal year of 1966, which included 340,000 draftees. It was 3.4 times more draftees than it was required before the escalation of the war. In addition, about 340,000 young men enlisted in the Reserves. The Armed Forces procured about one-fifth of the new entrants to the armed force per year before the escalation of the war, and about one-third of new entrants at the Vietnam level.[90]

The Department of Defense also studied the possibility of maintaining all-volunteer Armed Forces in the near future, and concluded it was not possible. They were hesitant to maintain all-volunteer forces again because they "could not get enough men," but Morris did not specify not enough preferred men rather than uneducated volunteers. Morris claimed that the cost on maintaining the proposed 2.7 million men in the armed

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[89] United States, Congress, Senate, *Manpower Implications of Selective Service*, 30.

[90] United States, Congress, Senate, *Manpower Implications of Selective Service*, 30.

forced at the post-Vietnam level was prohibitive. Congress had been discussing the possibility of increasing monthly payment and benefits for volunteers to join the armed force and make military a part of their career plan. Morris predicted that the cost of attractive incentives would be about $4 billion to $17 billion in 1967 dollars ($28.5 billion to $121 billion early 2016). When the economy was good and the unemployment rate was 4 percent, the cost of maintaining all-volunteer forces with attractive incentives would cost about $8 billion in 1967 ($57 billion in early 2016).[91]

Morris claimed that representatives of the Department of Defense were sensitive to men who already held a job in a civilian capacity and had a wife and children to support, as they were aware of imposed hardship on young men in civilian economy. Morris claimed that the Department of Defense made an effort to minimize undue hardship and inconvenience to young men as result of involuntary interruption of their civilian careers. In order to reduce hardship and inconvenience of involuntary military servitude, the Department of Defense made efforts to rely on volunteers and to draft as little as they could per year. The Department of Defense claimed that they encouraged young men to volunteer although Morris did not talk about rejectees yet. One way to attract volunteers was to offer attractive pay and incentives.[92]

The Department of Defense planned their scholarship programs for medical school students, with the idea of giving scholarships to medical students for four years in exchange of their services in the armed force for at least four years or longer. The Department of Defense also planned to reduce the number of draftees they would need for normal peacetime conditions. When the local boards called registrants for induction,

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[91] United States, Congress, Senate, *Manpower Implications of Selective Service*, 30-31.

[92] United States, Congress, Senate, *Manpower Implications of Selective Service*, 31-32.

the Department of Defense wanted local boards to make sure they reduced hardships and inconveniences to registrants as much as possible. It was one of the reasons they requested President Johnson and Congress to change their draft policy from drafting the oldest men first (25 years old) to the youngest first (19 years old).[93]

The Department of Defense conducted a study on educated men and learned that registrants who had the least or the most education were less likely to serve in the Armed Forces. The department analyzed their data of registrants were at age 27 to 34 in 1964 because these men were older than those in prime draft age group. The results showed that about 27 percent of college graduates who went to graduate school and 30 percent of those who had less than eighth grade education served in the military. The reasons were different for each educational attainment group. A high majority of those who had left school with an eighth grade educational background or below were rejected. This group of disadvantaged men were most likely to be eager to serve in the military. On the other educational spectrum, advantaged registrants with the most educational attainments were the least likely to volunteer or serve in the Armed Forces, particularly during the Vietnam buildup. A high majority of college graduates appealed for other deferments or exemptions. About 74 percent of registrants who served in the Armed Forces usually held a high school diploma and did not have a college education.[94]

The Department of Defense estimated that about 1.9 million young men per year would turn 19 within the next few years, and about 30 percent of registrants would be rejectees. About 30,000 men would get a deferment for hardship or for other ground. After they deducted the numbers of rejectees and those who had deferment, the

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[93] United States, Congress, Senate, *Manpower Implications of Selective Service*, 32.

[94] United States, Congress, Senate, *Manpower Implications of Selective Service*, 32-35.

Department of Defense had the remaining 1.3 million registrants left over in the 1-A pool. They needed 680,000 new entrants per year, including those who were in active services and in the reserves, using their predicted post-Vietnam level of manpower requirements. Morris predicted that the Department of Defense would need to induct about 110,000 men per year since about 570,000 men would more likely volunteer or enlist.[95]

Most volunteers were usually youngest registrants at age 17 to 19 ½, and some registrants volunteered because of draft pressures. In the time of a very low draft period as in peacetime, there would be low draft calls and fewer men would feel pressured to volunteer. In a time of a very high draft period as in the escalation of the Vietnam War, there were high draft calls and more registrants volunteered out of draft pressures. The Department of Defense considered different options such as asking Congress to draft single men only. That plan backfired when President John F. Kennedy and Congress approved of a draft law in which the local boards could grant deferments for married men without children. For two years until August of 1965, many young men at the age of 18 to 20 got married in order to avoid draft. In 1965, President Johnson asked Congress to eliminate deferments for married men without children and his wish was granted.[96]

The Department of Defense considered a way to draft their desired educated registrants by raising their standards in aptitude tests in order procure those who could meet highest qualification standards for the military. This plan would not work because it would be unfair to educated men. A majority of highly desirable, educated men were the least likely to re-enlist. The third option was to draft the youngest men first instead of the

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[95] United States, Congress, Senate, *Manpower Implications of Selective Service*, 35.

[96] United States, Congress, Senate, *Manpower Implications of Selective Service*, 35-36.

oldest men. However, the original plan was to use registrants' birthdate instead of using some random numbers. Those who were born on January 1 of the year would be drafted first and those who were born on December 31 would not hear from their local board. This plan discriminated against men who were born in earlier months of the year. The fourth idea of drafting men was using FAIR random selection system as proposed by President Johnson in his speech to Congress on March 6, 1967. Congress considered implementing FAIR random system of selection by January 1, 1969; however, the date of national lottery pushed back to December 1, 1969 due to many violent anti-draft and anti-war protests took place since General Hershey wrote his directives and Local Board Memorandum 85.[97]

Because the Armed Forces turned down disadvantaged men who wanted to join the military, they conducted a survey in 1964 that showed many disadvantaged men who left school usually found military training and educational programs attractive. Morris called this a "distressing fact," because disadvantaged men were undesirable. Morris claimed that young men who dropped out of school usually entered labor force with limited education, limited job skills, and faced fewer opportunities to acquire adequate job skills for civilian jobs. The Armed Forces also turned down thousands of prospective volunteers for failing to pass written exams. The recruiting centers and the Armed Forces Examining Center had to turn down eager volunteers and enlistees. The Department of Defense meant to set high standards to weed out undesirable men; furthermore, test takers who got low passing scores in the AFQT and supplementary aptitude tests usually received 1-Y classification. About 16.5 percent of registrants of all ages were

[97] United States, Congress, Senate, *Manpower Implications of Selective Service*, 36-37.

disqualified because of mental tests.[98]

As of March 1967, the Department of Defense had been looking at options of lowering their standards so that more 1-Y rejectees could be eligible to join the military. In their previous studies on rejectees, they found that a high majority of these men "had a sufficient degree of literacy," as well as having capability to satisfactorily complete the military training and performing well in the military. Many rejectees were educationally disadvantaged, but they were not illiterates. They were socio-economically disadvantaged young men who did not receive quality education or did poorly in schools before they chose to drop out.[99]

Sometime in 1965 or 1966, the Department of Defense tweaked their mental standards so educationally disadvantaged men could pass AFQT and get into a rehabilitation program. In addition, during the first year of a rehabilitation program called the Project 100,000 program, about 40,000 1-Y rejectees who participated could be eligible to serve by September of 1967. In the subsequent years, about 100,000 men should participate. After these rehabilitated rejectees became eligible to serve after a year of rehabilitation, they received their training in the established training centers and schools with other recruits, enlistees, and volunteers, as well as draftees. Some trainees received advanced training in the combat arms, but the Armed Forces sent majorities of trainees to a unit where they could use their skills the best in the military such as in auto mechanic, construction equipment repair, wireman, cook, and supply clerk.[100]

The Department of Defense predicted that even with reduced standards for mental

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[98] United States, Congress, Senate, *Manpower Implications of Selective Service*, 37-38.

[99] United States, Congress, Senate, *Manpower Implications of Selective Service*, 37-38.

[100] United States, Congress, Senate, *Manpower Implications of Selective Service*, 38-39.

and physical qualifications for the military, about 200,000 would still be disqualified in the subsequent years due to their failures to pass AFQT or to meet physical and moral standards. The Department of Defense also operated a rejectee referral program, in which they could refer rejectees to state employment or community health agencies. After rejectees completed their training in a civilian program, they could retake AFQT or physical exams. If they passed the second time around, they were eligible to join the military. About 85 percent failed to pass the mental test (AFQT) and 15 percent failed physical examinations.[101]

About 60 percent of the first year participants of the Project 100,000 program were volunteers and 40 percent were draftees. About 68 percent of those who failed to pass a mental examination were school dropouts. About 38 percent were unemployed and 30 percent made less than minimum wage. About 59 percent who failed mental exams were non-white and 41 percent were white. A high majority of mental test rejectees had aptitudes for the combat related skills, for general maintenance, motor maintenance, and general clerical work. About 75 percent of registrants who passed AFQT the first time held a high school diploma or had some college education. Morris claimed that trainees became qualified as satisfactory soldiers, and the Department of Defense sent them to a certain unit or area based on their aptitude for certain duties or assignments anywhere in the world. They were not limited duty soldiers, and Morris did not specify whether the Armed Forces sent these soldiers to Vietnam.[102]

Senator Winston L. Prouty of Vermont noticed from reading one of the charts that Morris submitted that about 72 percent of those who had high school diplomas and 71

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[101] United States, Congress, Senate, *Manpower Implications of Selective Service*, 40-41.

[102] United States, Congress, Senate, *Manpower Implications of Selective Service*, 41-42.

percent who had an undergraduate degree served while 27 percent of those who held a graduate degree served. Morris claimed that the top bar showed 27 percent of registrants had a graduate degree and the bottom bar showed educationally disadvantaged rejectees who did not serve.[103]

During the Vietnam War era, a majority of volunteers and enlistees served in the Air Force, the Navy, and the Marine Corps, and these units did not need to draft men. They had enough volunteers and enlistees. The Army were the ones who needed to draft registrants because they did not have enough volunteers to join them in the combat units.[104] Prouty wanted to know the percentage of soldiers who had to fight in Vietnam versus those who were sent elsewhere to serve for the U.S. Morris explained that a higher majority of those in the Marines and the Army were the most likely to fight in the combat zones in Vietnam, and those in the Air Force and the Navy would see fewer missions. Morris submitted a copy of the document to the subcommittee in order to answer Senator Prouty's questions better (Appendix N). According to that document, all four units of Armed Forces fought in Vietnam, but the Air Force and the Navy fulfilled their mission outside of the combat zones, and were able to avoid landmines, booby traps, and Agent Orange. Since the escalation of the war, 114,000 of non-combatant and support personnel jobs in the Defense Department were in the process of being converted to civilian jobs. By March of 1967, about 70,000 jobs had been converted to jobs in which 1.2 million of civilian workers replaced servicemen.[105]

Senator Javits asked Morris a question thinking about rejectees who chose not to

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[103] United States, Congress, Senate, *Manpower Implications of Selective Service*, 45.

[104] United States, Congress, Senate, *Manpower Implications of Selective Service*, 45-47.

[105] United States, Congress, Senate, *Manpower Implications of Selective Service*, 45-47.

take advantage of a rehabilitation program, "Don't you think that such referral ought to be more than voluntary if they are really by the rejection route getting out of military service?"[106] Morris claimed that the Department of Defense had seventy-four examining and entrance stations throughout the United States. If registrants took medical and mental examination and failed to meet military standards, they became rejectees who received referrals to state employment office or a community health center. However, these programs were voluntary. If rejectees chose not to participate in a rehabilitation program, they stay rejected and ineligible for the military. The Selective Service System would not pursue them. Senator Javits thinking about how the Selective Service System hounded registrants evaded the draft asked Morris, "Is it fair, do you think…a fellow can slide out of the draft by just being dumb even if he can be rehabilitated? That is not fair, isn't it?"[107] Morris claimed that the Defense Department had no better ideas or solutions on how to deal with rejectees who chose not to participate in a rehabilitation program since they were ineligible to join the military. The Department of Defense examined their standards and the ways they could improve their training program, and gave every considerations they could to rejectees who wanted to join the military, although it might be against their military needs.[108]

Senator Javits asked Morris if the Department of Defense could offer 250,000 1-Y rejectees an opportunity to participate in rehabilitation rather than limiting to 100,000 men. Morris made some questionable statement by claiming that 100,000 men they rehabilitated were men who had entered the military as full soldiers. They did not fail the

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[106] United States, Congress, Senate, *Manpower Implications of Selective Service*, 48-49.

[107] United States, Congress, Senate, *Manpower Implications of Selective Service*, 49-50.

[108] United States, Congress, Senate, *Manpower Implications of Selective Service*, 50.

military performance standards after training, and were also taken in as part of the normal force structure quotas. Any additional rehabilitation efforts beyond that was not a military mission.[109] Since General Hershey mentioned that about 250,000 registrants were 1-Y rejectees, Senator Javits asked Morris why only 100,000 men were selected for a rehabilitation program and 150,000 were not. Morris claimed that the Department of Defense took 1-Y rejectees whom they felt would meet the military standards after rehabilitation within six months and these rejectees were not 4F materials.[110]

Morris claimed that the Defense Department planned to gradually use as many as rejectees in 1-Y pool as long as they became eligible to serve after they completed their rehabilitation program. However, each service program in the military set their quota for each fiscal year for accepting new entrants in the low mental category. The Air Force and the Navy accepted 15 percent of new entrants in the low mental category, while the Marines accepted 18 percent and the Army accepted 26 percent.[111]

Morris argued that the Department of Defense already did a study on the feasibility of depending on all-volunteer Armed Forces and concluded it was not feasible, particularly during the Vietnam buildup. Morris did not believe that the increase in pay, benefits, and incentives would attract enough men to volunteer to join the Army for fighting in the combat zone in Vietnam. He was unsure if the Department of Defense would get enough volunteers to join the Armed Forces after the Vietnam War ends in the future. Senator Kennedy questioned Morris's claims that attracting enough men to volunteer in all-volunteer forces would cost $8 billion to $17 billion per year in

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[109] United States, Congress, Senate, *Manpower Implications of Selective Service*, 50.

[110] United States, Congress, Senate, *Manpower Implications of Selective Service*, 50-51.

[111] United States, Congress, Senate, *Manpower Implications of Selective Service*, 51.

peacetime, as the economist at the University of Washington named Walter Oi disputed Morris' claims. Dr. Oi estimated that the cost of maintaining all-volunteer Armed Forces would cost $4-$5 billion per year in peacetime and that $17 billion was the total cost to the Department of Defense in the war situation. Morris was defensive telling Senator Kennedy that the Department of Defense would back up his claim by preparing a paper for the subcommittee.[112]

As of March 1967, volunteers usually came to the Armed Forces to serve for three to four years, and some were interested in a career in the military. By January of 1968, about 114,000 draftees who fought in Vietnam joined the combat units in the Army. The Army was the only one who had draftees because they served in the ground combat, the very area that many draft-motivated volunteers tried to avoid when they enlisted in the Reserves, National Guard, or volunteered to join the Navy, Marines, or the Air Forces. During the Vietnam buildup, there were no calls for the Reserves to join the Army in active duty. The Air Reserves and the Guard units performed lifting assignments in Vietnam, safer areas to serve in Vietnam. The Air Guard and the Reserves provided 60 percent of the Air Force work on a voluntary basis.[113]

Senator Kennedy asked Morris if the Department of Defense considered finding ways to attract more men to volunteer to join the Army without draft pressures. Morris explained that the Department of Defense officials had been thinking about this issue since the Vietnam buildup and did not find solutions or ideas on how to attract men to join undesirable area in the military. Morris claimed that draftees composed of 45 percent of inductees who were sent to fight with the Army in Vietnam. Later, Senator

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[112] United States, Congress, Senate, *Manpower Implications of Selective Service*, 53.

[113] United States, Congress, Senate, *Manpower Implications of Selective Service*, 55, 57.

Kennedy estimated that 47 percent of Armed Forces sent to Vietnam were draftees.[114]

The U.S. Armed Forces or the Military Services used written psychological examinations for screening enlistees since the First World War. The purpose of the written exam was to evaluate and predict prospective enlistees' ability to absorb the military training, to perform in a variety of military duties and occupations, and their mental fitness for the military. The U.S. Armed Forces began to use screening tests because many inductees entered the military services with limited civilian work experiences and had differing educational backgrounds that ranged from high school dropouts to college graduates. The Armed Forces used two types of mental screening tests during the Vietnam War era, the principal test known as the Armed Forces Qualification Test (AFQT) and the aptitude tests for prospective enlistees who had low scores in the AFQT. The AFQT, a short test containing one hundred questions that were equally divided among different subjects such as word knowledge, mathematics or arithmetic reasoning, mechanical ability, and distinguishing patterns and forms, was given to all prospective enlistees and draftees.[115]

The Department of Defense believed that the AFQT measured test takers' ability to absorb the military training within reasonable amount of time, usually six months to one year of training, and the test was a yardstick that could tell the Armed Forces on whether inductees would succeed or fail in the military training and in services. The

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[114] United States, Congress, Senate, *Manpower Implications of Selective Service*, 57.

[115] United States, Congress, Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure, *The Selective Service System: Its Operation, Practices, and Procedures: Hearings, Ninety-First Congress, First Session, Pursuant to S. Res. 39, October 29, 30, November 3, 4, 5, 12, and 13, 1969* (Washington, DC: U.S. Government Printing Office, 1969) 587, accessed May 15, 2015, <http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t29.d30.hrg-1969-sjs-0092?accountid=11311>.

percentile score of 10 meant the test taker could read or understand materials at fifth grade level, or 90 percent of all men could do as well or better than the test taker. The second test was the aptitude test known as Army Battery Tests that were designed to measure test takers best occupational areas, and was used as a way to classify inductees for occupations within the Armed Forces. In the late 1960s, test takers with a low score in AFQT took the battery test, known as supplementary tests. The Armed Forces started using these tests since the Korean War of the early 1950s, because psychologists concluded from their studies that many young men who did not test well or received marginal scores could have an aptitude for certain occupations or had skills that were useful to the Armed Forces. Supplementary tests were useful in determining and selecting young men who might had marginal mental ability or educationally disadvantaged backgrounds.[116]

When Congress passed the Selective Service Act of 1948, they approved of an amendment for specific mental standards for induction. At first, the Armed Forces used a mental test called Army General Classification Test (AGCT), and their standards were lower than it would be during the Vietnam War era. At that time, the minimum passing score was 70 in AGCT—a score that was equivalent to a 13 percentile in the AFQT, or 87 percent of men who could do as well or better. In 1951, Congress approved of lower mental standards when they passed the Universal Military and Service Act of 1951. The Armed Forces considered the proposed passing score of 10 percentile to be undesirably low; however, few Korean War era draftees could meet the original mental standards. In addition to lowering mental standards, Congress lowered the age of draft registration

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[116] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 587.

from 21 to 18 and increased the length of time for a tour of duty to 27 months. After the Korean War ended, the Armed Forces reduced their manpower requirements.[117]

As they entered peacetime era, the Department of Defense noticed that the Armed Forces had a surplus of men in their services since they accepted more inductees who could meet lower mental standards. Because the technology began to advance and the Department of Defense held biased attitude toward disadvantaged men, military officers with decision-making powers asked Congress to approve of amendments to upgrade their mental standards and used advanced technology as excuses. In 1957, the Department of Defense submitted a proposal to Congress asking them to approve an amendment that would authorize the President of the United States to modify mental standards for inductees during peacetime.[118]

In hearings held on the proposed amendments, the Department of Defense witnesses claimed that the Armed Forces had too many men in the military who were in the lowest acceptable mental group category, or Mental Group 4. Some witnesses claimed that many soldiers in Mental Group 4 failed to meet minimum aptitude requirements for training in specialized skills. The Armed Forces discharged many soldiers who had marginal mental ability, were disadvantaged, or had low scores. As soon as these disadvantaged men entered the Armed Forces and reported for training, they "failed to progress satisfactorily" in their training. The Department of Defense wanted more inductees who had education, "skills," or "ability."[119]

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[117] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 587-588.

[118] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 588.

[119] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 588.

In July of 1958, Congress upgraded mental standards for new entrants who were in Mental 4 Group. Afterward, test takers who received a percentile score of 10 to 30 on the AFQT became classified as Mental 4, and had to take supplementary aptitude tests called Army Qualification Battery. Inductees who received passing scores in two out of seven aptitude tests were qualified to serve in the military. Those who failed to pass at least two supplementary tests received 1-Y classification. Although they received their deferment, some of these men wanted to serve. Test takers who received a score below 10 percentile in AFQT were ineligible to serve and received 4-F classification. Test takers who received a score of 31 or above did not need to take supplementary tests, and were grouped in Mental 1, 2, or 3 Mental Group.[120]

In May of 1963, Congress upgraded mental standards again by requiring test takers who received low scores to have a minimum score of 80 in the new General Technical Aptitude Test in addition to a score of 90 in any other two areas of aptitude. The Armed Forces wanted to measure test takers' ability to understand written instructions and mathematical problems. It was an excuse to weed out educationally disadvantaged men so they could draft desirable educated men. Decision-making officers in Department of Defense wanted "highly trained and trainable men capable of manning and operating their increasingly complex weapon systems."[121]

The decision-makers argued that the technical, mechanical, and the military-administrative specialties represented almost half of all enlisted positions since the end of the Second World War. During the Korean War, these positions comprised 60 percent of

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[120] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 588.

[121] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 588.

enlisted positions and it was 67 percent in 1965. Because of positions available for enlistees, the Department of Defense asked Congress to raise mental standards. Since many disadvantaged young men who wanted to join the military and their advocates voiced their concerns, Congress conducted multiple hearings and did research studies on their own.[122]

Since the Second World War, many infantry (soldiers on foot) usually had educational and training backgrounds that helped them to understand and operate sophisticated weapons, equipment, and tactical communication systems. In addition, a majority of the military occupations required a high school diploma or college education, and successful completion of military training. A few occupations such as food services and transportation did not require college education; however, these positions were not always available as there were more men in Mental 4 category than there were less demanding occupations available. Because of fewer positions available for Mental 4 men, the Department of Defense wanted educated men.[123]

The Department of Defense believed that mentally marginal men tend to have a high court martial rate and high bad discharge rate, and their separation from the military negatively affected the image of American soldiers, particularly in the overseas. The Department of Defense was aware that it, with the help of the Selective Service System, could choose which men could serve in the military. Their goal was to select inductees who had prospects of doing well in the military services on a tour of duty and in their military career. However, they wanted to draft educated men who were more likely to

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[122] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 588.

[123] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 588.

refuse to serve in the military; thus, they asked Congress and the Selective Service System for help.[124]

The Department of Defense concluded from its research studies that the discharges rate for any reasons other than honorable discharges went down since it increased their mental standards. Many top commanders praised their high quality soldiers who fought in Vietnam since they were superior in intelligence, aggressiveness, and motivations compared to soldiers who fought in previous wars.[125] Before Congress changed mental standards in 1958, many inductees were not tested and were accepted into the Armed Forces. They had the highest attrition rates, disciplinary problems were the highest in the lowest mental group, and mentally marginal soldiers usually failed to get a promotion or to meet standards for re-enlistment.[126]

The Department of Defense also established medical or physical standards in order to determine whether inductees could complete military training and perform military duties and assignments without restrictions. Soldiers who did not have a disability were less likely to be discharged, be absent from the military, be a burden to healthcare providers in the military hospitals with their pre-existing medical conditions, and less likely to become recipients of disability income if their disability got worse for fulfilling military duties. The Armed Forces had to consider others in the military such as protecting other soldiers from contagious diseases. During the Second World War, all

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[124] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 588-589.

[125] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 589.

[126] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 594.

inductees with psychiatric disability were rejected but a few of soldiers with psychiatric disorder could serve if the doctor believed that soldier's psychological conditions would not get much worse from serving. The overall rejection rates for physical disability was 16 percent in the 1960s.[127]

A few inductees were rejected on moral grounds. Moral standards were designed to prevent hardened criminals and immoral people from serving in the military. The examples of moral standard disqualifications were significant criminal records, exhibiting ingrained delinquent behavior such as difficulties with law enforcement agencies, and separation from the military for reasons other than honorable discharge.[128] The purpose of setting moral standards was to screen out young men who could be potential serious disciplinary cases. The Department of Defense believed that they had a responsibility to respect parents' concerns for their sons' safety and moral development. In the 1960s, young men at age 18 to 21 were not legally adults; furthermore, their parents had legal rights to watch out for their young adult children, and to know that their sons were not with a young man who committed a serious crime, had criminal history, or exhibited defiant behavior. However, the Department of Defense did not reject young men who committed minor offenses such as traffic violation or disturbance of peace.[129]

The Department of Defense also rejected veterans from Puerto Rico who offered to re-enlist maybe because they did not speak or understand English. Puerto Rico fought

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[127] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 598.

[128] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 601-602.

[129] United States, Congress, *The Selective Service System: Its Operation, Practices, and Procedures*, 602.

with the United States and have been subjected to the U.S. draft laws since the First World War. In the previous wars, Puerto Rico filled most of their quotas with volunteers; however, it all changed during the Vietnam War era. Honorable Jorge L. Cordova, Resident Commissioner of Puerto Rico received letters from Puerto Rican soldiers who wanted to serve in a second or third tour of duty in Vietnam. These soldiers asked Cordova if he could help them to get another opportunity to serve in the Armed Forces, as they were willing to fight in the combat zone with the Army. Cordova also received letters from veterans who applied for, but were denied, an extended tour of Vietnam.[130]

Cordova noticed that the U.S. Armed Forces discriminated against non-white volunteers and enlistees. The Armed Forces either refused to accept black and Puerto Rican volunteers, used mental tests to screen out educationally disadvantaged non-white young men, or refused to accept black men who attempted to enlist in the Air Force or the Navy. The military services used mental tests to deny non-white enlistees an opportunity to serve in the desirable military services (Marine, Navy or Air Force) rather than in the Army. Many black and Puerto Rican soldiers served in the Army during the Vietnam War era because of systemic discrimination, mental tests, language barrier (Puerto Rican), and Pentagon's bias against socio-economically and educationally disadvantaged men. Some Puerto Rican soldiers who did not understand English had difficulties with understanding commanders' orders or communicating with English speaking soldiers. Puerto Rican soldiers could put others in his unit in danger by not understanding

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[130] United States, Congress, House, Committee on Armed Services, Special Subcommittee on the Draft, *Review of the Administration and Operation of the Draft Law: Hearings, July 23-November 18, 1970* (Washington, DC: U.S. Government Printing Office, 1970) 12798-12802, accessed July 22, 2015. http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t29.d30.hrg-1970-ash-0004?accountid=11311.

English.[131]

At the beginning of the Vietnam buildup on June 30, 1965, about 83.4 percent of young men were deferred or were not available to serve. This large group consisted of more than four million rejectees, three million who received hardship or fatherhood deferment, two million who received student deferment, and two hundred thousand who received occupational deferment. The total number of men not available to serve was 9.2 million. The remaining 16.6 percent of men in 1-A pool were ordered to report for induction in an established sequence. General Hershey set a special classification for medical doctors. However, in practice the local boards did not draft doctors since the Korean War ended. Hershey said in a sarcastic manner, "The way that works is pretty silly. We encourage them to get their education by drafting them. It's our method of gentle compulsion. The country needs doctors, and the Armed Forces need doctors. We say we draft doctors, but we don't. We threaten to draft them, and they all take commission as officers. We've inducted about twenty doctors in the last fifteen years and that was during the Korean War."[132] Doctors could be volunteers that General Hershey advised local boards not to draft.

On a further analysis of a report called "One-Third of a Nation" by the Presidential Task Force, Keith Johnson, an author of the "Who Should Serve?" article, noticed that a high majority of physical rejectees actually had psychiatric disability rather than physical disability.[133] The President Task Force also concentrated on men who

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[131] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12799-12802.

[132] United States, Congress, *Manpower Implications of Selective Service*, 269-270.

[133] United States, Congress, *Manpower Implications of Selective Service*, 270-271; President's Task Force on Manpower Conservation, *One-Third of a Nation, A Report on Young Men Found*

failed mental tests and made no efforts to examine psycho-sociological issues of men who failed military physical exams. About 75 percent of physical rejectees had psychiatric disorder. A high majority of mental rejectees was unemployed, was high school dropouts, came from a broken home, and came from family with four or more children. However, almost all mental rejectees wanted another chance. About 90 percent of non-white and 80 percent of white mental rejectees were willing to participate in a rehabilitation program of education and the military training.[134] General Hershey was in the Presidential Task Force.[135]

General Hershey argued that while mental rejectees needed helped, they needed it less than did those who refused to volunteer, which were groups of educated men that Pentagon wanted. Hershey believed that the only solution was the universal military training program for all eligible men, because it was a "character building" program for those who refused to volunteer. He was very critical of parents, schools, and churches who in his views failed to teach young men to uphold the same viewpoints and values on military obligations as he held. Fortunately, for many young men and their families, Congress rejected an amendment of the universal military training in 1952, and many representatives of the Department of Defense disagreed with Hershey. Hershey ended up believing that the rehabilitations program would not work anyway because it would "reach those who needed it the least."[136] If Hershey had his own way, the Armed

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*Unqualified for Military Service* (Washington, DC: U.S. Government Printing Office, January 1, 1964) 1-5, A-1-A-2, A-47-A50, accessed January 17, 2016, <http://files.eric.ed.gov/fulltext/ED021045.pdf>..

[134] United States, Congress, *Manpower Implications of Selective Service*, 271.

[135] President's Task Force on Manpower Conservation, *One-Third of a Nation,* 1-5, A-1-A-2, A-47-A50.

[136] United States, Congress, *Manpower Implications of Selective Service*, 272.

Forces would run a two-year mandatory rehabilitation program for all 1-Y rejectees.[137]

Another startling finding was that only 14 percent of three million of new entrants per year were trained for the ground combat duties. About 86 percent were non-combatant clerks, technicians, mechanics, and other skilled specialists in the Armed Forces. Besides wanting "highly trained and trainable men capable of manning and operating…increasingly complex weapon system," the Department of Defense wanted well-behaved young men who would not ruin their reputation.[138] Congress made a compromise by allowing young men who were physically fit to join the military if they obtain the score of at least sixteen percentile in the AFQT. The Department of Defense also used mental tests as a system to reject school dropouts. However, high school dropouts who obtain the score of at least thirty-two percentile still had to pass two supplementary tests in order to join the military since Pentagon did not want high school dropouts.[139]

Because of high birth rates after the Second World War ended in May of 1945, the numbers of men available exceeded from what the Armed Forces needed. At the same time, the Pentagon raised mental standards in order to weed out undesirable disadvantaged men who wanted to fight and used the Selective Service System to bully desirable men to fight in Vietnam. A majority of good students was deferred and a majority of volunteers and enlistees were rejected.

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[137] United States, Congress, *Manpower Implications of Selective Service*, 272.

[138] United States, Congress, *Manpower Implications of Selective Service*, 276.

[139] United States, Congress, *Manpower Implications of Selective Service*, 276.

## Chapter III

## The Curtailment of Student Deferments from 1965 to 1969

According to Charles H. Wilson Jr., the author of "The Selective Service System: An Administrative Obstacle Course," the Selective Service System did not change much for twenty-six years from 1940 to 1966. However, after the escalation of the Vietnam War in June of 1965, the Selective Service System expanded exponentially with more than 4,100 local draft boards nationwide, and more men received calls or notices to report for induction. Local draft boards had to reclassify registrants who had their student deferment, particularly those who received graduate student deferment or students who did not enroll in courses full-time for a term. Most draft boards had to curtail the granting of student deferments in order to meet their quotas.[1] Wilson writes, "[The] consequences of being drafted mean more than simply wasting two years of one's life on a dreary army post. It meant the possibility of becoming a part of a shooting war and the growing casualty from that war."[2]

Many registrants sought deferments or exemptions during the Vietnam buildup. The Selective Service System and local draft boards became controversial when they started to curtail student deferments and deny appeals for other types of deferments or exemptions. On October 15, 1965, forty students at the University of Michigan in Ann Arbor did a sit-in in front of a local draft board. After the police arrested these students

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[1] Wilson, "The Selective Service System," 2124-2125.

[2] Wilson, "The Selective Service System," 2125.

for "violating a local trespass ordinance," the court fined or convicted them.[3] Eleven students eventually lost their student deferment and received their reclassification to 1-A for violating draft laws. All eleven students raised questions whether their local boards violated their First Amendment rights, as these reclassifications appeared to be blatant attempts to use the military conscription in order to punish and stifle dissent.[4]

A month later, reclassified students requested a personal appearance with the local board when they appealed for a reclassification to conscientious objector status. Some students came with their parents to their personal appearance. Local board members or clerks were verbally abusive to registrants and their parents. A board member accused one father of evading the military services during the Second World War, and claimed that the father was a war profiteer who deliberately failed to pass the military physical or mental examinations in order to obtain 4-F exemption. The board members who reviewed protesters' appeals for a conscientious objection status held negative attitudes, and denied a reclassification. All eleven men received a notice to report for induction. Because it was an obvious punishment and a death sentence, they took legal action against the Selective Service System for violating their First Amendment rights.[5]

By law, five days after young men turned eighteen, they had to register with their local draft board. The local board mailed registrants their draft card, a registration certificate, and a questionnaire for them to fill out so that the local board could determine their deferment or exemption. The names of new registrants were listed in the chronological order in the board's classification record, and all registrants were classified

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[3] Wilson, "The Selective Service System," 2126.

[4] Wilson, "The Selective Service System," 2126.

[5] Wilson, "The Selective Service System," 2126.

as 1-A until they received their deferment or exemption. Registrants in 1-A pool received a notice to report for induction based on the order in which their names appeared in the classification record of all men in the list.[6]

After registrants submitted their questionnaires and supporting documents to their local board, the registrants could get a reclassification they were eligible for, depending on the quota for their local board and their state. All local boards had to provide pamphlets informing registrants of their rights and responsibilities, such as their rights to request a personal appearance with the local board, or to appeal to the appeal board after the local board denied them a deferment or an exemption after their personal appearance. Before 1967, registrants who wanted to appeal had to respond within ten days of the date of the letter. The initial 1-A classification did not mean that new registrants had to report for induction.[7] In hearings in the late 1960s, Congress learned that some local boards did not provide registrants information they needed in a timely manner.

Students could request a deferment as soon as they enrolled in courses full-time in a college or university as a degree candidate. Registrants could also request a reclassification when they became fathers, were farmers, or if they were members of a church that conscientiously objected to their members performing combat duties in all wars (Quakers, Mennonites, and other Peace Churches) or found a job that met national needs.[8] Unfortunately, after the escalation of the Vietnam War, General Hershey sent Local Board Memorandums to state and local boards to encourage them to find ways to deny registrants a deferment or an exemption. General Hershey believed that "when the

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[6] Wilson, "The Selective Service System," 2127.

[7] Wilson, "The Selective Service System," 2128-2129.

[8] Wilson, "The Selective Service System," 2128-2129.

registrant has actively sought a deferment or exemption and his request has been denied, he is quite likely to use their [appeal] procedures to protest the denial."[9]

Many local board members were not transparent with registrants. They could deny registrants a deferment or an exemption without telling them why. The escalation of the Vietnam War was problematic. Because of Selective Service System law, registrants could not appeal further after they were denied a reclassification from 1-A status by the appeal board, the second appeal process. However, the state director or a member of the appeal board could appeal on a registrant's behalf if at least one appeal board member disagreed with others on denying a registrant a deferment or an exemption.[10]

In an executive session of Special Subcommittee on the Administration of the Draft Law on July 24, 1970, the Armed Forces Committee learned that General Hershey made decisions on whether registrants would get a deferment or exemption when he worked as an "advisory opinion" to the President Appeal board.[11] Because of General Hershey's well-known negative attitudes and viewpoints toward registrants who requested a reclassification, one could assume that Hershey denied many claims for a reclassification, particularly when registrants appealed for a conscientious objector status after their student deferments expired. Edward I. Koch's letter to President Nixon dated February 9, 1969, noted Hershey's sarcastic statement, "[T]he Conscientious Objector by my theory is best handled if no one hears of him."[12]

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[9] Wilson, "The Selective Service System," 2129.

[10] Wilson, "The Selective Service System," 2130.

[11] United States, Congress, House, *Review of the Administration and Operation of the Draft Law,* 12717-12719, 12816.

[12] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12816.

In an executive session on November 19, 1970, William Sessions of the Department of Justice discussed General Hershey's involvement with a conscientious objector's case in *Jerry Allen Penner v. United States of America*. Jerry Allen Penner, a member of the Mennonite church in Midwest, went to Mennonite church-sponsored Tabor College. He was a student when he submitted his Selective Service Form 150 claiming he was entitled to conscientious objector status; however, his local board classified him as 1-AO—available for non-combat service in the military and gave him a student deferment first. After his student deferment expired on October 14, 1965, his local board reclassified him as 1-AO. Penner felt he was entitled to I-O (available for civilian work assignment) reclassification and requested a personal appearance with his local board. The local board retained Penner's 1-AO classification after the personal appearance; furthermore, Penner appealed to the state appeal board.[13]

The state appeal board submitted Penner's claim to the hearing officer in the Department of Justice, who forwarded Penner's claim to the FBI office. The FBI agent investigated Penner's claim by asking thirty people who knew Penner, which consisted of school officials, classmates, relatives, friends, neighbors, and other members of Mennonite church. Unfortunately, some people claimed that Penner was not a strict observer of his religion, as he smoked, drank, flirted with women, and did not attend church regularly. Penner's college classmates claimed that counselors and deans at Tabor College encouraged students to fill out conscientious objector forms, and regarded these forms as a big joke. On the other hand, relatives and members of church believed that Penner was sincere in his religious beliefs, although his college classmates thought

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[13] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12515-12518, 12527, 12862-12866.

otherwise. The hearing officer interviewed Penner and wrote a recommendation to the appeal board to retain his 1-AO classification. On January 7, 1967, the state appeal board members retained Penners' classification by a unanimous vote. Because appeal board members did not dissent in their votes, Penner by law did not have a right to appeal further.[14]

However, General Hershey took it upon himself to get involved with Penner's appeals. There had been conflicting stories on whether General Hershey took Penner's appeal or whether Penner asked Mr. Kirk of Mennonite church to contact General Hershey. According to the brief of *Jerry Allen Penner V. United States* case, the National Director of the Selective Service System, which was General Hershey, filed an appeal with the president board on March 15, 1967. Later, the Solicitor General, Erwin N. Grishold, explained that when General Hershey took an appeal to the national board, another name for the presidential board, Hershey "simply note[d] that fact, without stating reasons, and the file [was] then transmitted, seriatim, to the three members of the national board, who reside[d] in different cities, and ordinary [did] not meet."[15] Penner did not have a hearing with the national board, and when the national board reclassified him as 1-A, they did not state their reason.[16]

On June 21, 1967, the national appeal board reclassified Penner as 1-A, and a month later, Penner received a notice of induction. On August 2, 1967, Penner reported to the induction station but refused to submit to induction. The United States Department

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[14] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12518-12519, 12523-12526.

[15] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12524.

[16] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12524.

of Justice prosecuted Penner and eventually sentenced him to prison on November 8, 1968.[17] In June of 1970, Grishold ruled in Penner's favor, and said, "[T]he 1-A classification was not warranted, and the order to report for induction was invalid," and gave the district court instructions to dismiss the indictment against Penner.[18] General Hershey stepped down from his position months earlier.[19]

In an executive session on November 19, 1970, Frank M. Slatinshek and Judson Bowles engaged in a heated debate on whether Hershey took an appeal in Penner's case. Slatinshek represented the Special Subcommittee on the Draft, and Bowles was a representative for the Department of Justice. Slatinshek tried to defend General Hershey against the charge that he took it upon himself to appeal unanimous decisions of members in the local and appeal boards, and representatives of the Department of Justice. Bowles believed that Hershey took the appeal even though technically Penner's file was not supposed to be in the presidential (national) appeal board. Thus, Bowles argued that the decision to reclassify Penner to 1-A status was arbitrary.[20]

Technically, by Selective Service law, General Hershey was not supposed to reopen the case to the presidential appeal board when the appeal board members voted unanimously and without dissent on Penner's 1-AO classification. Judson Bowles, who worked for the Department of Justice, believed that 1-A reclassification was an arbitrary

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[17] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12473, 12516, 12519, 12523-12526, 12849, 12862-12869.

[18] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12526.

[19] United States, Senate, Committee on Armed Services, *Nomination of Robert L. Johnson to Be an Assistant Secretary of Army (Research and Development): Hearing, October 30, 1969* (Washington, DC: U.S. Government Printing Office, 1969) 14, accessed February 23, 2016, http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t29.d30.hrg-1969-sas-0017?accountid=11311.

[20] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12526.

decision, and the Department of Justice did not support decisions made in an arbitrary manner. Slatinshek tried to defend General Hershey by claiming that the decision to reclassify Penner was not made arbitrarily. Bowles acknowledged that General Hershey saw the FBI report on Penner, and the cover sheet of Penner's folder containing documents that supported Penner's claim for a conscientious objector status, in which he received from local and appeal boards. However, Slatinshek surmised that General Hershey probably saw the cover sheet and believed that the 1-AO was an improper classification for Penner. Bowles argued that Hershey "took the appeal to the presidential appeal board, and when the presidential appeal board reviewed" Penner's file, they gave him 1-A reclassification. Solicitor General Edwin W. Grishold and the Supreme Court did not think it was right and ruled in Penner's favor.[21]

Slatinshek argued again by claiming that General Hershey did not take Penner's file to the presidential appeal board on his own initiative. Slatinshek contacted the Selective Service office, where he learned that the Selective Service file "had funneled up to the Director of Selective Service," and a representative of the Mennonite Church named Mr. Kirk asked General Hershey to take Penner's appeal to the presidential appeal board. Slatinshek was adamant that General Hershey did not take the initiative on his own and Penner actually requested that General Hershey take action on his appeal for I-O status.[22]

Bowles realized he made a mistake and said, "I am sorry. I meant to say the director, General Hershey, took that appeal."[23] Slatinshek's effort to defend Hershey did

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[21] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12864.

[22] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12863-12864.

[23] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12864.

not go anywhere. Bowles also added that the Department of Justice did not see anywhere on Penner's Selective Service file verification that Mr. Kirk and Penner induced General Hershey into taking the appeal to the presidential board. Slatinshek also received a letter informing him that the new Director of the Selective Service System, Curtis W. Tarr, believed after reading Grishold's brief that General Hershey took the appeal without "any impact from Penner."[24] It is probable we will never see documents verifying that Hershey took the appeal on his initiative. The only thing we know is that Hershey acted in an advisory capacity to the presidential appeal board.

By law, when the presidential appeal board did not give the registrant a reclassification, it was a final decision. The local board could start the induction process on this registrant by notifying him to report for preinduction examinations. If registrants met physical, mental, and moral standards for the military, the local board sent them a notice to report for induction. If registrants refused to report for induction, or reported for induction but refused to submit to induction, the Department of Justice could prosecute them for violating draft laws.[25] Wilson claimed that the judge usually ruled against registrants by claiming that the local and appeal boards did not wrongfully deny them a deferment or an exemption.[26] Wilson believed that in the late 1960s, the Justice Department prosecuted more registrants who refused to report for induction or submit to induction, and many more registrants than ever before were sent to prison for violating

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[24] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12864-12866.

[25] Wilson, "The Selective Service System," 2130-2131.

[26] Wilson, "The Selective Service System," 2136.

draft laws.[27] It turned out that the judge became sympathetic to registrants after Hershey's Directives derailed many cases in the late 1960s, as this thesis will explain.

Wilson noted that most draft boards started to deny registrants a reclassification, particularly appeals for a conscientious objector status. In the late 1960s, local board members started to scrutinize students' enrollment records and progresses toward their degrees. General Hershey believed that some men went to college to evade draft rather than to obtain an education. Hershey sent a Local Board Memorandum to local board members to tell them to start weeding out and scrutinizing registrants who requested a student deferment. Local board members had to curtail the granting of student deferments and had to find sneaky ways to reclassify some students as 1-A.[28]

Local boards began to check on whether registrants attended college full-time in a continuous basis. A young man, for example, had to take a semester off in order to work full-time, save money, and pay for his tuition the following semester. When a local draft board member noticed that a student took a semester off without knowing that he was financially strapped, the local board member "assumed" that the student voluntarily interrupted his education, and that he did not make normal progress toward a degree.[29] This student did not have a chance to explain his situation. Local boards could not grant financially strapped students a hardship deferment one semester and then a student deferment when they enrolled in college full-time again.

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[27] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12841-121860.

[28] Wilson, "The Selective Service System," 2152.

[29] Wilson, "The Selective Service System," 2152.

Many students were caught off-guard after the escalation of the war, because they were not aware that local board members reviewed their records thoroughly. Students were not aware that General Hershey ordered local board members with his Local Board Memorandum, and that the Selective Service System helped the Department of Defense to draft desirable, educated men. Because students did not know of the nefarious ways the system worked and what local board members had been doing to draft students, students did not tell local boards of their financial hardships or illnesses that forced them to take courses part-time or take a semester off. Wilson believed that local boards should send a letter to registrants whenever they saw discrepancy in registrants' files. Unfortunately, because of the changing draft laws and pressures from General Hershey, local board members did not communicate with registrants on a timely basis. General Hershey claimed that local board members usually lived in similar neighborhoods as the registrants did; thus, they should know registrants well personally.[30] It turned out to be false, as Senators learned in the Selective Service System: Its Operations, Practices and Procedures hearings in October of 1969.[31]

During the Vietnam buildup, unlucky registrants received 1-A re-classification from student deferment and could be drafted while his similarly situated classmates kept their student deferments, local boards did not make uniform decisions throughout the United States. General Hershey told Congress in a hearing that he was not willing to fix this issue of the lack of uniformity in local boards' decisions of registrants' classifications. Wilson mentioned a case in which two young men went to high school

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[30] Wilson, "The Selective Service System," 2153.

[31] United States, Congress, Senate, *The Selective Service System: Its Operation, Practices, and Procedures*, 888-910.

together and came from the same hometown, but registered with different draft boards when they turned eighteen.[32] By the late 1960s, Americans complained about injustices in the Selective Service System, because drafts boards did not make uniform decisions for similarly situated registrants.[33]

According to Wilson, each local board served a population of 100,000 or less, and each city, county and state had at least one board. Bigger cities and crowded counties had more than one board. Most state directors were responsible for "dividing his state's monthly draft quotas among various boards under his jurisdiction. The numbers of registrants with 1-A status or who were available for the military service determine a local board's quota."[34] When the numbers of registrants receiving deferment or exemption greatly exceeded the numbers of registrants with 1-A classification, the board quotas did not meet the quotas of men eligible to serve. During the Vietnam War, men who volunteered to join the military and registrants who received 1-A classification usually were sent to a boot camp for training and then to Vietnam. Many local boards with low quotas usually saw the need to curtail the granting of student deferments. Wilson noted that many male students found themselves reclassified for no reason from fall of 1965 to fall of 1969.[35]

On July 28, 1965, President Lyndon Baines Johnson announced in a press conference that the Department of Defense needed more men to fight in the Vietnam War

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[32] Wilson, "The Selective Service System," 2169..

[33] United States, Congress, Senate, *The Selective Service System: Its Operation, Practices, and Procedures*, 5, 39-59.

[34] Wilson, "The Selective Service System," 2169.

[35] Wilson, "The Selective Service System," 2169-2170.

and he ordered that the numbers of men eligible to fight war to double by September 1, 1965. A day later, General Hershey recommended that the board members change registrants' eligibility for student deferment or find ways to curtail the granting of student deferments. Hershey also gave local board members his permission to scrutinize carefully on students' records by asking students for their academic transcripts so the board members could see students' enrollment records and the total credits students earned so far toward their degree. In addition, local board members needed to check on the number of hours students enrolled per semester. However, Hershey did not ask local boards to request students' class standing information from college administrators until months later.[36]

In March of 1966, the General Hershey and President Johnson enforced a new regulation on eligibility for student deferment, in which students had to pass a long-dormant standardized exam known as Selective Service Qualification Test (SSQT), in order to keep their student deferment. If students wanted to keep their student deferment without submitting their class standing information to their local board, they needed a higher score on SSQT. At first, appeal board members thought they would not deal with students appealing to get their student deferments back, because they thought all students understood and agreed with new draft regulations.[37] Unfortunately, it was an unrealistic expectation. Many students were so angry by fall of 1966 that this is when they began their disruptive student protests against class standing and SSQT, as well as Vietnam War related research institutes and corporations.

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[36] William L. Shaw, "Selective Service in 1965," *Military Law Review* 33 (1966): 116, 120-126, accessed October 30, 2012, http://www.heinonline.org.

[37] Shaw, "Selective Service in 1965," 125-127; Wilson, "The Selective Service System," 2175.

Over 350,000 students took SSQT on the first day of test administration for spring of 1966. Undergraduate students who obtained a score of 70 and higher and graduate students who obtained a score of 80 and higher did not have to worry about losing their student deferment based on their class rank. At the same time, General Hershey was critical of students who wanted to keep their student deferments, especially those who protested against new draft laws,

> The deferment of a student is based on a determination that is full-time and remains a satisfactory student….Local boards must use their best judgment in each individual case. A student to be satisfactory to the local board must not disobey the law or regulations of the Selective Service System.…deferment is not for the convenience of the individual registrant, although the nation's interest may at times coincide with the registrants' desires.
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> Military service is a privilege and obligation of free men in a democratic form of government. It follows that the induction of a registrant is not, and cannot be, a punishment…It is recognized by educational institution that breaking their rules disqualifies a student from being a satisfactory student. It should be just as clear that breaking and defying the laws of the nation are even greater evidence of failure to remain a satisfactory student.…For the student, that means the maximum in effort and the highest in devotion to the best image of a student.[38]

Students who fought very hard to keep their deferment did not believe that the military service was a privilege if they had to fight in Vietnam.

In 1967, Congress approved the drastic Selective Service Act of 1967 that gave General Hershey an impression that it was okay for him to be more militant in curtailing

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[38] William Lawrence Shaw, "Selective Service in 1966," *Military Law* Review 36 (1967): 168.

on deferments and making sure that local board members induct enough men to fight in Vietnam. However, Congress guaranteed four years of undergraduate student deferments or until students received their bachelor's degree. After they received their bachelor's degree, they were ineligible for further deferments, such as graduate student or occupational deferment; unless the local board determined that, the new deferment was in the national interest. James W. Davis and Kenneth M. Dolbeare, researchers who studied draft laws, claimed that President Johnson did not eliminate graduate student deferment, since it was Congress' new policy.[39]

Congress also limited registrants' options to enlist to the Reserves or National Guard after registrants received their induction order, but Congress still gave registrants the opportunity for enlistment if they did not receive an induction order. Davis and Dolbeare noticed from their studies that the Reserves or the National Guard was a sanctuary for advantaged young men who understand how the Selective Service System worked, and it was a sanctuary for men who did not want to fight in Vietnam. The Reserves or the National Guard rejected poor or middle-class men who tried to enlist with them, because they did not meet "intellectual standards" for their units.[40]

According to Mark Kurlansky, the author of a book called *1968*, Americans became aware that we were not winning the war after they watched the Tet Offensive on TV on January 31, 1968. They became angry when they heard that President Johnson ordered General Hershey to call about 40,000 men per month. The actual number of men

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[39] James W. Davis and Kenneth M. Dolbeare, "Selective Service: Present Impact and Future Prospects," *Wisconsin Law Review* 13, no. 4 (1967): 907-908, accessed October 30, 2012, <http://www.heinonline.org>.

[40] Davis and Dolbeare, "Selective Service: Present Impact and Future Prospects," 908-909.

who received a call was about 48,000 men, 8,000 more men than what President Johnson ordered, mainly because of General Hershey. When President Johnson, with Congress permission, abolished graduate student deferment on February 16, 1968, he announced that local draft boards would call 150,000 graduate students during the fiscal year beginning July 1, 1968. Graduate students started to panic at the same time they learned that conscientious objector status was a great option.[41]

Americans waited and protested for the war to end immediately, and for President Johnson to send all troops back home. President Johnson ignored Americans' pleas so his approval rating was very low. On March 31, President Johnson made a speech defending his decisions to escalate the war, and announced that he would not seek re-election. Future President Bill Clinton, a senior at Georgetown University, was admitted to the Rhodes Scholar Program at the University of Oxford in England for the following fall term. In fall of 1968, most graduate school administrators and some faculty members lamented that they lost 200,000 incoming and first-year graduate students, because President Johnson eliminated graduate student deferments.[42]

Kurlansky explained that the Tet Offensive caught Americans by surprise because the Pentagon previously issued a report that the Americans were winning the war.[43] After the Tet Offensive occurred, a majority of Americans were disillusioned and angry. They lost their patience with the progress of the war and the decision-making process in

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[41] Mark Kurlansky, *1968: The Year that Rocked the World* (New York: Random House, 2004) 56-57.

[42] Kurlansky, *1968*, 56-57.

[43] Kurlansky, *1968*, 56-57.

Washington, DC. Many Americans had their hopes dashed because they thought we were winning the war, which meant that the war would end soon, and our troops would come home. Men who did not want to fight in Vietnam also had their hopes dashed and nerves frayed. These men had clung to the hope that they would no longer have to worry about being drafted in the near future. The news of the Tet Offensive shattered all hopes. Many male college students panicked, became impatient, and angry when they heard President Johnson and General Hershey were ordering more men to fight and were planning to curtail the granting of student deferments. The news frazzled their nerves to the point that they resorted to violence and lawlessness when they dealt with local boards who curtailed their deferments and called them for induction.

## Draft Resistant Movement and the Hershey's Directives

Although Congress passed the Selective Service Act of 1967 that extended undergraduate student deferments but planned to eliminate graduate student deferments, General Hershey told local and appeal board members to curtail the granting of student deferments. Around the same time, draft counseling and the draft resistant movement began in Boston and New York City. A graduate student at Brandeis University named Barrie Thorne worked as a counselor-participant in order to study the draft resistant movement for her dissertation. It was probable that Thorne crossed paths with five men who were charged with violating draft laws by aiding, abetting, and counseling draft resisters.

Michael Ferber was a graduate student at Harvard who spoke against draft laws in Arlington Church in Boston, Massachusetts on October 16, 1967. By the end of the year,

the Department of Justice prosecuted Ferber along with four other men he did not know, including Dr. Benjamin Spock, a celebrated author of books in child rearing and a professor at Yale University. Ferber and Thorne participated in the draft resistant movement during the month of October 1967, which was the month General Hershey had in mind when he wrote his directives, and Local Board Memorandum 85.[44]

Sometime in May of 1967, a professor at Stanford University in Palo Alto, California named Mitchell Goodman ran into a student resistance group. The president of the student body, David Harris, and other students were willing to give up on their "safe" student deferments and risk imprisonment "for the sake of their principles."[45] Mitchell Goodman chose to make an appeal to faculty members at Stanford to join him in their opposition to the Vietnam War by circulating a pledge of mass civil disobedience so they could convince the U.S. government to stop the Vietnam War. He was amazed when fifty professors signed the pledge, including eight full professors at Stanford Medical School, clergymen at Stanford campus and many distinguished professors in the sciences and humanities fields. Feeling encouraged by responses he received from his colleagues at Stanford, Mitchell Goodman chose to expand his contacts for mass civil disobedience to older adults supporting young men, with professors from universities in East Coast and Midwest.[46]

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[44] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock* (Boston: U.S. District Court, 1968).

[45] Jessica Mitford, *The Trial of Dr. Spock: The Rev. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, and Marcus Raskin* (New York: Alfred A. Knopf, 1969), 31.

[46] Mitford, *The Trial of Dr. Spock* 31-34.

During the summer of 1967, Mitchell Goodman, his wife named Denise Levertov, and faculty members at Stanford sent mails to intellectuals on the East Coast, and wrote a draft of a document called "A Call to Conscientious Resistance to the War?" with the help of a poet and a teacher in Maine named Henry Braun. Mitchell Goodman and his colleagues in Stanford planned to demonstrate at Pentagon in Washington, DC. Unfortunately, they ran into conflict with people from the National Mobilization who planned to demonstrate at the same spot on October 21, 1967. A group on the East Coast called the Resistance also planned to stage a national draft card turn-in on October 16, 1967, and they chose Pentagon as a spot to protest. Furthermore, leaders at National Mobilization were extremely angry that they sent a representative to talk to Mitchell Goodman, his wife, and Henry Braun at Maine, Mitchell's summer home. Their plan to demonstrate was up in the air until they heard from members of Resistance group of New York in September of 1967.[47]

A professor of Linguistics at MIT, Noam Chomsky, and a critic named Dwight MacDonald contacted Mitchell Goodman and showed him their copy of "A Call to Resist Illegitimate Authority" (Appendix G). He was happy to see that the Resistance included his and his wife's names as signers of this document. Chomsky agreed with Mitchell Goodman that young men needed older adults to back them up in their movement against the Vietnam War and draft laws. Chomsky thought the plan to demonstrate at Pentagon would not work since it conflicted with National Mobilization's plan; furthermore, Chomsky introduced Mitchell Goodman to Reverend William Sloan Coffin, Jr. After Mitchell Goodman met Reverend Coffin and hit off well, Mitch Goldman agreed to be a

[47] Mitford, *The Trial of Dr. Spock*, 33-34.

planner for the Conscientious Resistant movement. Mitch Goldman and Reverend Coffin met other older adults who supported draft resisters and agreed to merge with their original groups to become a group of older adults in the Conscientious Resistance group.[48]

Sometime during the month of August 1967, Reverend William Sloane Coffin, Jr. and Dr. Spock distributed literature entitled "A Call to Resist Illegitimate Authority" throughout New York City. On October 2, 1967, the members of the Conscientious Resistance group and eventual defendants Reverend Coffin, Mitchell Goodman, Marcus Raskin, and Dr. Spock held a press conference at the New York Hilton Hotel, Rockefeller Center, New York, New York. Dr. Spock met members of the Conscientious Resistance group but was not vocal until the press conference.[49]

Dr. Spock opposed the Vietnam War and thought it was wrong that thousands of young men were being asked to sacrifice their lives in order to serve in the military or to die so President Johnson could save face when he know that the war was unwinnable. Dr. Spock was suspicious that President Johnson knew that the war was unwinnable but refused to give up. He supported young men who refused to be drafted, submit to induction or fight in Vietnam, because he knew President Johnson's ulterior motives in escalating the Vietnam War. Dr. Spock joined the Resistance Conscientious group because he wanted to lend his voice to support registrants who resisted draft laws and the Armed Forces, as along as the Vietnam War continued. However, he was not a pacifist

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[48] Mitford, *The Trial of Dr. Spock*, 34.

[49] Mitford, *The Trial of Dr. Spock,* 34-35.

nor against all wars, as he supported, for example, a war against Hitler during the Second World War.[50]

Dr. Spock worked within the inner circles of the White House during the Kennedy Administration and dealt with President Johnson personally. Dr. Spock was Johnson's supporter during the presidential election campaign in 1964. Spock and millions of Americans voted for Johnson, because Johnson told them that he was opposed to the escalation of the Vietnam War and he planned to de-escalate the war. After the election, Johnson began to betray Americans by not de-escalating the war. Instead, he turned his back on his voters by escalating the war on June of 1965 and ordering more men to be drafted to fight in Vietnam. Dr. Spock thought Johnson's deception and betrayal was evil. He and his colleagues who held similar concerns wrote letters and telegrams to President Johnson and Congress, all to no avail. Dr. Spock and his colleagues held many demonstrations against the war all to no avail with President Johnson and Congress. Finally, in 1967, Americans agreed with Dr. Spock, at the same time Dr. Spock learned that the polls showed that a majority of Americans opposed the war in Vietnam. Americans demanded that the war be de-escalated, or that the President or Congress order complete withdrawal of America troops.[51]

A Special Agent of the New York Division of Federal Bureau of Investigation (FBI), Lawrence E. Miller, testified that he was a witness to an event that occurred at the

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[50] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-77-3-803-77-3-80, 3-95-3-96.

[51] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-77-3-803-77-3-80, 3-95-3-96.

New York Hilton Hotel on October 2, 1967. Miller recognized Reverend William Sloane Coffin, Jr. and Dr. Benjamin Spock, eventual defendants of the case against them and three other men. Miller noticed that Coffin acted as a master of the press conference (or ceremonies). He knew Dr. Spock based on his previous publications, papers, and a famous child-rearing book. Agent Miller saw several prominent activists who were not defendants of this case: a professor of MIT named Noam Chomsky, a poet named Robert Lovell, an anthropologist from New York City named Ashley Montagu, and writers named Paul Goodman and Dwight McDonald. Agent Miller also saw two other defendants, Mitchell Goodman—not to be confused with Paul Goodman—and Marcus Raskin of Washington, DC; however, he did not see one of the defendants named Michael Ferber.[52]

Reverend Coffin started the press conference by introducing the public to speakers of this conference. Dr. Spock, who was the first speaker, said "the war in Vietnam was unwinnable" and that President Johnson wanted to save face by continuing to fight in the Vietnam War. Dr. Spock believed that President Johnson was willing to destroy the United States and to start the Third World War. It was a short statement. Paul Goodman spoke next and said, "Ladies and Gentlemen, authority is not fixed and is subject to the test at all times and that his group must lead the way in making protest concerning the hidden government within the Federal Bureau of Investigation and the

[52] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-92-2-99.

CIA. The President and Congress had betrayed this country and this regime will turn to Fascism."[53]

Noam Chomsky who spoke next said the United States Government committed atrocities similar to Auschwitz and Dachau during the Second World War, and those who opposed government's policy on Vietnam War and draft laws should create a movement of civil disobedience in order to be politically effective. The next speaker, Ashley Montagu, claimed that "the United States violate[d] all the rules of warfare as set out by the Geneva Convention…The government was destroying, completely destroying, the Vietnam culture and the people."[54] A defendant, Marcus Raskin, took the stand on the podium and said, "[T]he present clique in power was a small band of people drunk with power and were thieves and bandits. The question was whether the government must be called upon to halt the war and the citizenry, it was incumbent upon the citizenry to regain their power. The taxing power and conscription power of the president was illegal and that the president could do exactly as he pleased whether Congress liked it or not."[55] Dwight MacDonald took a stand next to tell the audience he was ashamed to be an American and that he should "take a course of civil disobedience in order to be

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[53] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-101-2-105.

[54] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-105-2-106.

[55] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-106-2-107.

effective."[56] MacDonald recommended all young men to appeal for a conscientious objector status, and to evade and resist draft laws.

Reverend Coffin took the microphone in order to make his point, "It [is] absurd to believe a person to be a Conscientious Objector in that there was no provision for selective objection or pacifism in the Selective Service Act." [57] Coffin made a recommendation that Jews and Christians to unite against the draft laws and the Vietnam War in order to create civil disobedience and to provide sanctuaries in churches and synagogues for draft resisters and evaders, as well as selective conscientious objectors who were denied their conscientious objector status. Next, Robert Lowell said he agreed with other speakers, but he could not in his conscience to advise young men to appeal a conscientious objector status although he agreed that the Vietnam War was a pointless war.[58]

A defendant, Mitchell Goodman, took the podium to tell the public of their plans for the "Stop the Draft Week" that would take place on October 16 to 21, 1967. Mitchell Goodman predicted that the week would be the most crucial week in American history. Goodman claimed that on October 16, 1967, about 200 men in New York City would turn in their draft cards in front of the Federal Courthouse in Foley Square, New York City, to show their support to draft resisters and their resistance to the Vietnam War. They planned to hand their draft cards to the United States Marshall. On October 17,

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[56] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-107.

[57] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-108.

[58] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-108.

1967, supporters of a group called "A Call for Active Opposition" would protest in the induction center at Oakland Bay, California, near San Francisco. Mitchell explained that the group and their supporters planned to obstruct the functioning of the induction center by linking arms and sitting in front of the local board building. Different groups of protesters and draft resisters planned to besiege local boards, "troop trains, troop carriers, embarkation points by sit-ins and other obstructive activities."[59] Goodman explained that protesters could obstruct the functioning of the draft board by having a busload of fake inductees arriving in the Oakland induction center. Protesters Activists would scatter themselves throughout the center, link chains and handcuff themselves to staircases and drainpipes, do a sit-in, and block access to the building.[60]

Then, on October 20, 1967, the group would travel to Washington, DC, and meet at the First United Congregational Church of Christ at Tenth and G Street at I:00 o'clock p.m. They would march to the office of the Justice Department at 3:00 o'clock. About thirty to forty men from New York City would turn in draft cards given to them by twenty-four draft resister groups throughout the country. On October 16, draft resister groups would have collected draft cards from draft resisters, protesters, and activists against the Vietnam War and draft laws. Mitchell Goodman, three other defendants, and several prominent activists who spoke at a press conference on October 2 planned to turn in these draft cards to the Justice Department.[61]

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[59] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-109-2-110.

[60] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-110.

[61] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-110-2-111.

Reverend Coffin came back to the podium to speak again, said President Johnson presented a tragic figure with his plan of injustice, and that Johnson was not a representative of Americans. A younger man named Ron Young walked to the podium to speak. Coffin introduced Young as a conscientious objector, a member of the resistance group and of the War Resister League of New York City. Young said he supported conscientious objectors and advised all young men to be a conscientious objector or appeal for a conscientious objector status. Young, classified as a conscientious objector originally, was ordered to work for a mental hospital, which he refused to do. He would rather to go to prison than fight in a war. Howard Waskow, a friend of a defendant named Marcus Raskin, said he agreed with other speakers and wanted to add that if it was not a crime to participate in the war, then it was not a crime to refuse to participate in the Vietnam War. Reverend Coffin ended the conference by saying, "Let arrests be made in the church so the country can see that legal authority violates individual consciences." Then they started their question and answers session.[62]

On October 16, 1967, the fifth defendant named Michael Ferber gave a sermon entitled "A Time to Say No" at a meeting at the Arlington Street Church, in Boston, Massachusetts. He started his sermon with a statement that influenced actions draft resisters would take for the next few years, an action that influenced General Hershey's decision to pen his controversial Local Board Memorandum and directives, "We are gathered in this church today in order to do something very simple: to say No. We have come from many different places and backgrounds and we have many different ideas

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[62] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-111, 2-119.

about ourselves and the world, but we have come here to show that we are united to do one thing: to say No. Each of our acts of returning our draft cards is our personal No; when we put them in a single container and set fire to them from a single candle we express the simple basis of our unity."[63] During the ceremony, many young men returned their Selective Services documents such as their registration certifications, notices of their classification, and their draft cards, including their burned draft cards.[64]

After Ferber finished his sermon, Reverend Coffin gave a speech and accepted notices of classifications and registrations from registrants. Ferber also accepted Selective Service documents. Four days later on October 20, 1967, Reverend Coffin spoke at a demonstration of resistance against the Selective Service System in front of the Department of Justice Building in Washington, DC. Reverend Coffin also counseled registrants publicly and encouraged them to continue resisting against the draft and induction orders. Michael Ferber came to Washington, DC as a representative of a draft resistant group in Boston. Ferber acted as one of these 30 to 40 young men who handed in Selective Service documents and draft cards to representatives of the Conscientious Resistance group.[65]

After he finished his speech, Reverend Coffin walked inside the Department of Justice Building with other defendants, Dr. Spock, Marcus Raskin, and Mitchell

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[63] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 4-33-4-43.

[64] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-59, 2-22-2-32, 4-33-4-43.

[65] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-59, 2-22-2-32.

Goodman, as well as other members of the Conscientious Resistance group, which consisted of clergymen, professors, and professionals. Michael Ferber was not with them. When four defendants and seven other members of the Conscientious Resistance group got inside the Andretta Room of the Department of Justice Building, they attempted to deliver a fabricoid briefcase that contained 185 registration certificates and 172 notices of classification, and other materials such as burned draft cards.[66] They held a conference for an hour with the Assistant Attorney named John McDonough. McDonough gave each of the eleven representatives of the Conscientious Resistance a time to talk with him. In a federal court against the Boston Five months later, McDonough testified that Reverend Coffin told him the members of Conscientious Resistance group held the convictions that the war in Vietnam was immoral, mentioned Nuremberg Principle as a point, and explained the purpose of their meeting. Coffin explained that the Conscientious Resistance representatives were there to support young men who refused to fight in an immoral war in Vietnam and to let the Department of Justice know that they were well aware that they were violating Federal laws by aiding, abetting, and counseling registrants to refuse draft or to submit to induction. They were also aware that they could expose themselves to five years of imprisonment and a fine of $10,000 for violating Federal laws; however, they held a strong conscience against the war in Vietnam and draft laws.[67]

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[66] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-22-2-32.

[67] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 1-63-2-65.

Mitchell Goodman spoke next by claiming that young men demonstrating in front of the Department of Justice Building were tips of the iceberg, and said that a majority of young men repudiated the goals of society and its laws, because laws "were unrelated to their values as to be meaningless."[68] Goodman noted that the United States government needed to face the reality of the impacts on society based on their decisions, and that they needed to revise their system and the laws that meet common expectations of many young people, since half of the United States population was under 21 years old. Goodman told McDonough that their draft resistance movement on this matter did not end with this meeting, as they had another meeting that evening, where they would formulate a draft resistance committee that would represent the resistance movement throughout the country.[69]

After Mitchell Goodman finished his statement, a member of the Conscientious Resistance made an effort to hand-deliver a briefcase of Selective Service documents and draft cards. McDonough refused to accept this briefcase when he learned from one of defendants, Marcus "Mark" Raskin, that it contained draft cards. McDonough discussed the provision of Federal and draft laws to representatives, and reminded them that turning in draft cards was a violation of federal laws. Reverend Coffin, Mitchell Goodman, and Arthur Waskow understood what McDonough meant; however, they argued that it was a dereliction of his duty as an attorney of the Department of Justice not to accept these cards, although it was an evidence of a crime committed in front of his views.

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[68] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-65-2-66.

[69] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-66.

McDonough still refused to accept the briefcase, but allowed Conscientious Resistance members to leave the briefcase on the table and leave.[70]

After eleven members of the Conscientious Resistance left, McDonough asked Mrs. Van DeCamp of the Department of Justice to call an FBI Agent named John Blazek to the Andretti Room. McDonough pointed at the briefcase to Blazek, told him to take custody of the briefcase, and gave Blazek an account of what happened. Blazek and another FBI Agent named Carter Billings took the briefcase, went to the Washington, DC field office where they examined the briefcase and documents inside. Blazek and Billings saw charred remains of draft cards, copies of draft cards, typewritten (mimeographed) or handwritten statements, letters from draft boards to registrants, registration certifications, and notices of classification. Blazek and Billings investigated local boards and its location by looking at documents, and forwarded all of these documents to the proper local FBI offices, so that they could forward these documents to a proper local board.[71]

General Hershey submitted his Local Board Memorandum 85 on October 24, 1967 to local and appeal board members, as well as government appeal agents, informing them that when registrants burned or mutilated their draft cards and did not have full possession of their Selective Service documents with them at all time, they became ineligible for deferments and exemptions. Hershey claimed that because these resisters failed to meet their duties and obligations under the Selective Service laws, local board members should reclassify these resisters as 1-A immediately and accelerate their

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[70] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-66-2-67.

[71] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-68-2-69.

induction to Armed Forces ahead of volunteers. Two days later on October 26, 1967, General Hershey submitted his directives informing state and local board members that registrants who protested against the Vietnam War and draft laws as they did on the "Stop the Draft Week," should not receive further deferments or exemption since they "violated" Selective Service laws by protesting against the draft. He made similar demands for immediate reclassification to 1-A and acceleration of inductions.

Hershey believed that draft dodgers used their student deferment and then a pyramiding of deferment (occupational, fatherhood, hardship) in order to evade draft. The pyramiding of eligibility for deferment classification was defined as registrants getting student deferments for four to five years for his undergraduate degree. After registrants graduated, they received another deferment such as graduate student deferment, occupation deferment, hardship deferment, fatherhood deferment, or a hardship deferment for taking care of their unemployed parents. If they lost a latter deferment, they filed for a conscientious objector status.[72] Hershey frowned at student deferments, because undergraduate students usually ended up getting an exemption from draft through their pyramiding of deferments.[73]

Hershey's history of pressuring local board members to deny registrants a reclassification from 1-A status were a point of contention to Congress, draft counselors, and attorneys who tried to help registrants with their Selective Service reclassification cases. It became apparent that unsophisticated, naïve registrants were victims of

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[72] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12485-12511.

[73] United States. Congress. Senate. *The Selective Service System: Its Operation, Practices, and Procedures*, 53, 170, 228, 522, 525, 663, 694.

nefarious ways in which local board members and government appeal agents extracted information from registrants, so the local boards could induct unwitting young men or reclassify them as delinquents and accelerate inductions if registrants refused to cooperate. Situations got worse for registrants since the Selective Service and Military Act of 1967 became a law on June 30, 1967. Four months later, Hershey's Directive opened doors to punitive draft classification against registrants who appealed for selective conscientious objection status after their student deferments expired.[74] Selective conscientious objection was defined as registrants who had a conscious belief against government actions or a particular war. It was more of political and sociological beliefs against the war than a religious belief. Registrants who ran out of deferments and exemptions and exhausted all appeal options usually applied for a conscientious objector status. If their local and appeal board denied them a conscientious objector status, they appealed for a selective conscientious objector status although it was not a deferment option in Selective Service laws. General Hershey detested selective conscientious objector claims.[75]

In the Right of Counsel in the Selective Service System hearing on May 16, 1968, Senator Edward Moore Kennedy of Massachusetts explained how and why the Military Selective Service Acts of 1967 worked against registrants. Senator Kennedy heard many criticisms about the structure, operations, practices, and procedures in the Selective Service System. He studied draft laws and participated in many hearings related to the

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[74] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12480, 12753-12754, 12812-12823.

[75] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12480, 12753-12754, 12812-12823.

Selective Service System and draft laws. Kennedy explained that the House version of the Military Selective Services Act of 1967 was problematic for many reasons.[76]

According to Kennedy, the House Armed Force Committee adopted many punitive and restrictive provisions that were not in the Senate version of the bill, and the House version of the bill became a law. First, the 1967 amendment eliminated judicial review of draft classification and processing action, except when registrants became a defendant in a criminal case for refusing to submit to induction. This piece of legislation protected the Selective Service System from judicial review when local, appeal, and presidential (national) boards made their decisions on registrants' classifications. Registrants had to break draft laws in order to be heard by the federal court. Second, the 1967 amendment eliminated the existing requirement for the Department of Justice to review and investigate registrants' claims for deferment or exemption, particularly their claims for a conscientious objector status. Since the Selective Training and Service Act of 1940, the hearing officer from the Department of Justice investigated and reviewed registrants' files they received from the appeal board, and the hearing officer gave appeal boards their recommendations on registrants' classification.[77]

In this procedure, registrants who were denied a reclassification from 1-A to other classification by their local board could ask for an appeal. The local board transferred the appealing registrants' files to the state appeal board. The appeal board submitted appealing registrants' files to a hearing officer from the Department of Justice. The hearing officer gave registrants' files to the FBI so that their agent could investigate

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[76] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 22.

[77] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 6-7, 22-23.

registrant's claim for a reclassification. After the FBI gave their report, known as a resume, to the hearing officer, the hearing officer interviewed a registrant. After the hearing officer interviewed a registrant, they gave their recommendation to the appeal board. The appeal board members voted and if they all agreed, they gave the registrant a final classification. The procedure in *Penner's* case was an example. If at least one appeal board member disagreed, registrants or a dissenting appeal board member could ask for an appeal with the president (national) board. Most registrants who lost their student deferments and could not get a latter deferment usually requested a conscientious objector status.[78]

Kennedy explained that the purpose of eliminating procedures, in which the Department of Justice could get involved, was to eliminate or reduce prosecution for a conscientious objector status. The 1967 amendments eliminated a process that let registrants communicate with a hearing officer from the Department of Justice. The 1967 amendment also gave appeal boards an opportunity to set their own rules, including denying registrants a reclassification, and it opened doors for General Hershey to issue his directives to Government appeal agents of local boards.[79]

Kennedy said that the greatest injustice incurred by the Selective Service operations stemmed from Hershey's Directives to Government appeal agents. The purpose of the Right of Counsel in the Selective Service System hearing was to review Government appeal agents' roles, and to propose a bill to extend the rights of counsel to registrants in their personal appearance with their local board. Before the Right of

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[78] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 22-23.

[79] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 1, 22-23.

Counsel hearings, Kennedy noticed that since General Hershey submitted his directives, Government appeal agent assigned to each board [was] required to report to the local board any information they received from registrants, particularly when registrants "violated" Selective Service laws. The government appeal agent betrayed registrants' trusts in their attorney-client relationship. The Hershey's Directives ordered Government appeal agents to betray registrants by not respecting confidentiality of information they received in confidence from registrants.[80]

Senator Kennedy noted that on their registration certification, registrants were "informed that the government appeal agent was available at each board who was ready and willing to offer any legal counsel on Selective Service matters."[81] On the other hand, as registrants did not know, this same appeal agent was required by Hershey's Directive to divulge information given to him in confidence by unwitting registrants. The Hershey's Directive and the Selective Service laws also required government appeal agents to use their dual roles when they volunteered for the appeal board; protecting both interests of the government, which was the Selective Service System, and the rights of an individual. Government appeal agents had a dual role of representing registrants and of representing the Selective Service System. Government appeal agents' dual roles and betrayal of trust worked against registrants who sought a deferment or an exemption. Kennedy called this a de-facto case of conflict-of-interests. Kennedy concluded General Hershey's definition of "legal counsel" meant an attorney-client, in which an attorney divulged information given to him by registrants who believed that they were receiving

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[80] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 23.

[81] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 23.

legal assistance. It was unethical for Government appeal agents to use their dual roles to betray registrants' trusts as Hershey's Directives ordered them.[82]

In the Right of Counsel in Selective Service System hearing on May 16, 1968, Hershey was very defensive claiming Congress passed Selective Service and draft laws, and he was there to enforce draft laws as Congress and President Johnson ordered. General Hershey's vagueness about choosing certain men for involuntary servitude was evasive and sneaky. Hershey said that national interests took precedence over registrants' interests, as he believed that "registrants' interests [were] not relevant. Deferment may coincide with his desire, but a local board would defer a registrant who wish[ed] to serve, if the national interests dictated."[83] He argued without thoughts of the legal issues of his directives that in "raising and maintaining adequate Armed Forces, there should be no delay is processing liable individuals from civilian to military status."[84] Hershey noted that Congress passed a Selective Service regulation that prohibited legal representation for registrants in their personal appearance with the local board. Hershey opposed the proposed bill that would extend registrants access to a legal counsel in Selective Service cases, because it would delay processing registrants for induction and Congress earlier had made a provision to protect the Selective Service System against "premature challenges in court to Selective Service processing."[85]

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[82] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 1-2, 22-23.

[83] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 1-2.

[84] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 2-3.

[85] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 3-4.

General Hershey believed that if the proposed bill passed, the Selective Service System could not raise the type of armies the Department of Defense desired, since many educated and talented men the Department wanted usually refused to fight in Vietnam. Angry registrants usually took stepwise legal actions in order to obtain their deferments or exemptions. Hershey claimed falsely that local board members relied on documents submitted to them by registrants, their employers, or their dependents, and then claimed, probably thinking Senators were on the same page regarding government appeal agents' dual roles, that government appeal agents were there to assist registrants. Hershey said, "[A] major activity of personnel of the system, paid or volunteer, is helping registrant to present facts which will assist local boards in weighing the impact on national interest of the registrants immediate withdrawal from the civilian economy."[86]

Hershey took a break from making his statement and answering questions while Senator Philip Hart of Wisconsin submitted his statement in support of the proposed bill. Senator Hart explained that the 1967 amendment worked against registrants who did not want to fight in Vietnam and Southeast Asia. President Johnson also eliminated graduate student deferment on February 16, 1968. Before they passed the amendment in 1967, Congress had been concerned that student deferment become a permanent exemption since students who received their deferments in college ended up getting more deferments after college. College graduates had volunteered to join ROTC in college or enlisted in an Armed Force services that needed engineers, mechanics, pilots or units of the military that were looking for specialists and educated men. Some became officers if they joined ROTC at college. These are safer areas to serve in the military than in the

[86] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 4.

combat zones in Vietnam. General Hershey was looking for men to join combat units in Vietnam, because many men did not want to go there.[87]

When Hershey came back, he revealed most of his attitudes toward registrants who did not want to join the combat units in Vietnam. General Hershey said men who did not want to join the military had been avoiding draft and that for the past 12 to 18 months, many men attempted to stall being sent to Vietnam. Hershey and the Selective Service System had to send volunteers and non-resistant draftees to Vietnam ahead of those who refused to go. Hershey felt strongly that registrants who refused to go to Vietnam had been negotiating with the court system, tried to hurt the draft, tried to ask everyone to help them to get delays of the induction orders, or tried to get a conscientious objector classification. If all else failed, they filed a lawsuit against him or the Selective Service System. Hershey frowned on many men who hoped to delay as much as they could and tried to put off their induction date until after the war ended. General Hershey was adamant in that he did not lose his right when he joined the military at the age of seventeen, even though he volunteered to join the National Guard.[88]

Hershey was frustrated with the slowness of the law in 1968 and tried to shift the blame of his difficulties with registrants on Congress who passed changing Selective Service laws since 1940. He claimed that Congress removed most of young men's rights since 1940, and he was doing his job. He believed that Congress meant to say, "This individual was available for service and that he would be taken anytime needed unless

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[87] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 6.

[88] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 9.

somebody had decided in the best interests of the country, he should be left behind."[89] He was vague about who should serve and who should stay home. Hershey also claimed that many Americans appeared to misunderstand what the term "national interests" meant because many men appealed for a classification other than 1-A. Hershey repeated himself by saying that the government would not take men for the military if the demand were not so great, and the government feels it is better for him to stay home.[90]

Hershey explained that the purpose of assigning dual roles for government appeal agents was to have them acting as a guardian of the law for the Selective Service System and for registrants equally. The Government appeal agents were advisers to a local board they worked with. He explained that if registrants were able to get a legal counsel or a representative in their personal appearance with the local board, there would be infinite delays of processing registrants for induction. Since it was a month before he took Penner's appeal, Hershey claimed that he could not classify registrants.[91]

Hershey detested hearing complaints from registrants who believed an order of induction to serve in the military was a punishment, because to him, military service was a privilege and an obligation. He obviously could not understand men who saw 1-A status as a punishment, or punitive reclassification and acceleration induction as a death sentence. He resented these men's complaint because he served in the Armed Forces since he was a teen-ager. Hershey said, "I resent, individually, comparing the placing of a man in a certain category who has the obligation to defend his country as being an

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[89] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 9-10.

[90] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 10.

[91] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 12, 14.

individual who is guilty."[92] Hershey did not want registrants to go to jail for refusing to induction. He heard that many men who ran out of options preferred imprisonment than fighting in Vietnam.[93]

Hershey obviously did not understand or forgot about traumatic experiences many men felt when they saw the Vietnam War in action on TV, in which they saw many horrors live, when soldiers stepped on booby traps, landmines, and other explosives. Some soldiers came back home changed men mentally and physically worse off than they were before they left for Vietnam. General Hershey had good memories as a soldier who fought in the First and Second World Wars and of the military campaigns in which he was involved in before the Vietnam War began. Hershey was a product of the previous wars, when he could fight for this country or defend American's allies, and go home to appreciative family, friends, and public who called him and other soldiers their heroes. The Vietnam War was a completely different war. It was a very traumatic war. Public reception to the Vietnam War veterans was very poor. Many men did not want to fight, because they saw many life-changing traumatic issues that the Vietnam War veterans faced. General Hershey did not understand nor cared about young men's concerns.

However, on November 19, 1970, the Special Subcommittee on Draft learned that the Department of Justice dismissed many cases due to procedural errors from local boards. After Slatinshek and Bowles finished arguing on whether General Hershey took Penner's appeal, William Session of the Department of Justice gave the committee his report on registrants who failed to report for preinduction exam or for induction. In

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[92] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 16.

[93] United States, Congress, Senate, *Right of Counsel in the Selective Service System,* 16-17.

January of 1970, the Supreme Court invalidated Selective Service delinquency regulation and Hershey's Directives. The Supreme Court nullified the practice of accelerating induction of delinquent registrants. Session explained how the Selective Service System processed delinquent registrants after General Hershey sent his directives to the appeal boards nationwide:

> It has been a practice of the Selective Service System to declare a registrant who failed to report for a preinduction physical examination to be a delinquent and to accelerate the issuance to him of an induction order. In view of this practice, the Selective Service System refrained from referring to the United States for prosecution violations involving failure to report for preinduction physicals until the registrant had refused to comply with the induction order.[94]

Since government appeal agents and appeal board members obeyed Hershey's Directives, many registrants noticed the changes in how local boards operated; therefore, draft evaders refused to submit for preinduction exams or to report for induction. It became a trend from 1968 to the early 1970s.

When the Special Committee on Draft and the Department of Justice found out why these men evaded induction, General Hershey's successor, Dr. Tarr, was in the process of reviewing operations and practices in Selective Service System, as he planned to make some changes. President Nixon sent his proposed amendment to Congress on April 23, 1970, requesting an authorization to end undergraduate student deferments. Nixon's goal was to phase out student deferments by telling draft board members to stop the granting of deferments to future students and letting currently deferred undergraduate students finish their degree program. At the same time, most formerly deferred college

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[94] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12870.

students who were unable to obtain occupational, hardship, fatherhood or graduate student deferment appealed for a conscientious objector status. Since many students were not members of a church who objected to all wars or using a weapon to kill others, it became apparent that they selectively objected to a specific war, and appealed for a selective conscientious objector status.[95]

Dr. Tarr noted that many young men appealed for a conscientious objector status in order to delay induction with the possibility of avoiding induction altogether or waited until the Vietnam War ended before they received an order for induction for a non-combat military service. Some registrants gave hints to board members and Dr. Tarr that they would serve in the military after the Vietnam War ended. General Hershey frowned on these registrants; however, Dr. Tarr appeared to be diplomatic to registrants' concerns while at the same time, he had to make sure volunteers who worked for the Selective Service System would not quit. Although Dr. Tarr was aware of an upcoming Supreme Court ruling on selective conscientious objector cases, he was concerned that the Selective Service System could not operate efficiently if local and appeal board members had to consider registrants' appeals for a selective conscientious objector status based on their objection to a specific war. In addition, Dr. Tarr believed that soldiers who had served in Vietnam would be hostile toward selective conscientious objectors, and the idea of the Supreme Court giving "citizens the right to withhold support to the Nation for specific acts of the Government with which they did not approve."[96]

On July 24, 1970, Dr. Tarr resumed his statement by answering Frank

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[95] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12479-12481.

[96] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12480.

Slatenshek's questions regarding a plan to move the presidential appeal board to a new space. Tarr had heard numerous complaints that the presidential appeal board was "captive to the system," implying that General Hershey held the presidential appeal board hostage. General Hershey's suspected initiatives in taking Penner's appeal in 1967 was an example. Slatinshek understood Tarr's concerns and said, "I understand there was some criticism made by some members, no longer on the presidential appeal board, that by virtue of the requirement of obtaining logistic support from you, they were becoming a captive of the Director of Selective Services."[97] However, Slatinshek believed it was more of an allegation than a true statement about the Presidential Appeal Board.[98]

Dr. Tarr noted that as a Director of the Selective Service System, he did not have control over appeal and presidential board members' decision-making process or the action they took on registrants' appeals for a reclassification. On the other hand, Tarr heard complaints from former board members that there was "an attempt by the system to force the Appeal Board to make decisions in a certain way."[99] Dr. Tarr encouraged the Appeal Board members to feel comfortable with making decisions independently, and feel that the Director of the Selective Service System would not pressure them to make a certain decision. Tarr was also concerned that draft-resisting registrants used the Appeal Board as a way to get out of the draft or to delay induction orders.[100]

After General Hershey sent his directives to local and appeal boards in October

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[97] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12485.

[98] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12485.

[99] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12485-12486.

[100] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12485-12486.

1967, more Americans protested against draft laws and engaged in violent actions against local boards. Protesters vandalized local board offices, and made threats of violent actions taken against local board members. Because of damages to their buildings and Americans' increasingly hostility toward local boards, Selective Service laws, and the Vietnam War, property owners of these buildings began to refuse to rent space to the Selective Service System. Dr. Tarr noted that the General Service Administration office had a difficult time finding a space for local boards.[101]

Dr. Tarr travelled throughout the United States to visit local, state, and appeal boards. When he visited an Armed Forces Examining and Entrance Station in Oakland, California, he noticed a draft counseling office across the street and was alarmed. Reputable attorneys offered their legal services for a fee claiming that they could help registrants who did not want to be drafted. Although many registrants did not resist serving their country, they did not want to fight in the combat unit in Vietnam. The attorney offered to help registrants to get out of military service, because General Hershey and most draft board members frowned on registrants who enlisted in order to serve in a military unit outside of the Vietnam combat zone. It became apparent to Dr. Tarr that many Americans tried to end draft laws and the Selective Service System by going to a court to appeal.[102]

Dr. Tarr mentioned a transcribed file of a speech given by Paul Harris on May 27, 1970, at George Washington High School in San Francisco, CA, where he told young men of their legal rights as draft evaders and resisters. Harris was a law clerk of a

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[101] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12489.

[102] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12491-12493.

Federal District Judge of a Northern California District named Alfonso J. Zirpoli; thus, he knew draft laws and how registrants could legally evade draft and induction orders. Zipoli invalidated Hershey's Directives in several cases such as *United States v Mallory (1969)* and *Andre v Rensor (1970)*.[103] Harris claimed that registrants could request a conscientious objector status if they were against all war. Second, Northern California was a great region for registrants who refused induction. If registrants did not live in Northern California, they could visit San Francisco and Oakland for legal assistance from supportive attorneys, judges, draft board members, and doctors who would help them to avoid induction orders, to get out of military, and to avoid jail sentence.[104]

Harris claimed that judges in Northern California usually found registrants "not guilty" of evading draft if the local board members violated draft regulations when they tried to draft registrants who were eligible for a deferment or an exemption. Harris claimed that many judges throughout the country believed that draft board and appeal board members who followed Hershey's Directives to reclassify protesters as delinquents and accelerate their inductions also violated draft laws. Judges also ruled in registrants' favor if local and appeal board members denied them a student deferment or a post-graduate deferment such as conscientious objection, fatherhood, occupational, and hardship. The U.S. attorneys handled thousands of cases in which 50 percent were composed of registrants who refused induction. Judges found most of these registrants not guilty, because draft board members failed to follow Selective Service laws such as

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[103] *Andre v. Resor*, 313 F. Supp. 957 (N.D. Cal. 1970). Google Scholar. Accessed November 1, 2015; *United States v. Mallory*, 305 F. Supp. 915 (N.D. Cal. 1969). Google Scholar. Accessed November 1, 2015.

[104] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12493-12494.

not living within the community in which they served. Harris claimed that four out of nine judges had an argument that draft board members were not cross-sectional representatives of a population they served, such as white local board members working in a predominantly black neighborhood. In other words, board members were not registrants' peers or friendly neighbors geographically, racially, and socio-economically.[105]

Harris advised young men that refusing induction was better than taking drastic steps such as refusing to register with the Selective Service System, going underground, or moving to Canada. Harris gave registrants tips on how they could avoid going to jail if they refused induction after they filed for a conscientious objector status and was denied a reclassification. Judges in San Francisco and throughout Northern California would not send registrants to jail if they believed they were sincere in their objection to war. Judges in San Francisco and Northern California usually granted registrants four years of probation unless they were political resistors such as those who claimed that they were not against all war, but only against American imperialism. When registrants served their probation for two to four years, they could fulfil an alternative service as determined by the Probation Department, such as teaching or working in a hospital. Political resisters in Northern California cases were sent to a jail in Arizona, which was a haven compared to most jails for draft evaders throughout the country.[106]

Harris claimed that judges usually found registrants not guilty if draft board members made procedural errors or violated Selective Service regulations when they

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[105] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12494-12495.

[106] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12495.

made decisions to deny registrants a deferment or an exemption. In San Francisco, if registrants violated the induction order, the judge could declare them guilty and sentence them to four years of probation if they filed a conscientious objector status at the age of nineteen. In other states, if registrants violated the induction order, judges would give them harsher sentences such as 2 to 5 years of imprisonment, depending on state laws and on the judges' decisions. Harris closed his statement with his understanding about young men's obligation to his country, "You have an obligation to do military service under the law, but the law also says, 'If you are bound by a higher obligation, you don't have to go into the Army.' You see that higher obligation is your conscience. The law advises both those things, and that is what you should keep in mind."[107]

After Harris finished his speech, Lt. Colonel Mee and Sergeant Parnelius joined him in answering young men's questions about volunteering for military services versus being drafted. The first question was whether volunteers could choose a place in which they could serve in the military, any place other than fighting in a combat unit in Vietnam. A young man wanted to know, if they volunteered to join the military, if the Selective Service System understood that they "volunteered to help Selective Service on their own, or they volunteered for Vietnam."[108] Lt. Colonel Mee or Sergeant Parnelius told him that they "could not enlist for certain areas. [They] could enlist for certain schools or jobs, not for a specific area… [We're] talking now about only in the coming years they're taking volunteers for Viet Nam. As of right now, I don't know if they're only taking volunteers. Are the volunteers from the Army in general or volunteers from

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[107] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12496.

[108] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12496.

Viet Nam? They will be volunteers from within the Army."[109]

Lt. Colonel Mee or Sergeant Parnelius warned young men to file their conscientious objector claim before they violated the induction order. In that way, registrants could give local board members a chance to give them a conscientious objector form, and give them a reclassification. Mee, Parnelius, and Harris were aware that many registrants did not request a conscientious objector form because they did not receive draft counseling or legal advice that could tell them of this option. On the other hand, filing a conscientious objector claim after a registrant refused induction would not help them, but it could keep them out of jail. Another young man asked a question about the medical lists Harris mentioned in his speech. Harris probably answered that question by explaining that draft counselors and draft attorneys had a copy of a four page medical list of ailments and physical deformities that could qualify registrants for a medical deferment or a 4-F exemption for a serious disabling condition such as flat feet.[110]

Harris mentioned that Hershey's Directive was illegal as of May 27, 1970, and local boards could no longer draft registrants as 1-A delinquents. Registrants became 1-A delinquents after they burned or turned in their draft card to the local board or to a draft resistant leader who sent a bunch of draft cards to General Hershey's office or to a local draft board, or by refusing to update their address to their local boards. These 1-A delinquents were drafted no matter what, including some 1-Y rejectees.[111] Harris' boss, Judge Alfonso Zerpoli, invalidated Hershey's Directives on November 3, 1969 in *United*

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[109] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12496.

[110] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12496.

[111] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12497.

*States V Mallory* case and in *Andre v Rensor* case on May 22, 1970.[112]

According to Harris, Judge Zerpoli and two other judges in the Midwest said that 6,000 registrants were drafted illegally, or sent to jail illegally for refusing induction as delinquent 1-A registrants. Some delinquent 1-A registrants ended up fighting in Vietnam. Although the Supreme Court ruled in these 6,000 men's favor and Judge Zerpoli said that these registrants could get out of jail, not all of them got out of jail or were sent home from Vietnam that quickly. Registrants still had to appeal and deal with slow processes in courts.[113]

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[112] *Andre v. Resor*; *United States v. Mallory*, United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12506-12507.

[113] United States, Congress, *Review of the Administration and Operation of the Draft Law*, 12497, 12506-12507.

## Chapter IV

## Mark Rudd's Journey before Violent Student Protests at Columbia

Mark Rudd's older brother and parents influenced him before he enrolled in Columbia College in September of 1965. Mark William Rudd (also known as Marc William Rudnitsky) was born on June 2, 1947 in Newark, New Jersey, and moved to Maplewood with his parents a year later.[1] His father, Jacob Rudd, joined the reserves while in college, graduated from Rutgers University in 1932 with a degree in Electrical Engineering. Because he was unable to find a job for two years, Jacob Rudd, got into active services in the military in 1934. The Armed Forces assigned him to run a Civilian Conservation camp in Utah, where Jacob Rudd served for several years before was married and settled down. Jacob Rudd and his wife had a son named David Rudd in the late 1930s.[2]

Because his father was an electrical engineer who loved to dabble in electronics, Mark Rudd grew up watching television and learning how to fix electronics.[3] Television

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[1] United States, Congress, Senate, Committee on the Judiciary, *The Weather Underground: Report of the Subcommittee...* (Washington, DC: U.S. Government Printing Office, 1975) 95-97, accessed July 20, 2015, <http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t21.d22.cmp-1975-sjs-0006?accountid=11311>. The U.S. Congress claimed that Mark Rudd was born in Irvington, New Jersey. In an interview with Ronald J. Grele, Rudd mentioned his parent lived in Newark, NJ when he was born, and his family moved to Maplewood, NJ when he was a year old.

[2] Mark Rudd and Ronald J. Grele, *Student Movement of the 1960s: The Reminiscences of Mark Rudd*, Student Movements of the 1960s Project (New York: Columbia University, Butler Library, Rare Book, 1987/2000) 1-3; United States, Congress, Senate, *The Weather Underground*, 96-97.

was important to Mark and many young people during the 1960s, because it provided them with information about the Vietnam War and the changing draft laws. Rudd's older brother, David Rudd, was conventional and quiet, unlike Mark, who was an activist. Since David graduated from high school in the late 1950s, his life was different from those experienced by young men in the late 1960s who had to deal with the Vietnam War and the changing draft laws. Mark Rudd believed that the draft law of the late 1950s influenced David's attitude, perception, and choices as a young man. David had fears because he believed that everybody had to serve and that there were no alternatives. David joined ROTC in college, graduated from law school in 1963, and joined the Army immediately. The Armed Forces sent David on a tour of duty, but Mark did not specify if David's fear of the draft led him to join ROTC. David had to serve in the military even though he was in the reserves, so Mark wondered if those who signed up for the reserves still had to fight in Vietnam.[4]

During his high school days, Mark watched the Civil Rights movement progress in television. In 1968, Mark decided to join the movement, and engage in confrontational protesting tactics he saw in television. When he heard in the news that the American government allowed a Vietnamese leader named Ngo Diem Diem to be deposed of and killed in 1963, he thought there was something seriously wrong with the U.S. government. In 1964, Rudd went to the National Democrat Convention as a member of the Youth for Johnson group. Like Dr. Benjamin Spock, Rudd thought President Johnson was in an anti-war president. Rudd applied for to three urban universities because they

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[3] Rudd and Grele, *Student Movement of the 1960*, 6-8.

[4] Rudd and Grele, *Student Movement of the 1960*, 9-10.

all had strong academic programs: Columbia University, Harvard, and the University of Chicago. Harvard was his first choice, but he was not accepted. Although his second choice was the University of Chicago, Rudd chose Columbia University in Manhattan, New York, in order to be closer to his high school girlfriend who went to Sarah Lawrence College in Bronxville, New York.[5]

Rudd met radical students through his roommate during his freshman year. As soon as he met a well-known radical student named David Gilbert, Rudd got involved with the Independent Committee on Vietnam, a precursor to Columbia University Chapter of Students for a Democratic Society (SDS). On March 26, 1966, Rudd joined the mobilization march with the Independent Committee, and met many radical activists who opposed the Vietnam War and the draft laws. At that time, twenty-five to thirty students at Columbia joined the Independent Committee. Rudd joined it because he fit in with their subculture, since during his high school days, he was not part of a clique, as he was a loner with a girlfriend. He was interested in discussing socialism, and changes in the world than sports, parties, or dancing. In college, he found meetings with radical students more interesting than his classes. Because the war began to escalate during his freshman year, Rudd heard stories about soldiers who fought in Vietnam and the battles they fought.[6]

Rudd opposed the Vietnam War, because it looked like a Nazi-like activity and "it was Nazism, the aggression of it, of a big country against the little one" that offended

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[5] Rudd and Grele, *Student Movement of the 1960s*, 11-18.

[6] Rudd and Grele, *Student Movement of the 1960s*, 24-27.

him.[7] As a Jewish post-war child, he felt some connection to Nazism and the Holocaust as it was close to home. People in his clique were parts of a Jewish subculture who talked about Nazism, about being a good German, and how they were good Germans.[8] The Vietnam War was offensive because of imperialism. In their writings, Rudd and his radical friends did not specify what it was about imperialism that bothered them.

Years later, a former member of the Weathermen Underground, Larry Grathwohl, explained to the Senate what Rudd had in mind when he had talked about imperialism. Rudd made a speech on imperialism in December of 1969 after the Weathermen activists complained after they dealt with legal harassment. According to Grathwohl, the Weatherman, Mark Rudd included, believed that the United States was the white imperialist monster. The affluent, elite, and very wealthy white people controlled the imperialist systems that existed in the United States. The Weathermen mentioned "white privileges" in their literature and booklets, and made some comments about the "great white octopus of American imperialism."[9] The Weathermen made many references to white people and colored people. Rudd and the Weathermen also believed that the American imperialists used people from the Third World, usually non-white people, and that eventually, there would be a revolution among Third World people.[10]

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[7] Rudd and Grele, *Student Movement of the 1960s*, 27.

[8] Rudd and Grele, *Student Movement of the 1960s*, 27-28.

[9] United States, Congress, Senate, Committee on the Judiciary, Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws, *Terroristic Activity,* Part 2*: Inside the Weatherman Movement, Hearings before the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws, of the Committee on the Judiciary* (Washington, DC: U.S. Government Printing Office, 1974) 122-123, accessed January 15, 2016, <http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t29.d30.hrg-1974-sjs-0019?accountid=11311>.

The Third World people would fight a people's war against imperialism and the Weathermen could help the Third World people win their war. However, the Weathermen could never be a part of the colored people's world. The Weathermen and Rudd saw themselves as non-imperialistic whites who would help the Third World people to make a revolution. The United States, in their views, there was only one imperialism, which was the United States since the United States controlled all imperialistic countries and imperialism. There was no such thing as imperialism in Vietnam, China, Japan, Philippines, Soviet Union, and Germany.[11]

Grathwohl claimed it was a matter of the Weatherman's philosophy rather than their creed. The United States controlled and manipulated all imperialists in foreign countries, and held them as puppets. Although there was imperialism in Russia (Soviet Union), the Weathermen believed the Russians would have to undergo another revolution if they were to purge a classless society.[12] A young FBI informant, Gerald Wayne Kirk, who met Mark Rudd, claimed that Rudd was not a member of the Communist Party, but was an example of a young man who did not need to be in the Communist Party to be a Communist. Either people had manipulated Rudd, or Rudd was an intelligent Marxist. Gerald Kirk believed it was both.[13]

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[10] United States, Congress, Senate, *Terroristic Activity,* Part 2*: Inside the Weatherman Movement, Hearings,* 123.

[11] United States, Congress, Senate, *Terroristic Activity,* Part 2*: Inside the Weatherman Movement, Hearings,* 123.

[12] United States, Congress, Senate, *Terroristic Activity,* Part 2*: Inside the Weatherman Movement, Hearings,* 123.

[13] United States, Congress, Senate, Committee on the Judiciary, Subcommittee to Investigate the Administration of the Internal Security Act Other Internal Security Laws, *Testimony of Gerald Wayne Kirk:*

In his memoir, Mark Rudd claimed that he protested against the Vietnam War, foreign policy, racism, and imperialism rather than the curtailment of student deferments. However, he was depressed, horrified, and angry when a dean notified him that he was expelled from Columbia University, because he knew he would lose his student deferments.[14] Before Rudd became Chairman of Columbia University Students for a Democrat Society (SDS), his mentors were David Gilbert, Ted Gold, and Ted Kaptchuk. Rudd, who read intensively on the Vietnam War and other political issues that took place during the 1960s, eventually believed that the U.S. government had a nefarious role in conducting the Vietnam War. According to a book he read, American soldiers were an occupying armed force in Vietnam, and Vietnamese civilians wanted them to go home. American soldiers did not feel safe nor appreciated by Vietnamese civilians who showed them that they did not want them around. Some South Vietnamese civilians betrayed American soldiers by attacking, maiming, and killing them in surprise attacks. American soldiers did not want to be in Vietnam if there were no purpose in participating in this war. Rudd mentioned a story of a Vietnamese child who carried a cigarette pack filled with explosives that killed a soldier.[15]

Like many young people of his generation, Rudd thought that the war in Vietnam was unjustified and senseless, because it became apparent that Americans were not really helping South Vietnam to repel the spread of Communism. Civilians in South Vietnam felt the same way. It was a war without purpose. It was an unjust war. It was a war

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*Hearings: Pts. 1-3, March 9-11, 1970*. (Washington, DC: U.S. Government Printing Office, 1970) 40, 758 in pdf document, accessed July 30, 2015, <http://hdl.handle.net/2027/mdp.39015061295690>.

[14] Rudd, *Underground*, 22, 45-46.

[15] Rudd, *Underground,* 22.

where American soldiers were not defending our country. American soldiers were not fighting alongside their Allies to defeat evil dictators and common enemies. It was a war where the South Vietnamese people did not consider Americans their allies against Northern Vietnam. There were charges of racism and imperialism because, Vietnamese were colored and most Americans were whites. Rudd said, "In this environment the rule of warfare made little sense, and all Vietnamese became the enemy."[16] Many people felt the same way, and protested against the Vietnam War. Protests became more violent in 1968, because Americans became frustrated with President Johnson for not listening to their pleas to end the Vietnam War and to send troops back home. General Hershey's Directives and Local Board Memorandum 85 in late October 1967 were fomenting agents.

Rudd wrote a draft of SDS plans for protests at Columbia sometime in October of 1967, a document the *New York Times* published on May 13, 1968 calling it "Text of October Proposals for Demonstrations at Columbia."[17] However, Rudd called it his "Position Paper on Strategy for the Rest of the Year—University Complicity."[18] According to his proposal, Rudd and SDS activists had a goal to end Columbia University's complicity with the Vietnam War by making the university cut ties with the war-related businesses and organizations such as the Institute for Defense Analysis (IDA), the CIA, the Dow Chemical Company, and the ROTC. SDS activists wanted

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[16] Rudd, *Underground,* 22.

[17] Mark Rudd, "Text of October Proposals for Demonstrations at Columbia," *New York Times (1923-Current File),* May 13, 1968, <http://search.proquest.com.ezp-prod1.hul.harvard.edu/docview/118429300?accountid=11311>.

[18] Rudd, "Text of October Proposals for Demonstrations at Columbia."

Columbia to stop allowing war-related corporations or organizations recruiting on-campus, and to stop signing contracts with research institutes, organizations, and businesses that were facilitating the Vietnam War. SDS activists planned to "radicalize" students and faculty members at Columbia, so they would understand that they were "unfree" in this country until they work collectively to strike a blow at the federal government's war efforts in Vietnam. SDS activists' goal for occupation of buildings was to gain cooperation and support from a majority of students and faculty members, so they could force or convince President Kirk to capitulate to their demands.[19]

SDS members rejected Rudd's proposal and when violent, disruptive student demonstrations occurred in late April as Rudd planned, some people were suspicious that Rudd and SDS members conspired to create a week of disturbance. However, Rudd's October Proposal called for a one-day sit-in rather than week-long occupations of several buildings. In addition, Avorn noted that the communal occupations of buildings and demands for amnesty were results of administrative actions, students and faculty members' attitudes, the progress of the Vietnam War, and the changing draft laws that occurred since Rudd wrote this plan.[20]

In early January of 1968, the SDS National Office in Chicago invited Rudd and twenty other SDS members to join them in a trip to Cuba. Rudd arrived in Havana, Cuba just hours before the Tet Offensive began near Saigon, South Vietnam. In Havana, Rudd met soldiers and officers of the National Liberation Front of South Vietnam (NLF), and

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[19] Rudd, "Text of October Proposals for Demonstrations at Columbia."

[20] Jerry L. Avorn, *Up against the Ivy Walls: The History of the Columbia Crisis (*New York: Athenaeum, 1969) 36.

during the Tet Offensive, Rudd saw the Vietnamese version of the news in the neon billboard signs and on television alongside of Vietnamese delegates and soldiers, as well as Cuban citizens. Several Vietnamese delegates to Cuba told Rudd their sides of stories as Vietnamese soldiers fighting in the war. Rudd had a conversation with a Vietnamese ambassador who told him that people in Vietnam wanted friendship with Americans, since they were aware that American people disagreed with President Johnson on the purpose of the Vietnam War. Vietnamese people liked Americans, because they saw Americans as people who were like them, and they liked protesters who did not want to fight in Vietnam. Rudd claimed that he was a communist sympathizer, Marxist, and anti-capitalist by the time he returned home.[21]

When Rudd came back to New York City in early March 1968, he heard in the news that fewer than 24 percent of voters approved of President Johnson's conduct of the war; therefore, Johnson had a lower approval rating than he did before the Tet Offensive occurred. Like many angry and frustrated Americans, Rudd believed President Johnson and the Pentagon lied to Americans about their status in the war and gave Americans false hope. Rudd ran for a Chairman position with Columbia University Chapter of SDS, because he planned to change SDS protest tactics from base-building to militant action. Rudd felt that older SDS leaders were too passive, talked too much, and were less interested in getting desirable results. Rudd wanted SDS members to be more vocal against the Vietnam War, and other issues such as institutional racism, to fight for Civil Rights, and for disadvantaged people's rights in employment and affordable housing.[22]

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[21] Rudd, *Underground,* 38-42.

[22] Rudd, *Underground*, 43.

In his *Columbia: Notes on the Spring Rebellion*, Rudd explained that the SDS was divided into two groups: base-building versus militant action. Rudd believed that militant action in student protests was more effective than talking and negotiating as in base building. However, the older leaders such as Ted Kaptchuk and Ted Gold disagreed. Rudd was frustrated for a year, because Ted Gold and Ted Kaptchuk tended to organize, talk, and engage in base building rather than taking actions and being vocal against certain issues of injustices. Rudd believed that President Kirk and administrators would pay attention to their concerns if they were more vocal and confrontational.[23]

Rudd's plans to lead SDS activists into confrontational, violent demonstrations was part of the growing trend of Americans' frustration with the progress of the Vietnam War and the seeming failures of peaceful demonstrations. At that time, disillusioned Americans, particularly college students, found that the politics of dignity and order, peaceful demonstrations, and following the rules failed to bring desirable results, as the Vietnam War continued to go on. African-Americans still faced poverty, discrimination in housing and employment, and institutional racism. The assassination of Dr. Martin Luther King, Jr. was a breaking point for many African-Americans. Because King advocated peaceful marches and demonstrations, African-Americans began to see that peaceful protests did not produce desirable results.[24] Rudd was aware of these issues because he tutored a disadvantaged black student.[25] Rudd also found peaceful protests on

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[23] Mark Rudd, "Columbia: Notes of the Spring Rebellion," in *The New Left Reader,* Carl Oglesby ed. (New York: Grove Press/Black Cat Evergreen, 1969) 292, accessed September 24, 2012, <http://platypus.uchicago.edu/ruddmark_columbia1968_rebellionnotes1969.pdf>.

[24] Avorn, *Up Against the Ivy Walls,* 29.

[25] Rudd, *Underground,* 9-11.

his end did not produce desirable results, because President Kirk and Columbia University still affiliated themselves with the Institute for Defense Analysis.

Rudd was aware of the Draft Resistances Group and Stop the Draft Week, but chose not to join them. Rudd and other SDS members believed the draft resistance was merely a moral statement rather than a political statement, and the movement would not be effective. They predicted that a majority of young men would not turn in their draft cards, and were aware of a group of men who turned in their draft cards at Cornell University. Rudd and his friends did not want to lose their student deferments.[26]

## Before the Violent Student Protests at Columbia University

In February of 1967, SDS leaders conducted a referendum (a vote on a question) in Columbia College on whether the university should stop sending students' class rank information to local boards. Students voted yes on the referendum by 1333 to 563. Faculty members made a similar recommendation to President Grayson Kirk, Vice President David B. Truman, and the Board of Trustees at Columbia University a month earlier. SDS leaders planned to call a student strike if administrators did not support their referendum. In March of 1967, President Kirk called a special meeting with the University Council. On March 25, 1967, about 500 students held a silent vigil on Low Plaza. After the University Council agreed to withhold class rank information from local boards, students were elated with the news and went home.[27]

During the 1967-1968 academic year, General Hershey sent his recommendation to local board members to induct men who obstructed the military organizations. It was

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[26] Rudd and Grele, *Student Movement of the 1960s*, 38-39.

[27] Jerry L. Avorn, *Up against the Ivy* Walls, 10.

the same academic year when he sent his Hershey's Directives and Local Board Memorandum 85 to local and state appeal boards. The Committee of Instructions at Columbia University postponed all military recruitment until President Kirk received a letter from Joseph Califano, the White House Assistant, informing him that he disavowed General Hershey's statement.[28]

The Columbia SDS led by Mark Rudd was involved with "an illegal indoor demonstration" on March 27, 1968, because they wanted Columbia University to end their affiliations with the Institute for Defense Analyses (IDA), and for President Grayson L. Kirk to step down from his administrative board position with the IDA.[29] Rudd and SDS activists were frustrated, because they sent letters, petitions, and made inquiries to administrators regarding their affiliations with the IDA, but never received responses for months. A researcher for SDS found documents that proved that several Board of Trustee members falsely claimed that Columbia was not affiliated with the IDA.[30]

Frustrated with not obtaining desirable results from administrators, Rudd and other SDS leaders chose to engage in non-violent militant and confrontation protesting tactics on March 27. After they successfully collected about 1500 signatures for their petition, Rudd and 154 SDS activists walked to President Kirk's office in Low Library, an administrative office building, to hand their petition to him. Since President Kirk was not in his office, SDS activists walked to the office of the Dean of Business School. Protesters talked with their bullhorns to get their voices heard and chanted. They blocked

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[28] Daniel Bell, "Columbia and the New Left," The Public Interest 13 (Fall 1968) 63-65, accessed September 24, 2012, <http://www.nationalaffairs.com/public_interest/detail/columbia-and-the-new-left>.

[29] Rudd, "Columbia," 293.

[30] Rudd, *Underground,* 45-46; Cox Commission, *Crisis at Columbia*, 44-45.

Vice President David B. Truman's access when he tried to get out of the building and begged a dean to accept their petition.[31]

President Kirk chose to discipline six SDS leaders for engaging in an illegal indoor demonstration: Mark Rudd, Nick Freudenberg, Ted Gold, JJ Jacobs, Edward Hyman, and Morris Grossner—a man who filed a lawsuit later. Six SDS leaders received a letter from Associate Dean Alexander Platte of Columbia College informing them to report to his office to discuss their roles in an illegal indoor demonstration, and rejected SDS leaders' demands for an open hearing of their case.[32] Later, investigators of the Cox Commission noted that Dean Platt sent a letter dated April 5, 1968, telling six SDS leaders to come to his office; otherwise, he would suspend them from Columbia University.[33] SDS leaders questioned disciplinary actions taken against them, because President Kirk and Dean Platt did not take disciplinary actions against 150 other activists. Activists signed a "complicity statement" to demand President Kirk and Dean Platt discipline them the same way they had disciplined the six SDS leaders. President Kirk refused to discipline other activists he did not recognize, and he recognized only the six students he disciplined.[34]

On April 22, 1968, Rudd published a letter entitled "Reply to Uncle Grayson" in the radical newspaper called *Up Against the Wall!* (Appendix E and F). Rudd attacked Kirk for a snippet of statement Kirk had made about rebellious young people in his

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[31] Rudd, *Underground,* 45-46; Cox Commission, *Crisis at Columbia*, 72-73.

[32] George Keller, ed., "Six Weeks That Shook Morningside," *Columbia College Today* 15, no. 3 (New York: Columbia Alumni Center, Spring 1968): 11.

[33] Cox Commission, *Crisis at Columbia*, 72-73.

[34] Avorn, *Up Against the Ivy Wall*, 34-35.

speech at the University of Virginia on April 12, 1968, "Our young people, in disturbing numbers, appear to reject all forms of authority, from whatever source it derived, and they have taken refuge in a turbulent and inchoate nihilism whose sole objectives are destructive. I know of no time in our history when the gap between the generations have been wider or more potentially dangerous."[35]

That same day, five SDS leaders went to Dean Platt's office. Dean Platt asked SDS leaders if they wanted to admit guilt or innocence and to explain their side of the story of their demonstrations on March 27. SDS leaders refused to admit or deny their guilt. Dean Platt placed them on disciplinary probation, and warned them that if they engaged in any more disruptive protests, he would suspend or dismiss them from college. The SDS leaders left the meeting believing that President Kirk's ban on indoor demonstrations was a political move to stifle their dissent and their freedom of expression.[36]

## A Week of Crisis at Columbia

On April 23, 1968, around noon, Rudd met leaders of Students Afro-American Society (SAS), Cicero Wilson, William Sales and Ray Brown, who agreed to protest with SDS activists. SAS activists were concerned about Columbia University's plans to build an upscale gym in Morningside Park, which was near a predominantly black neighborhood in Harlem, and would use the gym to marginalize residents at Harlem. William Sales told SDS leaders that SAS members believed in and liked action and

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[35] Keller, "Six Weeks That Shook Morningside," 13-14.

[36] Keller, "Six Weeks That Shook Morningside," 14.

confrontation tactics. Within the next few hours, leaders of different radical groups formed a Strike Coordinating Committee (SCC) composing of three SDS leaders, three SAS leaders, and two leaders from other radical groups. The committee created a list of six demands. On the evening of April 23, the SCC leaders posted their demands in front of Ferris Hall. The six demands were:

1. All disciplinary probation against the six originally charged must be lifted with no reprisal.
2. Kirk's Edict on Indoor Demonstrations must be dropped.
3. All Judicial decisions should be made in an open hearing.
4. All relation with IDA must be severed.
5. Construction of the Columbia Gym must stop.
6. The University must see that all charges against persons arrested for participating at demonstrations at the gym site are dropped.[37]

George Keller, an editor of the *Columbia Today's* "Six Weeks that Shook Morningside" publication, believed that this document created by non-revolutionary protesters. It was obvious to Keller that SDS activists were more concerned about freeing their leaders from discipline, and they wanted to practice their confrontational politics via indoor jaw-to-jaw sessions and open hearings, where the press would be there to listen and to report.[38] Roger Kahn, a bystander who wrote *The Battle for the Morningside Park*, believed that activists from SDS and SAS used their confrontational protesting tactics, because they wanted to win at all cost. Radical activists were not interested in dialogues

[37] Keller, "Six Weeks That Shook Morningside," 22.

[38] Kahn, *The Battle for Morningside Heights,* 113-114.

and negotiations with administrators who were more likely to ask them to compromise. Rudd and SDS leaders did not want to compromise with President Kirk and Dean Platte on amnesty since they wanted to stay in college and keep their deferments.[39]

Several months later, investigators for the Cox Commission noticed that Rudd became belligerent on the morning of April 25, 1968, hours after SDS activists occupied Low. Rudd started to favor the seizure of buildings because he was expelled from Columbia University and was scared. Rudd offered to resign from his Chairman position after he had an argument with his predecessor Ted Kaptchuk, but SDS members refused to demote him. Before Rudd became belligerent, George Fraenkel, Dean of Graduate Faculties, visited Low Library to talk to students who occupied the offices of President Kirk and Vice President David B. Truman. Fraenkel angrily told protesters:

> If the leaders were really interested in the substantive demands for the changes in the University's policies with respect to the gymnasium and IDA, they should be big enough in spirit to drop the demand for amnesty for individual leaders of the uprising, which the Administration can never grant.[40]

When Fraenkel saw Rudd, he said, "You, in particular, obviously can expect to be expelled from the University." The investigators of the Cox Committee claimed that on the following Thursday, Dean Fraenkel reminded Rudd of his expulsion from Columbia.[41]

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[39] Kahn, *The Battle for Morningside Heights,* 114.

[40] Cox Commission, *Crisis at Columbia*, 110.

[41] Cox Commission, *Crisis at Columbia*, 110.

In the early morning hours of April 26, Dean Fraenkel entered Low hoping he could convince activists to end their occupation in Low, and Mark Rudd would make some sacrifices, meaning that he would resign to Dean Fraenkel's decision to expel him and give up on his demands for amnesty.[42] Fraenkel angrily thought "Rudd placed great emphasis on amnesty only because he was concerned about his own future."[43] Fraenkel told Rudd "that he had no rights to drag his organization down with him," and demanded Rudd to act as a true leader rather than as a student facing dismissal. Rudd did not end the occupation of Low. Hoping to convince Rudd to end the strike by destroying Rudd's last hope for reinstatement, Fraenkel said, "You know, Mr. Rudd, that no matter what you do, you're going to be expelled from this university."[44] Dean Fraenkel contacted President Kirk and Vice President Truman frequently during the crisis.[45] Investigators of the Cox Commission also noted that some students talked about Fraenkel's insensitive statements to Rudd for the next six days, and it was a factor in their decision to hold out for amnesty. They could not trust administrators, and feared that any disciplinary proceedings against them would negatively affect them, and that President Kirk and Dean Fraenkel were determined to expel all students who protested.[46]

Vice President Truman received a message early Thursday afternoon, in April 25, that Mark Rudd and several people wanted to see him in Low. When Truman came to

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[42] Avorn, *Up against the Ivy Wall*, 87-88.

[43] Avorn, *Up against the Ivy Wall*, 87-88.

[44] Avorn, *Up against the Ivy Wall*, 88.

[45] Keller, "Six Weeks That Shook Morningside," 27.

[46] Cox Commission, *Crisis at Columbia*, 110.

Low to talk with Rudd and three other protesters, they had a confrontational discussion. Rudd told Truman that a guarantee of amnesty was a precondition for any negotiation. Truman tried to explain to them that he could not guarantee amnesty and it was impossible, and as soon as he realized that his efforts proved futile, he left Low depressed and discouraged.[47]

## Paul Vilardi's Side of the Story as a Counter-Demonstrator

During the first day of the protests on Tuesday, April 23, 1968, Paul J. Vilardi was not Chairman of the Majority Coalition nor a counter-demonstrator. He came to the sundial as an observer although he and other "counter-demonstrators" sat close to each other in order to block radical activists from walking up the steps to Low. They did not discuss their plans to hold SDS activists back, but sat together spontaneously. Vilardi observed the events as they unfolded for the first two days before he attended a meeting with other counter-demonstrators, professors, and coaches on Thursday, April 25, 1968.[48]

Vilardi and his friends thought police would show up on the second day and were angry when the police did not show up. On the third day, Vilardi saw a mimeographed flyer in a foyer in his fraternity house informing him to meet other counter-demonstrators in the gym at one o'clock p.m. The flyer said, "Rally in the gym to counter-demonstrate."[49] When Vilardi arrived inside the gym, he saw about 500 to 600 white, male counter-demonstrators sitting together in bleachers, because they were all fed up

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[47] David B. Truman, *Reflections on the Columbia Disorders of 1968* (Raleigh, NC: Lulu.com, 2009) 110.

[48] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 1-4.

[49] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 21-22, 24.

with radical activists who had occupied four buildings as of Thursday morning: Hamilton Hall, Low Library, Avery Hall, and Fayerweather Hall. Protesters eventually occupied the Mathematics Building on Thursday night. When Vilardi and other counter-demonstrators left the gym, they ran into two counter-demonstrators who wrote a petition against the administrators' decision not to call the police and discipline radical students. Vilardi signed the petition, grabbed several copies, and gathered signatures. The group collected 2,000 signatures and the leaders hand-delivered it to administrators and faculty members. The petition stated that counter-demonstrators took no stand on the gym issue, and believed that the IDA was a so-called substantive issue. They did not say anything about amnesty. They opposed radical activists' protesting tactics, and argued that administrators must take positive stepsin restoring the University to working order. Vilardi believed the Cox Commission had a copy of their petition.[50]

Early Thursday evening, Vilardi and other counter-demonstrators heard that Charles 37X Kenyatta was on his way to Columbia University, and when Kenyetta finally arrived, Vilardi and his colleagues linked arms in order to prevent him from getting through the campus. About sixty people escorted Kenyatta to Hamilton Hall while counter-demonstrators tried to block Kenyatta's access to the building.[51] Vilardi was furious when he noticed that the police wedged him and other counter-demonstrators out in order to escort Kenyetta across the College Walk.[52]

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[50] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 25-27.

[51] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 28-29.

[52] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 29-30.

Vilardi recalled a petition he signed the previous day that had the words "the Majority Coalition" on it. Although there was no such group as the Majority Coalition, a majority of students (2,000) signed the petition compared to the 500 students who occupied the five buildings. While Kenyatta was able to get through the campus with the help of the police, Vilardi and colleagues considered taking matters into their own hands by removing radical activists from Fayerweather Hall. When they realized too many people occupied Fayerweather Hall, they considered removing people from Avery Hall. Several professors asked them to calm down, and told them that professors planned to negotiate with radical activists and President Kirk.[53]

Vilardi feared professors would not do anything, so he went up the stairs of Fayerweather Hall, walked to the windows in the north side, and told his colleagues that he found a window that was open. Counter-demonstrators and professors walked to the north side of Fayerweather Hall. One counter-demonstrator opened the window and tried to get inside Fayerweather Hall while faculty members watched him. Activists inside Fayerweather Hall tried to crush a counter-demonstrator by closing the window.[54]

Several faculty members talked Vilardi into seeing them in a side conference instead of using physical force against radical activists. Vilardi was not aware of the Ad Hoc Faculty Group, and that some professors considered him Chairman of the Majority Coalition. During their side conference, faculty members asked Vilardi to select four other men who would come to the meeting with him. Vilardi chose four men who had

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[53] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 31-32.

[54] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 31-32.

leadership experience. Vilardi believed faculty members chose him for a leadership position because he was vocal.[55]

Around 11:30 on Thursday evening, Vilardi and four men went to Philosophy Hall to meet 250 members of the Ad Hoc Faculty Group in order to give their statements. They wanted faculty members and administrators to do something to end the crisis quickly. Counter-demonstrators planned to take matters into their own hands if radical students continued to occupy the five buildings. Faculty members invited Vilardi to choose three faculty members to walk with him and four counter-demonstrators to Wollman Auditorium inside Ferris Booth Hall. Vilardi chose C. Lowell Harriss of Economics, Warner Schilling of Government, and Orest Ranum of History.[56]

Vilardi did not want to take a leadership position for a counter-movement, but did so at faculty members' suggestions. Around one o'clock, early Friday morning, Vilardi saw a packed room of 800 to 1,000 people inside Wollman Auditorium, with some people standing on the side. The audience clapped before Vilardi offered to step down from a position he did not want, "I brought these men here. If you have someone who you want to be your spokesman, I will very happily relinquish the position that I have now."[57] Vilardi's friend got up to the microphone and told him, "No, we want you." The audience stood and clapped to give Vilardi their confirmation.[58] Professors Ranum, Harriss, and Schilling told counter-demonstrators that they were equally as angry with

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[55] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 32-33.

[56] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 33-34. C. Lowell Harriss' last named ended with two "S."

[57] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 34.

[58] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 35.

radical activists. Professor Schilling walked up to the microphone and said, "And I say right here and now that. If Mark Rudd is here this fall, I won't be."[59]

On Saturday afternoon, there were fights between the counter-demonstrators and radical protesters. Vilardi was aware of the activists' demand for amnesty as a precondition for any negotiation, and that it was the reason for their building occupations. Around two-thirty in Sunday afternoon, the Majority Coalition received a sealed envelope that contained a proposal from the General Faculty and the Ad Hoc Faculty Group. Vilardi opened the envelope, and read the statement, "Vote: 544 to 40 in favor of the general faculty's proposal for…The uniform punishment, which would be non-cumulative, for all demonstrators." It was "the bitter pill proposal," and Vilardi was furious.[60]

Vilardi and leaders of the Majority Coalition Steering Committee felt that the proposed uniform punishment would be unfair to observers, and that President Kirk should expel some, suspend some and put some on probation. Vilardi told the Ad Hoc Faculty Group that they opposed this "bitter pill proposal," and planned to take matters into their own hands by preventing others' access to Low. Vice President Truman called Vilardi after 5 o'clock p.m., since Vilardi had called him an hour earlier to tell him that the Majority Coalition planned to block the activists' access to Low. Truman wanted to know if there was anything he could say to convince the Majority Coalition not to cordon off Low. Vilardi said no, and thanked Truman for calling him. A few minutes later,

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[59] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 35-36

[60] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 40-43; Avorn, *Up against the Ivy Wall*, 159-167.

Vilardi walked to the steps of Low and met 150 counter-demonstrators. Ten minutes later, about 250 counter-demonstrators were ready to help, and Vilardi gave them instructions such as wearing a tie and a jacket, not to sing, not to get inside Low, to be prepared for attack from radical protesters, and to stand close to each other.[61]

At two-thirty p.m. Monday afternoon, Sid Davidoff from the New York City Mayor's Office gave Vilardi a briefing on why administrators failed to get Columbia University back to operation. The Mayor's office had been in contact with people inside occupied buildings for the past two or three days trying to get radical leaders to negotiate. However, Davidoff soon found out that SDS leaders refused to negotiate unless President Kirk agreed to grant amnesty for all demonstrators. The Mayor's office did not negotiate with the Ad Hoc Faculty group, because administrators did not recognize the group as an existing group. Davidoff explained that radical leaders "were completely intransigent. They weren't talking to anybody, except talks to get amnesty before they would talk about anything else."[62] Davidoff noted that if the police came, they would clean all occupants out of the buildings. Vilardi told Davidoff that he did not want, and never wanted, the police to come, as his goal was to starve protesters they would get out of the buildings. Vilardi also hoped faculty members would do something to get activists out of occupied buildings without police involvement.[63]

The counter-demonstrators spent Monday evening blocking food from coming into the windows of Low, and blocking radical activists' access to Low. Angry radical

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[61] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 44-46.

[62] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 47-48.

[63] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 48-50.

protesters started their physical attacks on Vilardi and other counter-demonstrators. Vilardi saw many police officers on campus, but did not know that the bust would occur within the next few hours. Later, Sid Davidoff told Vilardi and other leaders of the Majority Coalition that he could not let them leave the campus, as Vilardi learned later that there had been concerns for his and his friends' safety. Vilardi told Davidoff again that he did not want the police to come and offered to help by letting the Majority Coalition accept "the bitter pill proposal," since he did not know that President Kirk and radical leaders had already rejected the bitter pill proposal. Vilardi's friend gave a speech to 150 to 250 counter-demonstrators informing them that the Majority Coalition accepted the proposal, and then they left. After the counter-demonstrators left, supportive professors followed suit. Vilardi noted the Majority Coalition ceased to exist when counter-demonstrators left.[64]

At two-fifteen a.m., the Majority Coalition Steering Committee had a conversation with Vice President David Truman who told them some radical activists did not want to reason and talk. It would take them hours to get the police because the police departments were located too far from the campus. Truman noted radical activists like Mark Rudd "had struck the most vulnerable area in American society and tried to capitalize on that, and they had done a pretty good job because it was a week before the police were going to be called in."[65]

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[64] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 64-67; Avorn, *Up against the Ivy Wall*, 159-167.

[65] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 68-69.

Some police officers and commanders feared many angry activists would blame Vilardi instead of President Kirk for calling them since Vilardi was very unpopular with radical activists for planning to take matters into his own hands by removing occupiers and pressuring administrators to take action. Vilardi slept on the floor in an isolated room in the first floor of Low during the police bust, and when he woke up, the police had already left. Four days later, Vilardi heard that occupation of buildings, the police bust, and the strike had all been prearranged, as the purpose for the occupation was to stay in buildings until the police came to remove them. Then, once the police had removed them, the strike would begin. Some people had a theory that activists wanted hysteria to happen so a student strike would begin after the police bust.[66]

Vilardi had a theory that radical and liberal professors stuck to their original positions throughout the week while a majority of students changed their minds. Some moderate, conservative, and curious students ended up supporting occupiers and the student strike after they saw violence and bloodshed during the police bust. Vilardi believed students who changed their minds never saw police actions, because they were middle-class Americans who never saw helmets, clubs, nightsticks, blackjacks, or billy clubs until the police bust. These symbols of police officers bothered insulated middle-class students. On the other hand, some radical professors knew that when the police busts took place, many students would get upset.[67]

The police did not arrest Vilardi and a majority of counter-demonstrators on April 30, because many counter-demonstrators went home. Vilardi's father called Davidoff

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[66] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 73, 78-79.

[67] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 78-79.

informing him that the family received threatening phone calls, so they had contacted local authorities. Vilardi's fraternity brothers and friends also received threats. A week later, after the four-days strike at Columbia ended, the Majority Coalition formed a new group called Students for Columbia University.[68] Vilardi did not mention draft laws and his issues with the Vietnam War. General Hershey mentioned in a hearing that the Selective Service System had not drafted premedical students and doctors since the Korean War, so it was probable that Vilardi never received a notice of induction.[69]

## Why President Kirk Refused to Grant Amnesty

President Kirk refused to grant amnesty to all demonstrators for several reasons. First, President Kirk had ultimate disciplinary power based on Columbia University's charters and statutes that dated back to the formation years of the 1740s. President Kirk knew that presidents of colleges and universities throughout the nation were watching him, and were depending on him to make the right decision. Although Kirk could chose to use his ultimate disciplinary power to work out issues out with students, faculty members, and other administrators, he was concerned it would be counterproductive to other college presidents. The board of Trustees at Columbia gave him all their support and told the media that he had the ultimate decision-making power. Kirk believed that if he granted amnesty to all protesters, other college presidents would have a harder time dealing with disruptive or violent student protesters in their campus. Although Vice President David Truman and Deans did not have disciplinary power, they could make

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[68] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 75-77, 80-81, 83-84.

[69] United States, Congress, *Manpower Implications of Selective Service*, 270.

recommendations to President Kirk, and discipline students enrolled in the schools in which they led. Most of the time, President Kirk asked them to take stepwise actions to discipline students.[70]

Kirk looked at the demand for amnesty from the perspective of a Political Scientist. Kirk was a Political Science professor before he became an administrator at Columbia University. Kirk believed if he granted amnesty, activists at other colleges and universities would look at Columbia's examples, and expect their college president to grant them amnesty. Kirk also saw this situation as "domino effect theory."[71] The Trustees of Columbia University supported Kirk's decision. On the morning of April 28, 1968 (Saturday), the Chairman of the Board of Trustees, William Peterson, released a statement informing the media that he supported Kirk's decision to refuse to grant amnesty, and the Board of Trustees did not want Kirk to give up on his ultimate disciplinary power.[72]

Kirk was suspicious of radical activists, particularly Mark Rudd. A year later, Kirk wrote to the Campus Unrest committee, where he claimed that a small minority of radical students had a desire for disruption and destruction of a university because they wanted to "politicize" the institution and start a revolution.[73] Because of radical students'

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[70] Cox Commission, *Crisis at Columbia*, 126.

[71] Avorn, *Up against the Ivy Wall*, 72.

[72] Cox Commission, *Crisis at Columbia*, 126.

[73] United States Congress, House Committee on Education and Labor, Special Subcommittee on Education, *Campus Unrest: Hearings before the Special Subcommittee on Education and Labor, House of Representatives, Ninety-First Congress, First Session, on Problems of Higher Education, Including Those Relating to Student Financial Assistance, Particularly in Regard to the Eligibility Provisions of Section 504 of the Higher Education Amendments of 1968, Hearings Held in Washington, DC, June 16, 1969*

choices of violent protesting tactics, a high majority of students had their studies interrupted, and professors had to cease their teaching and research operations. Kirk argued that a majority of serious students needed their rights protected.[74]

In addition, colleges and universities were not equipped to deal with violent student protests with the kinds of resources they had. Higher education had been used to "rational discourse" which required many thoughts and discussions. When radical students discarded the way higher education institutions functioned, they demanded that administrators make one of two undesirable choices: capitulations to their demand for amnesty, or call outside sources for help to remove them. When the police removed them, they gained support from moderate students and faculty members for a strike.[75]

Kirk called the police for help because he refused to capitulate to SDS leaders' demand for amnesty. Kirk warned university presidents and administrators against capitulating to protesters' demands they did not agree with; otherwise, the radicals could erode their ability to lead. On the other hand, college presidents who called the police or outside sources for help, moderate students and faculty members would feel emotionally shocked, and ended up supporting radical activists, something in his views Rudd and SDS leaders hoped for when they led violent student protests.[76] The police action at Columbia University on April 30, 1968 was the first police action in American history

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(Washington, DC: U.S. Government Printing Office, 1969) 42, accessed January 17, 2016, < http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t29.d30.hrg-1969-edl-0039?accountid=11311>.

[74] United States Congress, House, *Campus Unrest: Hearings Held, June 16, 1969,* 42.

[75] United States Congress, House, *Campus Unrest: Hearings Held, June 16, 1969,* 42-43.

[76] United States Congress, House, *Campus Unrest: Hearings Held, June 16, 1969,* 42-43.

that occurred at college campus. Faculty members and students who were not used to the police were emotionally shocked.[77]

Kirk had zero sympathy for troublemakers, whether they were students or faculty members. He believed SDS leaders created phony issues or inflated minor problems in order to garner support from a majority of gullible moderate students and faculty members, and that SDS leaders and radical protesters sought confrontation, not negotiation. In Kirk's mind, their protesting tactic was to proclaim that their demands were non-negotiable, particularly their demands for amnesty for all protesters, and amnesty was extremely important to Mark Rudd and SDS leaders. Kirk said, "But the demand that was really one of tremendous importance to the student groups was the demand for amnesty."[78] The last thing Kirk wanted to see was college presidents capitulating to radical students' demands for amnesty in order to get their institution to operate again.[79]

SDS leaders and activists, as well as their supporters demanded for amnesty as a precondition for any negotiation, because they believed President Kirk and Dean Platte punished SDS leaders (the IDA six) arbitrarily, and President Kirk engaged in disciplinary reprisals against student demonstrators. They argued that the IDA six should be taken off disciplinary probation and students should not be punished for participating

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[77] John W. Wheeler, "Some Impromptu Remarks on the Columbia Experience," *College Counsel* 3 (1968): 74.

[78] Grayson Kirk and John Luter, *Reminiscences of Grayson Louis Kirk, 1968*, The Crisis of Columbia 1968 Project (New York: Columbia University, Butler Library, Rare Book. October 3, 1968) 13, 21-22.

[79] Kirk and Luter, *Reminiscences of Grayson Louis Kirk: Oral History, 1968*, 1-7, 13; United States Congress, House, *Campus Unrest: Hearings Held, June 16, 1969,* 44.

in sit-ins. Student demonstrators disagreed with those who called them cowards for "not wanting to accept consequences" for what they did during the week of disturbances. They claimed that they held firm on their demand for amnesty for political rather than personal reasons. They made their demands for two reasons. First, they took actions so they could win their demands since peaceful protests and cooperation did not help them win desirable results in the past. Second, the authority figures who created or changed policies did so arbitrarily, so that they could punish students illegally and unfairly.[80]

President Kirk refused to grant amnesty, because he knew that about 2,500 conservative and moderate students, including the Majority Coalition, did not support violent, disruptive protesting tactics and opposed protesters' demands for amnesty.[81] A majority of conservative and moderate students had been angry with SDS activists for ruining their lives at Columbia since the escalation of the Vietnam War in 1965. They came to Columbia for education and job training. On February 24, 1968, seven students had a job interview scheduled with a recruiter of Dow. SDS activists blocked the recruiter's access to the building; therefore, the recruiter canceled his appointments.[82] The Office of Student Life conducted a survey in the fall of 1967 that showed that 67.3 percent of students at Columbia supported open recruitment while about 100 SDS members opposed it.[83]

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[80] Nick Freudenberg, Ted Gold, Bob Tomashevsky, Mike Klare, Paul Rockwell, Art Leaderman, and Steve Goldfield, *Why We Strike* (New York: Columbia University Strike Coordinating Committee, 1968) 6, 11-12.

[81] Keller, "Six Weeks That Shook Morningside," 23.

[82] Keller, "Six Weeks That Shook Morningside," 23.

[83] Keller, "Six Weeks That Shook Morningside," 23.

Hours after protesters occupied Hamilton Hall on April 23, 1968, angry students from the Students for a Free Campus group, athletes, and counter-demonstrators like Paul Vilardi called on President Kirk to discipline violent, disruptive protesters immediately.[84] President Kirk actually wanted to discipline radical activists immediately; however, SDS and SAS activists held Dean Coleman hostage inside Hamilton Hall. Dean Coleman preferred to wait until students calmed down and let them set him free without violence.[85] Vice President David Truman also warned Kirk to give students a chance to calm down before he called the police, but regretted his advice later.[86] After Truman was done with talking with Kirk on the phone, he walked to the Fireside room inside Hamilton Hall to inform about 500 activists that "amnesty was out of the question, Columbia University would not make quick changes without thoughts and discussion, and that 'pressure, blackmail or coercion' from a few SDS leaders would not convince administrators to make changes."[87] SDS leaders, particularly Mark Rudd, did not want to waste his time with the thoughts and discussion.

Vilardi and other counter-demonstrators were supportive of radical activists' concerns about the Vietnam War and the draft laws; however, they opposed militant, confrontational protesting tactics.[88] Vilardi claimed that Mark Rudd told him he chose Columbia University as the target for student protests, because of its "liberal" faculty

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[84] Vilardi and di Mauro, *Reminiscences of Paul J. Vilardi*, 1-45.

[85] Keller, "Six Weeks That Shook Morningside," 23.

[86] Truman, *Reflections on the Columbia Disorders of 1968*, 64, 135.

[87] Keller, "Six Weeks That Shook Morningside," 23.

[88] Peter Millones, "Students Clash in Campus Melee," *New York Times (1923-Current File),* April 30, 1968, <http://search.proquest.com.ezp-prod1.hul.harvard.edu/docview/118351515?accountid=11311>.

members and reliable public transportation. Vilardi claimed the gym issue, Columbia University's affiliation with the IDA, and the Vietnam War were not important to Rudd. Second, the SDS, led by Mark Rudd, wanted to "politicize" and to "radicalize" the campus and then cause a confrontation with the police. Third, SDS activists did not really want to "solve" the "issues." If the issues had been resolved, they would have added more demands to furtherthe confrontations. Fourth, SDS activists wanted to "attack" the university since it had no internal way to "protect" itself from unreasonable people. Vilardi claimed that Rudd was aware he was being unreasonable. Vilardi recalled that he and the Majority Coalition members were angry because they feared they wasted their tuition money.[89] Vilardi was a senior in college studying premedicine and a former athlete at Columbia.[90]

President Kirk did not grant amnesty, because more than fifty percent of professors did not agree to grant amnesty to all protesters. On Thursday, April 26, 1968, Alan Westin, Professor of Public Law and Government heard Kirk's statement at a press conference in which Kirk and Truman stood together while Kirk said, "There will be no amnesty." Kirk said this several hours after Truman had talked with Rudd and several people in the Low Library.[91] Westin formed the Ad Hoc Faculty Group (AHFG), and started talking with other professors about the possibility of negotiating with student leaders of the Strike Steering Committee and President Kirk. The Ad Hoc Faculty Group also discussed the possibility of negotiating with Kirk so that maybe Kirk would agree to

[89] Eric Laursen and Chris Taubaz. "Recollections: Paul Vilardi," *Columbia Spectator*, April 14, 1983.

[90] Millones, "Students Clash in Campus Melee."

[91] Kahn, *The Battle for Morningside Heights,* 166.

grant amnesty to all protesters. However, a majority of professors did not agree with amnesty. Early Friday morning in April 26, a young lecturer in Economics, Robert Zevin, excitedly called Rudd informing him that the Ad Hoc Faculty Group was considering voting for amnesty and appealing to President Kirk. Rudd was excited when he talked to Westin by phone, and then was disappointed when Westin did not promise or guarantee that the Ad Hoc Faculty Group would appeal to President Kirk for amnesty.[92]

Westin returned to Philosophy Hall from his meeting with Rudd and the Strike Steering Committee leaders at Ferris Hall, with Rudd following him several minutes later. As Rudd walked to the front of the room, Westin told the Ad Hoc Faculty Group that activists were making progress. Rudd, appeared unshaven, tired and unkempt, angrily told the Ad Hoc Faculty Group, "We've had exploratory talks. Very exploratory. More in the line of bullshit! Total amnesty is the only answer. You faculty guys ought to be fighting with us. There are no neutrals."[93] Westin angrily ended the meeting and everyone went home.[94]

During the weekend, and up to Monday night, faculty members lost their enthusiasm to negotiate with Rudd and the Strike Steering Committee leaders, so they thought of the "bitter pill proposal" that SDS leaders and President Kirk, rejected. In this proposal, Columbia University would give uniform punishment to all protesters, and second, the tripartite committee of students, faculty members and administrators would determine students' punishments rather than give ultimate disciplinary power to President

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[92] Kahn, *The Battle for Morningside Heights,* 173.

[93] Kahn, *The Battle for Morningside Heights*, 173.

[94] Kahn, *The Battle for Morningside Heights*, 174.

Kirk and future presidents at Columbia. Vilardi and leaders of the Majority Coalition leaders saw this proposal. Kirk called the police to arrest all occupants at the five buildings.[95]

In an interview, Rudd told Stephen Donaldio that he was unsure if liberal professors supported SDS leaders' demands for amnesty, or if professors tried to manipulate them in order to get their cooperation to end the occupation of buildings since they wanted the university to resume its normal operations. Rudd thought most faculty member supported President Kirk's decision to deny them amnesty, and professors did not listen to them, and opposed their protesting tactics.[96]

An English professor named Eric Bentley had theories of why some professors did not support amnesty. Bentley believed Rudd had a revolution in mind, and other SDS activists wanted to change Columbia University. Bentley claimed President Kirk and the Boards of Trustees were willing to end Columbia's affiliation with the IDA and to stop the construction of the gym; however, President Kirk refused to grant amnesty. Bentley also agreed with Rudd and SDS leaders that President Kirk "had personal, vindictive attempt to destroy Mark Rudd."[97] Half of the professors did not support amnesty, because they were deeply conservative.[98]

Bentley believed that faculty members at Columbia University in 1968 were divided into three political groups: conservative, center and radical. Conservative

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[95] Kahn, *The Battle for Morningside Heights,* 174; Avorn, *Up against the Ivy Wall*, 159-167.

[96] Steven Donaldio, "Columbia Seven Interviews," *Partisan Review* 35, no. 3 (Summer 1968): 371.

[97] Donaldio, "Columbia Seven Interviews," 367.

[98] Donaldio, "Columbia Seven Interviews," 367.

professors usually agreed with Kirk. Professors at the center were nervous hoping the crisis would end soon, so they could co-exist peacefully with many students. Radical professors supported Mark Rudd and SDS leaders.[99] Bentley believed that President Kirk was an obstacle to mediation efforts concerning Rudd's preconditions for amnesty. Bentley sadly noted that Kirk could turn down recommendations from the Ad Hoc Faculty Group if they voted to appeal to him for amnesty as Kirk had the final say.[100]

A year later, another professor at Columbia University, Walter P. Metzger of the History Department, submitted his statement to the Campus Unrest hearings at Washington, DC. Metzger was a member of the Ad Hoc Faculty Group and then became a member of the Faculty Executive Committee after the police bust. During the week of disturbances at Columbia, Metzger also noticed three types of faculty members based on their stances during negotiation meetings. The first type of faculty members were those who would side with administrators, whether the administrator was a strong or inept leader. The second type of faculty members were those who tried to mediate with protesting students and administrators. The third type of faculty members, which Metzger believed where a small minority, were those who identified with students.[101]

Dr. Jacques Barzun, also of the History Department, believed that "en loco parentis" was one of the issues that caused the crisis at Columbia. Faculty members, particularly tenured and older faculty members, treated students as if they were children.

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[99] Donaldio, "Columbia Seven Interviews," 367.

[100] Donaldio, "Columbia Seven Interviews," 369.

[101] United States Congress, House, Committee on Education and Labor, Special Subcommittee on Education, *Campus Unrest: Hearings, Ninety-first Congress, First Session, Hearings Held in Washington, DC, Feb. 3; March 19-21, 25, 26; April 18; May 7-9, 15, 20, and 22, 1969* (Washington, DC: U.S. Government Printing Office, 1969), 415-416, 428-429.

Younger faculty members tended to feel greater sympathy for students since they were closer in age, and they tend to be better teachers. Older faculty members felt emotional disconnections with students; thus, they did not react well to the crisis at Columbia. Many faculty members felt great shock and surprise during the week of student disturbances.[102]

Some faculty members supported student protests, because they held anti-administration bias against their bosses at work. Faculty members who had problems with policies at work felt students spoke for them. Younger faculty members participated in the disturbances because they felt greater affinity to student protesters. They chose to protect students from the police, and against moderate or conservative students in the Majority Coalition. However, some changed their minds after they heard the news that several radical students burned Professor Ranum's three years of research notes. Vilardi mentioned that Ranum was on the Majority Coalition side during the crisis.[103] Years later, Mark Rudd revealed that a radical SDS leader named JJ Jacobs burned Ranum's paper.[104]

## Disciplinary Proceedings at Columbia

About five hundred students who were arrested on April 30, 1968 were charged with criminal trespass while a few students were charged with resisting arrest or assault and battery against police officers. The Trustees of Columbia University and President

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[102] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 766-167, 772-773.

[103] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 773.

[104] John Castellucci, "The Night They Burned Ranum's Papers," *Chronicle of Higher Education*, February 14, 2010, accessed January 15, 2016, <http://chronicle.com/article/The-Night-They-Burned-Ranums/64115/>.

Kirk claimed that they recommended the city court grant students leniency. The court chose not to grant leniency to violent students, but was lenient to those who were at the wrong place at the wrong time. With the exception of Mark Rudd, many student protesters, who were on probation for a year, ended up returning to Columbia University to get their undergraduate degrees or to get into a graduate program at Columbia.[105]

At the end of May 1968, Rudd received a letter from Columbia University informing him that he was expelled from Columbia University.[106] Rudd did not tell if Dean Fraenkel wrote that letter. In late October of 1968, Rudd received a letter from his local board informing him of his reclassification to 1-A and he was ordered to report for a physical examination. Rudd was horrified when he received that letter. Rudd requested a personal appearance with the local board since he requested an occupational deferment for his career as a revolutionary. Rudd received his answer via a local newspaper rather than a letter from local board when an administrator of his local board said, "Rudd will get out of the draft over my dead body."[107]

Two days before his physical examination, Rudd held a press conference at a hotel, where he said, "It's one thing to organize at Columbia University but another to be insubordinate in basic training at Fort Dix. Army jails are not very nice, I had been told."[108] Rudd revealed that he had met revolutionary soldiers who told him of horror stories that took place in Vietnam, and he met soldiers who had lived underground for

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[105] Avorn, *Up against the Ivy Walls,* 245-255, 277-278

[106] Rudd, "Columbia," 292

[107] Rudd, *Underground,* 125-126.

[108] Rudd, *Underground,* 127.

years. Rudd planned to join the army if drafted, but he would be a revolutionary soldier.[109]

It turned out that Rudd was able to acquire a psychological draft deferment (1-Y). The physical exam went smoothly and at the end of the examination, an older doctor asked Rudd if he received a treatment for a mental disorder.[110] After Rudd told the examining doctor he saw a psychiatrist in the past, administrators of the draft board moved eagerly to get Rudd to another office. Rudd said, "Immediately all the military personnel hovering around started smiling and congratulating each other with relief."[111] Draft board members took Rudd to a separate office, gave him a form, and told him to get a letter from his psychiatrist within thirty days, which Rudd following. Rudd ended up received a letter informing him of his 1-Y reclassification.[112]

Congress who investigated the Weatherman Underground in 1975 noted that Rudd failed the military physical exam for a second time in December of 1969, and he did not have to enter the service. Officials at the Newark, New Jersey induction center claimed that his local board would probably reclassify him as 4-F. On January 24, 1969, Clifford Day, the Chairman of the draft board in Irvington, New Jersey, said that Mark Rudd received 1-Y classification and the induction center would re-examine him again in June of 1969. The draft board could induct him at that tine if his disability was corrected. General Hershey and the Pentagon wanted Rudd to join the Army because Rudd was a

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[109] Rudd, *Underground,* 127.

[110] Rudd, *Underground,* 128.

[111] Rudd, *Underground,* 128.

[112] Rudd, *Underground,* 128-129.

desirable, educated man. Congress did not receive further notices from the local board or Clifford Day possibly because several developments took place during the year of 1969.[113] President Nixon and Congress planned to change the draft laws. Instead of selecting men for the military or granting deferments, the first national draft lottery would take place on December 1, 1969. In addition, President Nixon planned to hire somebody to replace General Hershey.

President Kirk and Dean Platte suspended Edward Hyman, Nick Freudenberg, and Morris Grossman from Columbia University.[114] John Jacobs left Columbia University weeks before Dean Platt sent SDS leaders a letter. Ted Gold did not receive a letter on time to see Dean Platt on May 21, 1968, so he did not show up for the meeting.[115] The investigators for the Cox Commission stated that Dean Platt sent Gold a letter, but Gold did not receive it.[116] Gold graduated from Columbia College in 1968 and died in a townhouse fire in New York on March 6, 1970.[117]

According to websites found on December 2012, Hyman, Morris, and Freudenberg eventually received at least one degree from Columbia University. Edward Hyman received his AB Degree at Columbia College in 1969, and he went on to receive his master's and doctoral degrees from the University of California-Berkeley by 1975. As of December 2012, he has been a forensic psychologist and an expert witness in court

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[113] United States, Congress, Senate, *The Weather Underground,* 98-99.

[114] Avorn, *Up against the Ivy Walls,* 251.

[115] Keller, "Six Weeks That Shook Morningside," 31, 45.

[116] Keller, "Six Weeks That Shook Morningside," 11.

[117] Rudd, *Underground,* 193-194.

cases for over thirty years.[118] Nick Freudenberg received his BS degree from CUNY at Hunter College in 1975, eight years after he was suspended from Columbia University, and returned to Columbia for his MPH in 1977, and DPH in 1979. By December 2012, Freudenberg has been a Distinguished Professor of Public Health and Director of the Doctoral Program at CUNY's School of Public Health at Hunter College.[119]

Morris Grossner wrote a memoir for the *Columbia 1968* website, where he explained that he was not expelled from Columbia University. He was suspended and then was able to return to Columbia. Grossner took a physical exam in his local board, where he learned he was able to acquire a medical deferment for a hernia. Grossner finished his coursework at Columbia the following year. When he went to the graduation ceremony in 1969 to pick up his degree, he received a blue envelope that contained a note informing him that his degree was being withheld pending disciplinary actions taken against him.[120] Grossner never received a notice of any hearing or disciplinary actions taken against him; however, he received his diploma the following June that posted his birth name rather than his famous name.[121]

Grossner was a lead plaintiff in *Morris v. the Trustees of Columbia University* case, where he filed a lawsuit President Kirk and the Trustees of Columbia University for suspending him and three other SDS leaders listed as co-plaintiffs for the case: Mark

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[118] "Edward J. Hyman," JurisPro Expert Witness Directory, accessed November 30, 2012, <http://www.jurispro.com/EdwardHyman>.

[119] "Hunter Faculty and Staff: Nick Freudenberg," CUNY School of Public Health Hunter College, accessed November 30, 2012, <http://cuny.edu/site/sph/hunter-college/faculty.html>.

[120] "Morris Grossner," Columbia 1968, accessed November 30, 2012, <http://www.columbia1968.com/morrisgrossner/>.

[121] "Morris Grossner," Columbia 1968.

Rudd, Nick Freudenberg, and Edward Hyman. Grossner probably did not list two other SDS leaders in his lawsuit, because Ted Gold graduated from Columbia, and JJ Jacobs withdrew from Columbia weeks before Dean Platt sent the SDS leaders a letter. Grossner believed that President Kirk disciplined him and his colleagues unfairly and arbitrarily, and that Columbia University violated their constitutional right of freedom of expression, under the First, Fifth and Fourteenth Amendments. In addition, President Kirk abused his unlimited ultimate disciplinary power as a president to discipline a selected few students for his personal and political purposes.[122]

Morris Grossner and co-plaintiffs, Mark Rudd, Edward Hyman and Nick Freudenburg filed for a preliminary injunction in order to restrain defendants from taking disciplinary actions against them and from instituting disciplinary proceedings that included expulsion, suspension, and probation from college. In addition, SDS leaders wanted the court to rule against President Kirk, so they could get negative notations off their records and to get a fresh start at Columbia as students in good standing. Morris et al requested "a preliminary mandatory injunction ordering and requiring defendants to immediately revoke the suspension of and to reinstate Morris Grossner, Mark Rudd, Nicholas Freudenberg and Edward Hyman as students in good standing at Columbia University." The judge in the New York City division of the U.S. Supreme Court, Marvin E. Frankel, denied their motions and threw out their case on July 9, 1968.[123]

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[122] US District Court Cases, *Grossner v The Trustees of Columbia University,* 287 F. Supp. 535; 1968 U.S. Dist. LEXIS 11720, accessed December 9, 2012. HOLLIS.

[123] Wheeler, "Some Impromptu Remarks on the Columbia Experience," 80.

Since Mark Rudd was expelled from Columbia University, he never returned to Columbia to complete his Bachelor's Degree program nor applied for admissions to graduate programs at Columbia.[124] Kahn said that almost all disciplined students gained readmission to Columbia University and eventually graduated. In addition, Kahn claimed that administrators at Columbia has met all six demands since the crisis, including the demand for amnesty.[125] According to investigators for the President's Commission on Campus Unrest in 1970:

> A few students have been called to risk their lives in the [Vietnam] War. It [was] true that male students have been subject[ed] to the draft. But only a small portion of college youth have actually been drafted and sent to fight in Vietnam, and…, as compared to the nation's previous wars, relatively few college graduates have been killed in this war. It is [non-college] youth who fought in Vietnam, and yet it is college youth who opposed the war—while [non-college] youth tend to support it more than other segments of the population.[126]

Unfortunately, the President's Commission on Campus Unrest published their report two years after the crisis occurred at Columbia University. At the same time, General Hershey stepped down, and President Nixon found Hershey's replacement within two months after Hershey stepped down, Curtis W. Tarr.[127]

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[124] Donaldio, "Columbia Seven Interview," 87-88.

[125] Kahn, *The Battle for Morningside Heights,* 134, 216.

[126] President's Commission on Campus Unrest, *The Report of The President's Commission on Campus Unrest, Including the Special Reports: The Killings at Jackson State; The Kent State Tragedy* (New York: Arno Press, 1970) 59.

[127] United States, Senate, Committee on Armed Services, *Nomination of Curtis W. Tarr to Be Director of Selective Service: Hearing, March 19, 1970* (Washington, DC: U.S. Government Printing Office, 1970) 1-2.

Motivations of Radical SDS Leaders at Columbia

Rudd claimed in his memoir that he demonstrated against the US government involvement with the Vietnam War based on his political views about that particular war rather than his concerns whether he would keep his student deferment.[128] Rudd was defensive, because he felt the pain of dealing with societal prejudicial views and criticisms against draft resisters or evaders. He was conflicted and defensive about his ability to obtain student deferments when he heard that most working-class men had to fight in Vietnam. Rudd claimed "[T]he majority of students were driven more by self-interest—staying out of the army—rather than by a principled opposition to the government's policies in Vietnam."[129] However, when Rudd and four other SDS leaders were on probation, they panicked and demanded amnesty. It was obvious to the Columbia community that SDS leaders protested against the punishment they received because they feared they would lose their student deferments and would be drafted to fight in Vietnam.[130] Since Morris Grossner, Nick Freudenberg, and Edward Hyman never wrote a book or granted an interview, they never expressed their views on the Vietnam War, student deferment, and the curtailment of student deferment in the late 1960s.

A Sociology professor at Columbia, Daniel Bell, claimed that on April 12, 1968, Dean Platt offered to arrange for three SDS leaders to meet with President Kirk regarding

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[128] Rudd, *Underground*, 27.

[129] Rudd, *Underground*, 27.

[130] Bell, Daniel, "Columbia and the New Left," 65. Bell claimed that SDS leaders were suspended rather than on probation for their activities on March 27, 1968.

their concerns about unfair treatment they had received compared to other activists who had protested with them on March 27, and about Kirk's ban on indoor demonstrations. SDS leaders turned down Platt's offer, and later accused Platt and Kirk of entrapment. Kirk had not punished protesters for their previous indoor demonstrations which had occurred after the effective date (September 25, 1967) of Kirk's ban on indoor demonstrations. There were non-violent disruptive indoor protests that took place in the fall of 1967 and on February 24, 1968, when Dow recruiters came to conduct job interviews. Students who protested on March 27, 1968 had an illusion that President Kirk would not punish them for indoor demonstrations; however, Bell claimed that Kirk and Platt were "indecisive and unwilling to be punitive."[131]

According to investigators for the Cox Commission, four of the six SDS leaders complained that President Kirk singled them out for punishment, and used his discriminatory or vindictive disciplinary powers against them. The Cox Commission agreed that SDS leaders were singled out for punishment arbitrarily, and that Dean Fraenkel singled Rudd out for expulsion without giving him another chance. Kirk later revealed that he thought that Rudd was suspended, not expelled from Columbia.[132] After Rudd received verbal notices from Fraenkel, other disciplined SDS leaders feared they might get expulsion later.[133]

According to investigators for the President's Commission on Campus Unrest in 1970:

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[131] Bell, Daniel, "Columbia and the New Left," 67.

[132] Kirk, Grayson. "A Message,"15.

[133] Cox Commission, *Crisis at Columbia*, 126-127.

> [T]he goals of SDS leaders [at Columbia] were not to make Columbia more neutral politically and more open intellectually, but rather to transform into a revolutionary political weapon into which they could attack the system. Furthermore, violence by students was greater at Columbia: considerable property damage was done and some students forcibly resisted arrest…the police reacted with excessive force and violence....[134]

The investigators for the President's Commission on Campus Unrest also claimed that Mark Rudd made a statement that the issues of the gym and the IDA were pretexts for protests, and if these issues were not problematic at Columbia University, he and other SDS leaders would have found different issues to use. They were looking for issues that would attract a majority of moderate students. However, the commission did not note their sources for Rudd's statement.[135]

James Andrews, an Assistant Professor of Speech at Teachers College, Columbia University in 1968, argued that SDS leaders exploited the issues of the IDA and the gym in order to coerce President Kirk to grant them amnesty and to agitate sympathetic, liberal students and faculty members to support their demands. Andrews argued SDS leaders did not offer or encourage explorations of these issues with questioning faculty members, students, and administrators, because SDS leaders were not prepared to discuss these issues. In Andrews' views, amnesty from punishment was very important.[136]

Andrews believed that SDS leaders had a goal to destruct rather than to restructure the university. When SDS leaders realized that their goals were unpopular,

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[134] President's Commission on Campus Unrest, *The Report,* 37.

[135] President's Commission on Campus Unrest, *The Report,* 36.

[136] James R Andrews, "Confrontation at Columbia: A Case Study in Coercive Rhetoric," *Quarterly Journal of Speech* 55, no. 1 (1969): 11.

they could not force the university to support their demands unless many students at Columbia supported them. In order to garner support from many students, Rudd proposed a strategy and tactics that were popular. The issues of the IDA and the gym were popular enough to garner support from students and faculty members.[137]

Andrews believed that SDS leaders used the IDA and the gym as issues in an exploitative manner to coerce President Kirk to grant them amnesty. Vice President Truman claimed SDS leaders discovered the park issues later since SDS leaders wanted to garner support from SAS activists. Truman said, "The attack on the Institute for Defense Analysis was a surrogate attack on the military and the Vietnam War, while serving as a basis for convicting the university authorities of 'complicity' in the war. And amnesty, the third highly visible demand, appealed to all who might be threatened with the costs of their action."[138]

In his letter to Columbia University alumni and parents, Kirk claimed that the IDA was a symbolic issue that SDS leaders used in order to enlist support from students and faculty members who opposed the Vietnam War and to give the message that Columbia University through their affiliation with the IDA was involved with the war.[139] Kirk believed that SDS leaders used the war in Vietnam, Columbia involvement with the IDA, and the proposed racist gym to garner support for their violent, disruptive student protests. Kirk wrongly believed that this hardcore SDS leadership was ruthless, cynical, and professional in their desires for a complete disruption of the university at the end of

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[137] Andrews, "Confrontation at Columbia," 11.

[138] Truman, *Reflections on the Columbia Disorders of 1968*, 61.

[139] Kirk, Grayson. "A Message,"11.

the academic year. He also wrongly believed that Rudd and SDS leaders planned violent student protests as early as January, but waited until the end of the academic year to protest. Kirk called Mark Rudd an anarchist. In an interview with Jim Luter on October 3, 1968, Kirk sarcastically said:

> Oh, I think the war in Vietnam had a great deal to do, has had a great deal to do on all American campuses with the creation of the encouragement of student unrest because student activism began with the participation in the civil rights movement, and when this ceased to be a major concern of the students, they then turned to the war in Vietnam, which was and is, of course very unpopular with both students and faculty members. And so in a sense the continual existence of the war in Vietnam was a catalyst agent for student unrest—I think probably of greater importance than any other single issue.[140]

Although Kirk was aware that SDS leaders opposed the Vietnam War, he still believed SDS leaders were ruthless, cynical, and professional violent, disruptive protesters who wanted to destroy the university. He could not see that these five young men wanted to keep their student deferments by staying in college. These SDS activists stayed away from the draft resistance movement because they wanted to keep their deferments.

## Aftermath at Columbia

Kirk mentioned that he received numerous letters and telegrams of support.[141] About 5,000 alumni of Columbia University sent Kirk telegrams. About 4,100 alumni supported Kirk's decision. The critical ones stated that he should called the police

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[140] Kirk and Luter, *Reminiscences of Grayson Louis Kirk, 1968*, 25.

[141] Kirk, Grayson. "A Message," 17-18.

earlier; however, 900 alumni supported radical students and protesters who had occupied the five buildings and had demanded amnesty. Kirk noticed that most of these supporters were young faculty members and Columbia alumni who were now teaching in other institutions.[142]

The city cops arrested five hundred three students and two hundred non-students on April 30, 1968, and the court charged them with criminal trespass while they charged a few people for resisting arrest or for assault and battery against police officers. Dr. Metzger of the History Department submitted a report to the Campus Unrest committee in 1969 that gave some details of students' statuses since their participation in disturbances at Columbia in 1968. The court or the university identified and charged 940 people with criminal trespass, in which the 503 arrestees were students at Columbia, and 144 arrested students received financial aid. Of 503 students charged with criminal trespass, the court exonerated eighty-four students while sixty-one students received a charge from the court for off-campus criminal violations, 181 received disciplinary probation from Columbia University, and Columbia suspended twenty-three students. Twenty-six students did not re-register the following academic year.[143]

A year later, the court dropped the charges against 189 students due to a lack of evidence. Of 144 recipients of financial aid, the court exonerated six while Columbia University suspended three and placed forty-eight on probation. Two financial aid recipients did not re-register. The court dropped the charges against the remaining eighty-five financial aid students. All 503 students arrested on April 30, 1968 were

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[142] Kirk and Luter, *Reminiscences of Grayson Louis Kirk, 1968*, 28.

[143] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 429-432.

subjected to criminal proceedings. Sixty-one students were arrested for off-campus violations. The court dismissed charges against 358 students, and nine students pled guilty. Of 144 financial aid recipients, the court dismissed charges against one 117 students and they had pending cases against twenty-five financial aid recipients as of the document dated February 25,1969[144] The Trustees of Columbia University and President Kirk claimed that they recommended the court grant leniency to students. Unfortunately, the court made a decision to grant leniency to some students, but not to sixty-one students who committed violations off-campus.[145] Three SDS leaders (Nick Freudenberg, Edward Hyman, and Morris Grossman) were suspended, but eventually returned to Columbia and got their degrees. Mark Rudd was the only one who received the harshest punishment, an expulsion from Columbia University, and he did not receive a degree from Columbia.

President Kirk retired from his position on August 23, 1968. The media claimed that Kirk resigned from his position, because of the crisis at Columbia, and the Cox Commission had been critical toward him in their report. Several people noted that the Board of Trustees slighted him in meetings during the summer of 1968. However, President Kirk planned to retire no later than the summer of 1969. He was about to turn sixty-five in October of 1968; thus, he discussed his retirement plan with the Board of Trustees a month before the crisis. Kirk claimed that he did not retire because of the crisis, but was aware that people would say he resigned because of the crisis. If it were true that he retired or resigned because of the crisis, he would have resigned in May or

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[144] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 429-432.

[145] Avorn, *Up against the Ivy Walls,* 245-255, 277-278.

June of 1968. However, he gained another administrative position in order to assist Columbia University with fundraising. The new Acting President, Andrew W. Cordier, took over. He bridged the fractured communities in Columbia University and residents of Harlem and Morningside Heights; however, he was tough on radical activists and SDS leaders.[146]

Vice President David Truman thought his career at Columbia was over when the police came over to remove students from the five buildings. Before the crisis, he had an opportunity to become a President of Columbia University after Kirk's retirement. However, Truman became famous as a controversial Vice President of Columbia during the week of the disturbances. Truman noted that President Kirk handed him a big responsibility of dealing with students and faculty members during the crisis, and he became too controversial in the process. He spent the summer of 1968 looking for a position elsewhere, because his closest friend warned him that his prospect of becoming a president at Columbia was very slim.[147]

At that time, Truman heard rumors from his friends and faculty members of the move to persuade President Kirk to resign. Since Truman did not talk to Kirk, he did not know if Kirk was pressured to resign or if he retired as planned. During the course of the summer, the Board of Trustees asked Truman if he would accept an appointment as an Acting President. Truman, who interpreted these requests as an inquiry rather than an

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[146] United States, Congress, House, Committee on Government Operations, Permanent Subcommittee on Investigations, Senate, Ninety-First Congress, *Riots, Civil and Criminal Disorders, Part 23: Investigates Campus Disorders at City College of New York, Brooklyn College, Brandeis University, and Columbia University* (Washington DC: U.S. Government Printing Office, 1969) 5265, 5267, accessed July 18, 2015, <http://congressional.proquest.com.ezp-prod1.hul.harvard.edu/congressional/docview/t29.d30.hrg-1969-ops-0035?accountid=11311>.

[147] Truman, *Reflections on the Columbia Disorders of 1968*, 157-159.

offer, was reluctant to take the position, because he felt his "political capital" on-campus had gone south since the crisis and he had a slim chance of becoming president. Truman admitted that his relations with Kirk deteriorated quickly, and that they had not been talking for months. As soon as Kirk retired, the Board of Trustees chose to appoint Andrew W. Cordier, the dean of the School of International Affairs as the Acting President.[148]

Cordier noticed that many young people in their late teens to early twenties usually wanted quicker solutions to their problems. Adults from older generations were usually satisfied with the slower process of solving problems; however, younger people viewed that process as a lack of concern or interests to any solutions.[149] However, he was willing to extend himself for his consultation to anyone who was interested in free dialogue and discussion. But he drew the line against a "small number" of radical students and faculty members who insisted on him to meet their non-negotiable demands. He believed that non-negotiable demands choked off dialogue and discussion. Confrontations crippled the methods and fruits of consultations. Violence or threats of violence killed the academic freedom and academic pursuits of students and faculty members.[150]

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[148] Truman, *Reflections on the Columbia Disorders of 1968*, 157-159.

[149] United States, Congress, *Riots, Civil and Criminal Disorders, Part 23…Columbia University*, 5295.

[150] United States, Congress, *Riots, Civil and Criminal Disorders, Part 23…Columbia University*, 5269.

# Chapter V

## Conclusion

This thesis shows that a majority of Columbia students, as well as a majority of students throughout the United States, were motivated to take part in demonstrations because of "Hershey's Directives" and the changing draft laws since 1967. The changing draft laws, particularly the Hershey's Directives of late October 1967, were catalytic agents that fomented violent, disruptive student protests that took place at Columbia six months later. Although Mark Rudd was the author if the action factionist protesting student tactics, he did not focus on draft laws as much in his arguments as he did with his opposition to the Vietnam War, American imperialistic society, and institutional racism. Rudd and SDS leaders did not participate in draft resistant movement. Rudd stated in an interview that he and other SDS members avoided the draft resistant movement, because they were afraid that they would lose student deferment if they were not enrolled in college full-time. Although SDS leaders claimed that they protested against political issues of the Vietnam War and organizations that facilitated the war, I believe that the Hershey's Directives and the changing draft laws of 1967 were catalytic for many students who chose to occupy in one of five buildings at Columbia.

Throughout this thesis, there were many evidences showing that many young men had distaste for Hershey's Directives and for the changing draft laws. President Kirk and Vice President Truman believed that a majority of students joined Rudd and SDS members in occupying buildings and engaging in violent acts, because they opposed draft

laws, Hershey's Directives, and the Vietnam War. The civil rights issues had been more important to black students and activists who occupied Hamilton Hall, and the proposed gym on the Morningside Park was a civil rights issues. However, a majority of white students, particularly male students who were desirable educated men that the Department of Defense wanted in the Armed Forces, opposed draft laws and the Vietnam War. Because they lived in New York City and had unlimited access to media, a majority of students at Columbia University read about Hershey's Directives, knew of his name, and noticed that the Military Selective Service and Training Act of 1967 negatively affected young men who did not want to fight in Vietnam. Their local newspapers, *New York Times* and Columbia *Spectator* mentioned Hershey's Directives in November and December of 1967.

Student activists at Columbia, particularly six SDS leaders, were motivated to act violently and disruptively because they were suspended for participating in previous demonstrations. Rudd, five SDS leaders, and many white occupiers of three buildings (Low, Mathematic, and Fayerweather) were motivated to act violently and disruptively after they noticed Dean George Fraenkel kept on telling Rudd that Columbia University expelled him and he did not have any reinstatement options. President Kirk mentioned in an interview that he thought Rudd was suspended, so I conclude that Dean Fraenkel probably expelled Rudd. Rudd panicked during the week of disturbances, because Dean Fraenkel and President Kirk reserved harshest punishment and judgement against him, expelled him from Columbia, but not four other SDS leaders and one hundred fifty protesters who protested with him on March 27. After two days of hearing reminders from Dean Fraenkel that Columbia University expelled him, Rudd and several activists told Vice President Truman that they would not negotiate nor leave buildings unless if he

and President Kirk guaranteed amnesty for all protesters. Vice President Truman who did not have disciplinary power told Rudd it was impossible for him to make a guarantee. Rudd made a "bullshit" speech to the Ad Hoc Faculty Group the next day.

Rudd and SDS leaders claimed in interviews and in their *Why We Strike* literature that they protested because of political issues rather than personal issues, in which they probably believed their possible loss of student deferments was their personal issues. However, Rudd and SDS activists did not want to lose their student deferments and protested for amnesty. They did not want to take a semester or a year off from college, because they feared that their local board would call them for induction and send them to Vietnam before they could return to college. Rudd and Morris Grossman showed up for their pre-induction exam and stated that they would join the military if drafted. Rudd planned to be a revolutionary soldiers like his friends in the military. They ended up receiving 1-Y deferments and lucked out when President Nixon changed draft laws in 1969.

In addition, it was highly probable that some of five hundred students and two hundred non-students who were arrested were motivated to protest because of draft laws and Hershey's Directives. The changing draft laws was a catalytic agent that led many Americans to oppose the Vietnam War. Many Americans lost their support for the Vietnam War because of the curtailment of student deferments since the escalation of the Vietnam War in 1965, and many more stopped supporting President Johnson's justification for escalating the war after they learned from Tet Offensive that the war was unwinnable.

Some radical students like Mark Rudd may have claimed that they did not protest against the draft laws, since they were protesting against political issues of the Vietnam

War instead. However, this thesis showed that when young men received induction notices, they panicked and many made a choice to evade draft as much as possible. Many of them were former students, students who were separated from college, because they were disciplined, or those who had their student deferments expired after they graduated from college.

Since the escalation of the Vietnam War and the curtailment of student deferments, many young men sought other deferment options such as occupational deferment, dependency deferment, hardship deferment, or conscientious objection. If they ran out of deferment options, they appealed for a conscientious objection status. In the late 1960s, it became apparent that they were unable to get any deferments or were unable to go to court to appeal, they appealed for a selective conscientious objection since they conscientiously objected to the Vietnam War. If the local board denied them a conscientious objection status, whether selective or not, they would evade draft by not showing up for their pre-induction exam or responding to induction calls. Some registrants showed up for induction calls but told local board members that they refused to go to Vietnam. They preferred jail sentence over going to Vietnam. General Hershey and some local board volunteers frowned on young men who waited for the Vietnam War to end before they would join the military or before they received their induction notices.

Local boards did not send Mark Rudd and Morris Grossner to Vietnam because they were able to acquire 1-Y deferment. However, a chairman of Rudd's local boards wanted to send him to Vietnam. Rudd lucked out when President Nixon and Congress changed draft laws in 1969 and General Hershey was in transition of stepping down from his position. This thesis found that General Hershey, representatives of the Department of Defense, and some local board members wanted to send disciplined students to

Vietnam, because they wanted students in the Armed Forces. Fortunately, for students, the local board could not process them as quickly as possible if they were not delinquents. Mark Rudd and Morris Grossner had encounters with a local board who chose to give them 1-Y classification. They ended up not fighting in Vietnam since several developments took place in the Department of Defense and Washington, DC since the fall of 1968, when Rudd and Grossner received their pre-induction notices. Since they were not delinquents in Selective Service laws, their local boards could not place them ahead of volunteers if they did not receive 1-Y deferment.

Rudd and Grossner were rebellious students on disciplinary suspension or expulsion from college. Mark Rudd was a revolutionary student who planned to be a revolutionary soldier if he was drafted; however, he did not turn in his draft card or burn it. He did not do a sit-in or engage in violent, disruptive protests in front of local boards or Selective Service offices. His main reason for refraining from protesting against the draft law was to keep his student deferment. On January 24, 1969, a chairman of Rudd's local board planned to send him another preinduction notice for him to take another physical exam.

The purpose of General Hershey's Directive was to convince protesting young men that joining the military was not a bad thing, and that they needed some "character building experiences." In his directive, Hershey said, "It is hoped that misguided registrants will recognize the long-range significance of accepting their obligations now, rather than hereafter regretting their action performed under unfortunate influences of misdirected emotions, or possibly honest but wholly illegal advice..."[1] General Hershey

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[1] United States, Congress, Senate, *The Selective Service System: Its Operation, Practices, and Procedures*, 546-547.

wanted to enforce his views and his values on young men who refused to fight in Vietnam. However, he did not want to take all eager volunteers and enlistees who had disadvantaged backgrounds. He wanted to take educated young men out of college and to enforce involuntary servitude on them. He was as despotic as Hitler, Stalin, and Mussolini. In fact, he made one sarcastic comment in a hearing that showed he was aware of what others thought of him but he did not care:

> I'm as popular as a bastard at a family reunion with the military because they don't want to run a correctional institution. But they have to know how to teach discipline. It is not a matter of authority for the sake of authority. Authority is just the method of getting things done without being reduced to chaos. What I'm proposing isn't like Hitler. If this country decided to do this kind of thing. It would be the people who decided to do it and not some dictator…The question is, what are you running? A force to garrison to the world, or a training school for citizens? I guess I straddled with that one.[2]

Hershey may have straddled with that issue of not getting universal military training in operation. Congress had rejected of the universal military training amendment of the Universal Military Training and Service Act of 1951 after they argued for months and killed the bill by a vote of 236 to 162. Hershey had wanted the Armed Forces to run a two-year mandatory rehabilitation program for all 1-Y men who had minor disabilities or marginal mental ability, and the universal military training for all men who refused to volunteer. He was very angry with desirable educated men who "refused to volunteer,"

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[2] United States, Congress, *Manpower Implications of Selective Service*, 272.

and did not want the federal government to pay for rehabilitation programs for 1-Y rejectees who wanted to serve.[3]

Dr. Jacques Barzun of History Department at Columbia also submitted his statement to the Campus Unrest hearings on May 9, 1969. Barzun, as an expert on higher education, wrote a book called *The American University* several years earlier. His statement to the Campus Unrest committee included a summary of his theories he wrote on his book. Several of Barzun's theories were applicable to issues this thesis is addressing on the cause of campus disturbances, and the issues of curtailment of student deferments as a motivation and one of the causes for violent, disruptive student protests. Barzun mentioned two red herrings that are worth exploring in future studies. First, he believed that Rudd and several violent protesters learned from the violent, confrontational protesters of Civil Rights movement and violent incidents that took place during the riots in Watts, Newark, and Harlem that took place from 1965 to the day after Martin Luther King, Jr. was assassinated on April 4, 1968.

The mass media, particularly television, influenced many young adults.[4] Mark Rudd said in an interview that he watched television every day since he was a child. A faculty member at Harvard remembered watching on television of horrible scenes that took place live at Vietnam. He felt sick to his stomach when he saw soldiers' bodies being blown up while he watched it live in front of television screen. He did not want to fight in Vietnam. His college friend starved himself in order to look anorexic and weakly in his pre-induction examination so he could obtain a 4-F exemption or 1-Y deferment.[5]

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[3] United States, Congress, *Manpower Implications of Selective Service*, 272.

[4] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 766-771.

[5] Donald Ostrowski, PhD, Harvard University Extension School, conversation in a Thesis Writers' meeting the author attended, December 3, 2014.

Television influenced Americans attitude toward President Johnson and the Vietnam War after they saw Tet Offensive incidents on television. The television news influenced Americans attitude toward General Hershey when they learned that he sent his directive and Local Board Memorandum 85 to local boards across the nation and that President Johnson eliminated graduate student deferments.

Another red herring that Barzun mentioned was his statement on black students who enrolled in an elite university in the 1960s. He believed that black students and SAS activists at Columbia joined SDS in their protests for amnesty, huddled together in groups with other black students, and occupied in Hamilton Hall without white students, because they struggled academically at Columbia. Barzun held some antiquated racist views that SAS leaders and black activists demanded for equal opportunity and civil rights, and in other universities, they demanded their college or university open a black studies department, because they have some psychological issues as victims of racism since they did not do well academically. In other universities, including Harvard, black students demanded Black Studies department being governed by black students, professors, and administrators.[6] Black students at Columbia did not demand a black studies department until sometime in 1969.[7]

Barzun was afraid to make comments or recommendations on how universities could open their Black Studies Department. Barzun claimed that black students and economically disadvantaged students of other races that Columbia University began to

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[6] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 766-771.

[7] United States, Congress, *Riots, Civil and Criminal Disorders, Part 23…Columbia University*, 5309.

accept in the 1960s struggled academically. Barzun made a statement that might be deemed racist to black people, "They were not equipped to do the work…So the work produces these psychological symptoms. Failure in academic work is imputed to racist discrimination, and so it is a vicious circle. It snowballs…The outlet for that is defiance and seizure of building and the demands for separateness."[8] Barzun claimed he did not see anything wrong with black student's demands and motives for their protests. He warned that the university needed to hire black professors, administrators and employees in order to get a department that black students demanded, and implied that black students had unrealistic ideas, as he believed they would destroy buildings in order to get their demands met. So that the black studies department would be up the following Monday morning.[9]

During the week of crisis at Columbia, Metzger noticed four factions of student protesters who had differing set of motives when they engaged in violent, disruptive protests. The factions of protesters were the revolutionary, the non-revolutionary radicals, the militants, and the communal. The example of revolutionary protesters were SDS leaders and Mark Rudd. Non-revolutionary radicals were former SDS leaders such as Ted Gold and Ted Kaptchuk who opposed Rudd's choice in militant, confrontational protesting tactics. The militants were SAS leaders and black activists who occupied inside Hamilton Hall. Majority of protesters who occupied one of five buildings were communal.[10]

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[8] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 766-771.

[9] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 431, 773-774.

[10] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 418.

The revolutionary and non-revolutionary radical may have sounded the same, engaged in similar speeches, and fought for similar issues; however, their protesting tactics and goals were different. Metzger believed that the revolutionary wanted to destroy the university in order to weaken and undermine the society, and their demands were symbolic. Maybe Metzger meant amnesty as a precondition for negotiation as an example of their symbolic demand. Revolutionary had the most ultimate objectives and operated with a "gangrene metaphor." Metzger probably saw Mark Rudd and SDS leaders as pain in the butt. The non-revolutionary radicals had more specific goals than did the revolutionary. They wanted the university to stop affiliating themselves with some questionable corporations or organizations such as the Institute for Defense Analysis or the NROTC. The non-revolutionary radicals who wanted to remake the university had "possessive metaphor."[11]

The militants composed of black activists occupying in Hamilton Hall were not revolutionary. Metzger believed that SAS leaders and black activists wanted a redistribution of their "racial rewards" but not an end to social stratification. In Metzger's views, black activists wanted "extra pay racism," but did not explain what he meant by that term. In addition, Metzger believed that black activists did not care to turn the university against capitalism or imperialism in the world. Metzger's metaphor for militant black activists was "action of the wheel." [12]

Metzger jokingly described communal as "eight hundred grinning Rudds" sitting in those buildings. On the second day of protests, the communes occupied in Hamilton, Low, Avery, Fayerweather, and Mathematic. Metzger believed communal students did

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[11] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 419.

[12] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 419.

not use the word "common," "commune," or "community," to describe themselves in a political sense, but would in a social sense. The communes had critical motives in working together collectively. The central strike committee was an example of the communes, but they did not have the power of attorney over members of the communes or of any individual members. Members of communes discussed issues, and made decisions together rather than a certain leader of the commune. Members asked questions and made decision together. One example was when somebody asked if women should cook, and members chose to answer that question with "liberated women are not cooks."[13] Before the police bust, members of communes soaked their handkerchiefs in water so it would absorbed tear gas.[14]

Belonging in a commune could be counter-productive to shy or socially awkward students, as outgoing members of the commune could chastise or demand them to get together with others for unity. Some peers within the commune could be as oppressive as administrators who disciplined students arbitrarily. The strike committee could pressure or manipulate students within the commune not to leave the building before the police came, but leave before the bust or before their "heads were broken."[15]

A high majority of protesters Metzger described, except for the militant blacks, participated in violent, disruptive protests, because they were frustrated with President Johnson and Congress for not listening to their pleas to end the Vietnam War and to send troops back home. The most important issue for many young adults was for the draft to end, so they would not have to worry about being drafted in the near future. A majority

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[13] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 419-420.

[14] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 420.

[15] United States Congress, House, *Campus Unrest: Hearings, Feb. 3…May 22, 1969,* 419.

of protesters were also frustrated with President Kirk who chose to discipline them instead of granting amnesty for all protesters. Because Mark was expelled, some students chose to occupy buildings because they feared that President Kirk or Dean Fraenkel would separate them from Columbia. They were aware that the Vietnam buildup was the main reason for the changing draft laws, and that the Hershey's Directives and Local Board Memorandum 85 changed how the local board members treated registrants who appealed for a deferment or an exemption. Although Mark Rudd and Morris Grossner claimed they would join the military if drafted, some communal protesters did not feel the same, as they had a plan to keep their student deferment as long as they could, and then, evade the draft after their student deferment expired.

Appendix A

General Lewis Blaine Hershey, Director of Selective Service System, 1966



# Appendix B

## Selective Service Classifications during the Vietnam War Era

### *Draft Classification*s

*1A*: Available for military service

*1A-O*: Conscientious objector available for non-combatant military service only.

*1C*: Member of the armed force of the U.S, the Coast and Geodetic Survey, the Environmental Science Service Administration or Public Health Services.

*1D*: Member of reserve component or student taking military training

*1O*: Conscientious objector available for civilian work assignment contributing to the maintenance of national health, safety, or interest.

*1S*: Student deferred by statute; usually in high school or under 20.

*1W*: Conscientious objectors performing civilian work contributing to the maintenance of national health, safety, or interest.

*1Y*: Registrant qualified for military service only in time of the war or in national emergency.

*2A*: Registrant deferred because of civilian occupation (except agricultural or activity in study)

*2C*: Registrant deferred because of agricultural occupation

*2S*: Registrant deferred because of activity in study

*3A*: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.

*4A*: Registrants who has completed service; sole surviving sons.

*4B*: Officials deferred by law

*4C*: Aliens

*4D*: Minister of religion or divinity student

*4G*: Registrant exempt from serving during peacetime, surviving son or brother

*4F*: Registrant not qualified for any military service (physical or mental disability)

*VA*: Registrant over the age of liability for military service."[1]

[1] United States, Congress, Senate, *The Selective Service System: Its Operation, Practices, and Procedures*, 531-532.

Appendix C

Hershey's Directives, October 26, 1967, pg. 1.

## OCTOBER 26, 1967 LETTER TO ALL MEMBERS OF THE SELECTIVE SERVICE SYSTEM FROM GENERAL LEWIS B. HERSHEY

NATIONAL HEADQUARTERS, SELECTIVE SERVICE SYSTEM,
*Washington, D.C., October 26, 1967.*

LETTER TO ALL MEMBERS OF THE SELECTIVE SERVICE SYSTEM

The basic purpose and the objective of the Selective Service System is the survival of the United States. The principal means used to that end is the military obligation placed by law upon all males of specified age groups. The complexities of the means of assuring survival are recognized by the broad authority for deferment from military service in the National health, safety, or interest.

Important facts too often forgotten or ignored are that the military obligation for liable age groups is universal and that deferments are given only when they serve the National interest. It is obvious that any action that violates the Military Selective Service Act or the Regulations, or the related processes cannot be in the National interest. It follows that those who violate them should be denied deferment in the National interest. It also follows that illegal activity which interferes with recruiting or causes refusal of duty in the military or naval forces could not by any stretch of the imagination be construed as being in support of the National interest.

The Selective Service System has always recognized that it was created to provide registrants for the Armed Forces, rather than to secure their punishment for disobedience of the Act and Regulations. There occasionally will be registrants, however, who will refuse to comply with their legal responsibilities, or who will fail to report as ordered, or refuse to be inducted. For these registrants, prosecution in the courts of the United States must follow with promptness and effectiveness. All members of the Selective Service System must give every possible assistance to every law enforcement agency and especially to United States Attorneys.

It is to be hoped that misguided registrants will recognize the long-range significance of accepting their obligations now, rather than hereafter regretting their actions performed under unfortunate influences of misdirected emotions, or possibly honest but wholly illegal advice, or even completely vicious efforts to cripple, if not to destroy, the unity vital to the existence of a nation and the preservation of the liberties of each of our citizens.

Demonstrations, when they become illegal, have produced and will continue to produce much evidence that relates to the basis for classification and in some instances, even to violation of the Act and Regulations. Any material of this nature received in National Headquarters or any other segment of the System

Hershey's Directives, October 26, 1967, pg. 2[2]



should be sent to State Directors for forwarding to appropriate Local Boards for their consideration.

A Local Board, upon receipt of this information, may reopen the classification of the registrant, classify him anew, and if evidence of violation of the Act and Regulations is established, also to declare the registrant to be a delinquent and to process him accordingly. This should include all registrants with remaining liability up to 35 years of age.

If the United States Attorney should desire to prosecute before the Local Board has ordered the registrant for induction, full cooperation will be given him and developments in the case should be reported to the State Director and by him to National Headquarters.

Evidence received from any source indicating efforts by non-registrants to prevent induction or in any way interfere illegally with the operation of the Military Selective Service Act or wtih recruiting or its related processes, will be reported in as great detail as facts are available to State Headquarters and National Headquarters so that they may be made available to United States Attorneys.

Registrants presently in Classes IV–F or I–Y who have already been reported for delinquency, if they are found still to be delinquent, should again be ordered to report for physical examination to ascertain whether they may be acceptable in the light of current circumstances.

All elements of the Selective Service System are urged to expedite responsive classification and the processing of delinquents to the greatest possible extent consistent with sound procedure.

LEWIS B. HERSHEY, *Director.*

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[2] United States, Congress, Senate, *The Selective Service System: Its Operation, Practices, and Procedures*, 546-547.

Appendix D

Memorandum 85, October 24, 1967[3]

**LOCAL BOARD MEMORANDUM NO. 85**
**ISSUED: OCTOBER 24, 1967**

**SUBJECT: DISPOSITION OF ABANDONED OR MUTILATED REGISTRATION CERTIFICATE AND NOTICES OF CLASSIFICATION**

1. Whenever an abandoned or mutilated Registration Certificate or current Notice of Classification reaches a local board, and the card was originally issued to a registrant by some other board, it should be forwarded to the State Director of Selective Service, who will forward it to the appropriate local board if within the State, or the appropriate State Director if the board of origin is outside the State.

2. Whenever a local board receives an abandoned or mutilated Registration Certificate or current Notice of Classification which had been issued to one of its own registrants, the following action is recommended:

(a) Declare the registrant to be delinquent for failure to have the card in his possession.

(b) Reclassify the registrant into a class available for service as a delinquent.

(c) At the expiration of the time for taking an appeal, if no appeal has been taken, and the delinquency has not been removed, order the registrant to report for induction or for civilian work in lieu of induction if in Class I–O, as a delinquent, or in the board's discretion in a flagrant case, report him to the United States Attorney for prosecution.

(d) If appeal is taken and the registrant is retained in a class available for service by the appeal board, and the delinquency has not been removed, order the registrant to report for induction or for civilian work in lieu of induction if in Class I–O, as a delinquent, or in the board's discretion in a flagrant case, report him to the United States Attorney for prosecution.

Lewis B. Hershey,
*Director.*

[3] United States, Congress, Senate, *The Selective Service System: Its Operation, Practices, and Procedures*, 520.

## Appendix E

### Grayson Kirk's Speech at the University of Virginia, Charlottsville, April 12, 1968

We should not be afraid to remember Jefferson's counsel that each generation should be prepared to examine its political institutions and to reshape them as might be necessary in order to meet more adequately the needs of the time.

In many ways, the society is in a more perilous condition than at my time since the convulsive conflicts between the states a century ago…our nation is in trouble.

The commemoration of our present difficulties and dangers would ruffle even the calm temperament of a Jefferson. At home, disrespect for law and authority has reached such a level of acceptance that its natural concomitant, resort to violence, has almost achieved respectability…Our young people, in disturbing numbers, appear to reject all forms of authority, from whatever source it derived, and they have taken refuge in a turbulent and inchoate nihilism whose sole objectives are destructive. I know of no time in our history when the gap between the generations have been wider or more potentially dangerous…

Youth protest movements erupt from time to time even in authoritarian communist states. One senses in the countries of Western Europe, as here, a general unease, a feeling of drift and uncertainty as social systems lose their traditional rigidity and as political leaders struggle to cope with the bewildering problems of governing an urban, technologically advanced, industrial society.

While youth too often tends toward facile criticism and no concrete suggestions for improvement, the adult world also has too little inventiveness and lacks constructive ideas.[4] The plain fact is that we do not know how to solve the new problems that confront our society. They are too new, too complex, too immense in magnitude, and neither our experience nor that of other peoples is as much help to us as we grope for answers. [The nation cities is an example of our seeming process].[5]

Look for a moment at one single fact of this problem of the metropolis, the matter of public welfare. The mass migration of largely indigent people to great metropolitan centers has created an administrative and financial nightmare for welfare agencies. In New York City alone, we have today almost twice as many people on relief as during the depths of the depression. We have more dependent children than the entire population of Omaha or Akron. The cost of our city welfare programs now exceeds a billions dollars a year.

No one knows how much of this burden properly should be carried out by the city, the state, or the Federal government. No one knows how whether dependent mothers of large families, when there is no father present, should be left at home on relief

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[4] Keller, "Six Weeks That Shook Morningside," 13-14.

[5] Keller, "Six Weeks That Shook Morningside," 13-14.

to rear their children or whether it would be better to encourage the mothers to become employed and to provide for their children during work hours at Day Care Centers. No one knows how the vicious cycle of dependency, which threatens to go on generation after generation, can be broken. We know that the present, improvised system is hopelessly inadequate, and that is almost all we know.

And yet, ours is the most affluent and perhaps the best educated society in history. [One was] the need for this country to extricate itself as quickly as possible from its current involvement in Vietnam.[6] No other item on the national agenda can be dealt with effectively until this has been done. The Vietnam engagement has produced more bitter dissension than any other issues since the Tragic War between the States [and has tended to] elevate civil disobedience into civic virtue.[7]

Our problems, urban, industrial, and social, are so great in magnitude and so complex in nature that they can be dealt with efficiently only by a greater concentration of governmental authority than our democracy has been constructed to provide or our people are prepared to support.

We have always said proudly that though our democracy may be a clumsy form of government, we accept this inefficiency as a reasonable price for the protection of our liberties. But today, though we cling to our liberties in the interest of efficiency. The price would be too great. But we cannot forever have our cake and eat it too. We should not be afraid to remember Jefferson's counsel that each generation should be prepared to examine its political institutions and to reshape them as might as might be necessary in order to meet adequately the needs of the time.

We are trying to operate a complicated and sensitive society with mechanisms devised for the needs of a simpler day. There is a distinct danger of drift further into sterile and divisive conflict.* [8]

"'The Umpirage of Reason;" from Thomas Jefferson's Third Annual Message to Congress. There he spoke eloquently of 'cultivating general friendship, and of bringing collisions of interest to the umpirage of reason rather than force.' In the years ahead, we shall have to remember this counsel.* [9]

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[6] Keller, "Six Weeks That Shook Morningside," 13-14.

[7] Keller, "Six Weeks That Shook Morningside," 13-14.

[8] Keller, "Six Weeks That Shook Morningside," 13-14.

[9] Keller, "Six Weeks That Shook Morningside," 13-14.

Appendix F

Mark Rudd's *Reply to Uncle Grayson*, April 22, 1968, pg. 1.

# Reply to Uncle Grayson

On Tuesday, April 9, all Columbia classes were cancelled. Originally, however, the University called off only classes after 3 p.m. President Kirk changed the initial order after 3 black students came to visit him at his apartment on Morningside Drive and 116th Street. When they rang his doorbell, someone in his apartment called the cops. Later, realizing the "error," the President was obliged to accept the students' demand that all classes be cancelled.



Grayson Kirk ?

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"Our young people, in disturbing numbers, appear to reject all forms of authority, from whatever source derived, and they have taken refuge in a turbulent and inchoate nihilism whose sole objectives are destruction. I know of no time in our history when the gap between the generations has been wider or more potentially dangerous."

Grayson Kirk, April 12, 1968
Charlottesville, Va.

Dear Grayson,

Your charge of nihilism is indeed ominous; for if it were true, our nihilism would bring the whole civilized world, from Columbia to Rockefeller Center, crashing down upon all our heads. Though it is not true, your charge does represent something: you call it the generation gap. I see it as a real conflict between those who run things now --you, Grayson Kirk --and those who feel oppressed by, and disgusted with, the society you rule --we, the young people.

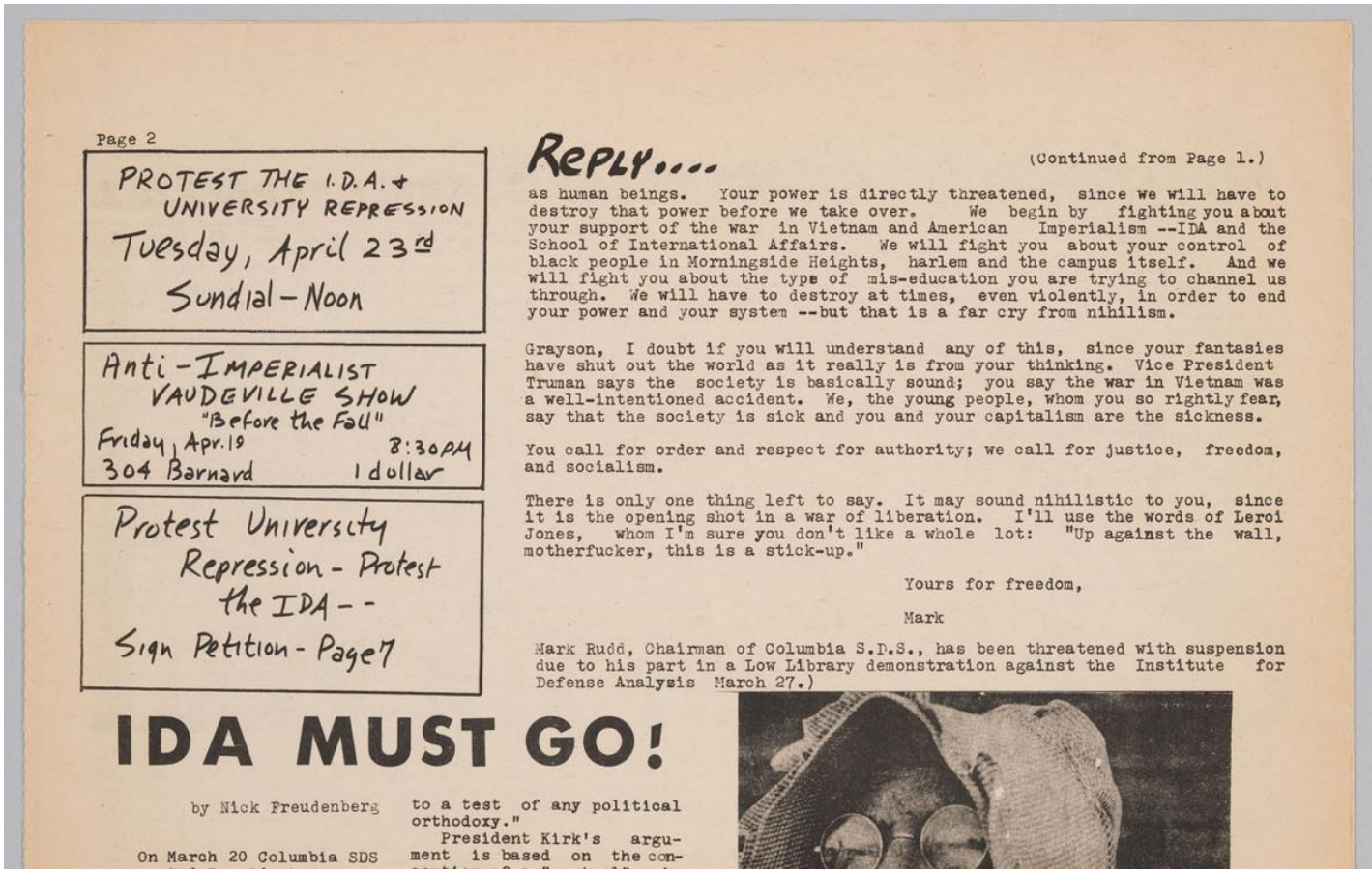
You might want to know what is wrong with this society, since, after all, you live in a very tight self-created dream world. We can point to the war in Vietnam as an example of the unimaginable wars of aggression you are prepared to fight to maintain your control over your empire (now you've been beaten by the Vietnamese, so you call for a tactical retreat). We can point to your using us as cannon fodder to fight your war. We can point out your mansion window to the ghetto below you've helped to create through your racist university expansion policies, through your unfair labor practices, through your city government and your police. We can point to this university, your university, which trains us to be lawyers and engineers, and managers for your IBM, your Scoony Mobil, your IDA, your Con-Edison (or else to be scholars and teachers in more universities like this one). We can point, in short, to our own meaningless studies, our identity crises, and our revulsion with being cogs in your corporate machines as a product of and reaction to a basically sick society.

Your cry of "nihilism" represents your inability to understand our positive values. If you were ever to go into a freshman CC class you would see that we are seeking a rational basis for society. We do have a vision of the way things could be: how the tremendous resources of our economy could be used to eliminate want, how people in other countries could be free from your domination, how a university could produce knowledge for progress, not waste consumption and destruction (IDA), how men could be free to keep what they produce, to enjoy peaceful lives, to create. These are positive values-- but since they mean the destruction of your order, you call them "nihilism." In the movement we are beginning to call this vision "socialism." It is a fine and honorable name, one which implies absolute opposition to your corporate capitalism and your government; it will soon be caught up by other young people who want to exert control over their own lives and their society.

You are quite right in feeling that the situation is "potentially dangerous." For if we win, we will take control of your world, your corporation, your university and attempt to mold a world in which we and other people can live

(Continued on Page 2.)

Mark Rudd's *Reply to Uncle Grayson*, April 22, 1968, pg. 2.[10]



Page 2

PROTEST THE I.D.A. + UNIVERSITY REPRESSION
Tuesday, April 23rd
Sundial – Noon

Anti-IMPERIALIST VAUDEVILLE SHOW
"Before the Fall"
Friday, Apr. 19 8:30PM
304 Barnard 1 dollar

Protest University Repression - Protest the IDA - -
Sign Petition - Page 7

**REPLY....** (Continued from Page 1.)

as human beings. Your power is directly threatened, since we will have to destroy that power before we take over. We begin by fighting you about your support of the war in Vietnam and American Imperialism --IDA and the School of International Affairs. We will fight you about your control of black people in Morningside Heights, harlem and the campus itself. And we will fight you about the type of mis-education you are trying to channel us through. We will have to destroy at times, even violently, in order to end your power and your system --but that is a far cry from nihilism.

Grayson, I doubt if you will understand any of this, since your fantasies have shut out the world as it really is from your thinking. Vice President Truman says the society is basically sound; you say the war in Vietnam was a well-intentioned accident. We, the young people, whom you so rightly fear, say that the society is sick and you and your capitalism are the sickness.

You call for order and respect for authority; we call for justice, freedom, and socialism.

There is only one thing left to say. It may sound nihilistic to you, since it is the opening shot in a war of liberation. I'll use the words of Leroi Jones, whom I'm sure you don't like a whole lot: "Up against the wall, motherfucker, this is a stick-up."

Yours for freedom,

Mark

Mark Rudd, Chairman of Columbia S.D.S., has been threatened with suspension due to his part in a Low Library demonstration against the Institute for Defense Analysis March 27.)

# IDA MUST GO!

by Nick Freudenberg

On March 20 Columbia SDS

to a test of any political orthodoxy."

President Kirk's argument is based on the con-

[10] Mark Rudd, "In Reply to Uncle Grayson," *Up Against the Wall*, in *Columbia University Libraries Online Exhibitions*, accessed May 27, 2015, https://exhibitions.cul.columbia.edu/items/show/5521.

Appendix G

RESIST

Room 210, 166 Fifth Avenue, New York, New York 10010

Dear Friend:

The time has come to resist the war in Vietnam.

"A Call to Resist Illegitimate Authority," constitutes a first step toward the more vigorous response to the war which the time require of us. Those who have signed, including ourselves, have pledged themselves to extend material and moral support to young men who are directly resisting the war. Many of us are further committed to joining those young men in their acts of civil disobedience.

Over 200 persons have already signed the statement. The statement and the names of the signers will be made public at the end of September through a press conference held by a committee of prominent signers and through ads in the *New York Review of Books* and *The New Republic*.

We ask you to join us by signing "A Call to Resist Illegitimate Authority." More than that, we ask you to commit yourself to the fullest possible extent to the tasks of resisting the war and bringing it to a halt.

There is an urgent need for funds to bring assistances to draft resisters and to those in the Armed Forces who refuse to fight in Vietnam. Will you help as generously as you can?

There is an equally urgent need to organize local groups of academics, clergymen, professionals and other adults for the purpose of directly supporting those who resist the draft and the Armed Forces. Are you willing to organize or join such a group in your community?

We can all do something to end this war. And we must.

Sincerely,

Noam Chomsky, William S. Coffin, Jr., Dwight McDonald, and Benjamin Spock

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Clip and send to: RESIST/ Rm. 510/166-5th Ave., NYC 10010

….I wish to sign "A Call to Resist Illegitimate Authority" and am willing to have my endorsement made public.

….I enclose a contribution of $..... to support the work of RESIST. (Please make checks payable to RESIST).

….I am interested in organizing or joining a group in my community to support young men directly resisting the war. (A place below where supporters could write their name, profession and title, address, city, state, and zip code).

[In another piece of paper attached to this handout]:

A Partial List of Signers of "A Call to Resist Authority"

1. An ever group number of young American men are finding that the American war in Vietnam so outrages their deepest moral and religious sense that they cannot contribute to it in any way. We share their moral outrage.
2. We further believe that the war in unconstitutional and illegal. Congress has not declared a war as require by the Constitution, treaties signed by the President and ratified by the Senate have the same force as the Constitution by itself. The Charter of the United Nations is such a treaty. The Charter specifically obligates the Unite States to refrain from forces or the threat of force in international relations. It requires member states to exhaust every peaceful means of settling disputes and to submit disputes which cannot be settled peacefully to the Security Council. The United States has systemically violated all of these Charter provisions for thirteen years.
3. Moreover, this war violated international agreement, treaties and principles of law which the United States Government has solemnly endorsed. The combat role of the United States troops in Vietnam violates the Geneva Accords of 1954 which our government pledged to support but has since subverted. The destruction of rice, crops and livestock; the burning and bulldozing of entire villages consisting exclusively of civilian structures; the interning of civilian non-combatants in concentration camps; the summary executions of civilians in captured villages who could not produce satisfactory evidence of their loyalties or did not wish to be removed to concentration camps; the slaughter of peasants who dared to stand up in their fields and shake their fists at American helicopters;--those are all actions of the kind which the United States and the other victorious powers of World War II declared to be crimes against humanity for which individuals were to be held personally responsible even when acting under the orders of their government and for which Germans were sentenced at Nuremberg to long prison terms and death. The prohibition of such acts as war crimes was incorporated in treaty law by the Geneva Conventions of 1949, ratified by the United States. These are commitments to other countries and to Mankind, and they would claim our allegiance even if Congress should declare war.
4. We also believe it is an unconstitutional denial of religious liberty and equal protection of the laws to withhold draft exemption from men whose religious or profound philosophical beliefs are opposed to what in the Western religious tradition have been long known as unjust wars.
5. Therefore, we believe on all these grounds that every free man has a legal right and a moral duty to exert every effort to end this war, to avoid collusion with it, and to encourage others to do the same. Young men in the Armed Forces or threatened with the draft face the most excruciating choices. For them various forms of resistance risk separation from their families and their country, destruction of their careers, loss of these freedom and loss of their lives. Each must choose the course of resistance dictated by his conscience and circumstances. Among those already in the Armed Forces, some are refusing to

obey specific illegal and immoral orders, some are attempting to educate their fellow servicemen on the murderous and barbarous nature of the war, some are alienating themselves without official leave. Among those not in the Armed Forces some are applying for status as conscientious objectors to American aggression in Vietnam, some are refusing to be inducted. Among both groups some are resisting openly and paying a heavy penalty, some are organizing more resistance within the United States and some have sought sanctuary in other countries.

6. We believe that each of these forms of resistance against illegitimate authority is courageous and justified. Many of us believe that open resistance to the war and the draft is the course of action most likely to strengthen the moral resolve with which all of us can oppose the war and most likely to bring an end to the war.
7. We will continue to lend our support to those who undertake resistance to this war. We will raise funds to organize draft resistance unions, to supply legal defense and bail, to support families and otherwise aid resistance to the war in whatever ways may seem appropriate.
8. We firmly believe that our statement is the sort of speech that under the First Amendment must be free, and that the action we will undertake are as legal as the war resistance of the young men themselves. In any case, we feel that we cannot shrink from fulfilling our responsibilities to the youth whom many of us teach, to the country whose freedom we cherish, and to the ancient traditions of religion and philosophy which we strive to preserve in this generation.
9. We call up all men of good will to join us in their confrontation with immoral authority. Especially we call upon the universities to fulfill their mission of enlightenment and religious organizations to honor their heritage of brotherhood. Now is the time to resist.

For further information contact RESIST, 166-5th Avenue, New York City, 10010 (Telephone number included but not shown in the court transcription document) [11]

[11] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-42-2-50.

## Appendix H

### Civil Disobedience Against the War[12]

To the clergy, the men and women of the professions, the teachers:

A call for conscientious resistance to the war and to the threat of militarism. (This action is independent of any other taking place in Washington in October).*[13]

It is impossible, Thoreau said during the Mexican War, to be associated with 'this American government' without being disgraced. It was a war to which, he said, 'the people would not have consented' at the outset. The time had come, he declared, for honest men to resist.

He speaks for all of us now. We are a dishonored people in the hands of a degraded government. The Executive, with the connivance of the military, now dominates that government. For purposes of war and peace, of life and death, the President is a quasi-dictator, with no mandate from the electorate. In the Tonkin Gulf Resolution (that Senator Fulbright calls one of the most tragic mistakes in our history), the Senate blindly abdicated its constitutional obligation to 'advise and consent' on foreign policy. A cynical Congress cheers the General conducting the most barbaric of wars, when he is brought from Vietnam to counteract the effect of massive demonstrations against the war.

We are an unrepresented people. At the very moment when Americans in very large numbers are awakening and turning against the war, we are bombing within a hair of China. Step by step we have been led to the brink of world war.

We have never consented. We have protested and have had our protests ignored when they were not sneered at by a President who is pure politician, a ruthless manipulator, a man who has steadily and dangerously eroded what remains of the democratic process.

Senator Young of Ohio has condemned what he calls the assumption by military of 'an increasingly larger role in formulating national policy.' The New York Times calls this the 'most alarming' aspect of the Vietnam War. If our representatives in Congress cannot or will not control the military and its overbearing Commander-in-chief, then we must do it ourselves by an act of personal representation.

'Unjust laws exist,' Thoreau exclaimed, 'Shall we be content to obey them…or shall we transgress them at once?'

It is an unjust system of involuntary military servitude that is the key to this unjust war. The new draft law, even more unjust than the old one, is now being resisted by tens

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[12] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-50-2-58.

[13] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-50.

of thousands of young men, many in passive refusal, others in active resistance. Many of these young men have gone underground; thousands of others have left the country; still others have resisted openly by refusing (or pledging to refuse) to serve when called. Those who oppose the war in this way face long jail sentences. They need our support, now—the kind of support that requires courage equivalent to their own. They tell us that the time for protest is behind us—that basic human decency requires resistance to the war. They are right. They are right as the Abolitionists, the Suffragettes, the Civil Rights campaigners were right. As the Nuremberg Tribunal was right.

1. On Monday, October 16, hundreds, perhaps thousands, of young men will meet in cities all over the U.S. to return their draft cards and refuse all further cooperation with the war policy. (These are for the most part men who choose not to accept the safety and special privilege of the new unconditional student deferment granted them by a government fearful that if they were not deferred they would resist the draft in the tens and perhaps hundreds of thousands).*[14] On October 20 some of them will be in Washington with us, as described in the plan of action on page 3.
2. In the same week large numbers of people will support these young men by acts of non-violent civil disobedience at Induction Centers throughout the country, as part of the multi-faceted activity of what has been designated as 'National Stop the Draft Week.' In the San Francisco are on October 17, thousands of citizens—including a great many clergy, professional people and professors—will attempt to interrupt the functioning of the Oakland Induction Center, the only one in Northern California.
3. On Saturday, October 21, National Mobilization (successor to Spring Mobilization which coordinated the massive protests of April 15 in N.Y. and San Francisco) expects to bring many thousands of war protestors and war resisters to Washington. But Washington needs another dimension of anti-war activity: an act of opposition more pointed, more penetrating, created by conscientious core of America's middle class community: the clergy, the people of the professions, the teachers, the artists and writers—an equivalent to what our colleagues on the west coast will be doing at the Oakland Induction Center.

   We are planning an act of direct creative resistance to the war and the draft in Washington on Friday, October 20. The locale of our action will be the Department of Justice. We will gather at the First United Congregational Church of Christ, 10th and G Streets, N.W., Washington (near Pennsylvania Avenue), at 1 p.m. and walk from there to the demonstration which will take place at 3 p.m. We will appear at the Justice Department together with 30 or 40 young men brought by us to Washington to represent the 24 resistance groups from all over the country. There will be present to the Attorney General the draft cards turned in

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[14] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-53-2-54.

locally by these groups on October 18. (Those of us who want to include their own draft cards will be able to do so). We will, in a clear, simple ceremony make concrete our affirmation of support for these young men who are spearhead of direct resistance to the war and all of its machinery. (Our support extends, of course, to all young men who conscientiously object to or resist the war). In this way, we will, on a highly visible national platform, reinforces and focus the significance of their action and declare unconditionally our alliance with them.

The draft law commands that we shall not aid, abet our counsel men to refuse the draft. But as a group of the clergy have recently said, when young men refuse to allow their consciences to be violated by an unjust law and a criminal war, then it is necessary for their elders—their teachers, ministers, friends—to make clear their commitment, in conscience, to aid, abet and counsel them against conscription. Most of us have already done this privately. How publicly we will demonstrate, side by side with these young men, our determination to continue to do so.

We know that one week of activity against induction centers and against the draft system will not end the war. We see this week as a way of involving people; of building a movement that will take away from the government the support and bodies it needs to carry on its military adventures around the world—now and later. We hope that by using traditional American tactics of non-violent civil disobedience against conscription and militarism, we will spur further anti-draft activity and help to build the tidal wave of revulsion that will lead to the withdrawal of our army from Vietnam and an end to the unconstitutional intrusion of the Pentagon into policy-making.

We do not represent any party or group. We are individual American citizens ready to act decisively in support of our convictions and in defense of life everywhere. We ask you to join us.

Mitchell Goodman, Henry Braun, Denise Levertov, Noam Chomsky, William Sloan Coffin, and Dwight MacDonald.

Note: Among the hundreds already committed to this action are Robert Lowell, Norman Mailer, Ashley Montagu, Arthur Waskow, and professors from most of the major colleges and universities in the East.

To join in this project, please check the appropriate items below and return this sheet to Conscientious Resistance. Address: c/o Henry Braun, 451 Wellesley Road, Philadelphia, PA 19119.

1. I intend to participate in the act of non-violent civil disobedience at the Department of Justice on October 20.
2. You may add my name to the public list of signers of the Call for Conscientious Resistance.
3. I wish to be an organizer, that is, I can be called to muster others who will participate in the act of civil disobedience.

4. I am enclosing_____ dollars to help defray operational costs. Make checks payable to Conscientious Resistance and send to Henry Braun, 451 Wellesley Rd., Philadelphia, PA 19119.[15]

[15] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-50-2-58.

Appendix I
Transcript of Activists' Speeches on October 2, 1967
Press Conference, Hilton Hotel, New York City[16]

Dr. Benjamin Spock:

I am opposed to this war, not only because I think it is morally and legally wrong, but because I think it is destroying the good name and the leadership of the United States. Furthermore, I believe that the war is militarily unwinnable.

If we should succeed in bombing Vietnam to rubble we will only find ourselves up against the Chinese. I believe that thousands of American young man are being asked to die to save Lyndon Johnson's face. He must know by now that this war is unwinnable but he does not know how to give up. Therefore, I believe that young men are not only justified but to be thanked if they point this out by refusing to take part in such an outrageous war any longer.[17]

Paul Goodman:

...Constitutional history. The legitimacy of authority is not fixed once for all. It has always been subject to testing by protest and resistance that often have seemed to be illegal and occasionally have become violent, yet which have turned out to represent the general will and the mainstream of future law.

Many of the most welcome and valuable settlers of the country have been resisters, draft dodgers, conscientious objectors, civilly disobedient, revolutionary, including the Pilgrims, the Puritans, the Quakers, the radical German Protestant sects, European revolutions from many countries during the 19th century and the Russian Jews who escaped from the Czar's army.

American history shows a long series of so-called illegal protests that have, in fact, made law and policy. The colonial governors were continually defied. The American Revolution was fought through. Shay's Rebellion was condoned.

The abolitionists, John Brown, and the underground railroad proved to represent the American will. The populist agitation determined the laws which were passed say ten years later by the progressives.

The Suffragettes were right. Prohibition was nullified by popular contempt and other so-called moral legislation is being nullified by disregard today.

The non-violent and violent labor disputes of the teens and the twenties wrote the law of thirties. Protest and civil disobedience helped diminish nuclear fall-out.

Now, to be sure, popular, direct action has sometimes made bad law, as when the Ku Klux Klan nullified Negro emancipation.

Constitutionally, the areas of absolute freedom which are guaranteed by the Bill of Rights, freedom of speech, conscience, petition and assembly and the right to public

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[16] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-77-3-80.

[17] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-77-3-78.

trail, make it always problematic what kind of protest is illegal and what is legitimate, and what, in fact, the evolving law is.

Finally, sovereignty resides in the people. At present, in our opinion, there has been a usurpation of authority by the military industrial, the hidden Government of the CIA and the FBI, the over-capitalized Pentagon and so forth. This is not dissimilar from the laws of control by the Mikado and may equally lead to national disaster.

The President and the Congress have betrayed or ceased to represent the popular will and the electoral machinery of parties is not working. This is analogous to the mockery of the Roman Republic under the first Caesars. Official secrecy, lies and control of the mass media have made it impossible for the general will to articulate and express itself. If the Governor of Michigan was brainwashed, so have been millions of other Americans. Therefore, we much have recourse to demonstrations, apparent civil disobediences and other direct confrontations in order to carry out the democratic process. Hopefully our actions will reestablish American freedom, morality and justice. Otherwise the regime will turn to open Fascism and the young will plunge toward revolution. The thousands….[18]

Reverend William Coffin, Jr.:

You don't want to me to go through the talk about giving sanctuary to young men. (Somebody said yes). What we will do, yes.

Synagogues and churches at their best have always been a sanctuary for conscience. Therefore, if a young man, for instance, should come to me as a clergyman and ask asylum in the church because in conscience he cannot agree to be inducted, it would be up to me at this point to provide him an asylum in the church on the grounds once again the churches and the synagogues are asylum, are sanctuaries for conscience.

How, if there are going to be arrests, then let these arrests be made in the churches and the synagogues, that this country can see that the nation is now engaged in actions which are in violation of individual conscience, and furthermore, if these young men should be arrested in the churches, we who have given them aid and comfort should also be arrested, because if they are guilty of violating a law which violates their conscience, we are no less guilty of violating the same law, for, if you read Section 12 of the National Selective Service. It states very clearly that anybody who knowingly counsels, aid and abets another in refusing induction into the army will be guilty up to $10,000 fine or not more than five years in prison.[19]

Now, once again let it be very clear that the further mockery of American justice is not to be made. Those who are arrested for violating the law which violates their

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[18] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-80-3-81. Prosecutor John Wall cut off the taping of Paul Goodman's speech because he was not a defendant of this case. Furthermore, they focused on showing movies of defendants' speeches, which were Dr. Benjamin Spock, Reverend William Coffin, Jr., and Marcus Raskin. A fourth defendant, Michael Ferber did not participate in this press conference.

[19] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-85-3-86.

conscience, they are arrested, then we, too, must be arrested for aiding and abetting them.[20]

Mitchell Goodman.:

There are several actions in view taking place in different parts of the United States during the week of October 16th to 21st. I want to start first by not repeating what has been said about the war but to just remind you that the people in Vietnam, the people in private American aid missions who a week and a half ago or two weeks ago resigned because they could no longer tolerate the position they were in in Vietnam, I want to remind you that these people were not people of political background. They were not big city radicals or anything of the kind. They were agricultural extension workers from places like Vermont, from small town American, and they—it was they who called this war an overwhelming atrocity, and they have seen it for years at first hand.

They called it an overwhelming atrocity. Atrocity reminds us of something in the Second World War having to do with the Nazis.

Now, as far as our determination to support the young men unconditionally who in conscience must refuse the draft, let me first tell you that many of us—as Bill Coffin has said, there are a great many clergymen involved, there are a great many of us who are writers and teachers.

We have connections with the generations now growing up. We have close connections with them. They do us the honor of talking to us, of consulting with us.

They asked us to counsel them. We have counseled them when they have asked for counseling. We feel that we know them fairly well and I want to say first of all that those of us who feel that we do know them, recognize them as a new kind of American, a kind of American who no longer believes in violence, in brute power as a solution to human social problems, and I'm not just talking about a handful of young Americans, I'm talking about hundreds of thousands and perhaps more than that number.

We've met these people in the classroom and in conference...

Spock…

I certainly am, yes.

Do you have any intention…

Spock: I think that that question was rather firmly settled in Chicago a weekend or two ago. It was decided that that would be a waste of the effort and the money that's opposed to the war in Vietnam by trying to mount a national political campaign.

Mitchell Goodman: Dr. Spock, do you agree with the previous speaker, that you don't want to be arrested?

Spock: I don't want to be arrested but I'll do anything that I'm asked to do to oppose this war, that will help the opposition to the war.

Mitchell Goodman: May I say something?

Coffin: Excuse Me. This is not in my normal course of business. Is it necessary for people to come up to these mikes to talk? It is? Okay.[21]

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[20] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-86.

[21] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-87-3-90.

Paul Goodman:

On April 15th, 175 young fellows burned their draft cards in the Sheep Meadow, New York. Of that number, only one so far has been arrested by the government although the FBI, in fact, through photographs and so forth, has identified a great majority of them. Obviously the government is trying to avoid a moral confrontation on this issue, very wisely, from their point of view.

Question: Mr. Goodman, what action will RESIST take concretely to oppose the action in Vietnam?[22]

Mitchell Goodman:

There are several actions around the country. They are not directly related to the Resist statement, but they are allied to it.

On October 16th, in six or eight cities around the country, the 24 to 30 groups of young men who call themselves the Resistance will be meeting to turn back their draft cards to Federal authorities, along with statements declaring their refusal to have to participate further in the Selective Service System. This they will do as a matter of conscience and they thing of this as an act of civil disobedience.

Secondly, in support of these young men, on October 17th at the Oakland Induction Center, which is the only one in Northern California, a large group now estimated to count in the thousands of people from the professions, from the academic community, from the clergy in California, will attempt by acts of civil disobedience to interrupt the functioning of the Oakland Induction Center. If their means allow it, they intend to continue to action on an indefinite basis at the Oakland Induction Center.

Finally, in Washington on October 20th at the Department of Justice, a large group of us, again consisting of professors, professional people and clergy, will go the Department of Justice in company with representatives of the Resistance groups who will be bringing with them the draft cards and statements turned in to the Federal authorities around the country; that is, they will bring with them facsimiles, which, in a clear, simple ceremony at the Department of Justice, try to make plain to the country and to the government our willingness and our need to support out of our own set conscience the need to support these young men just as far as we possibly can.

The Washington action now includes representatives, professors from just about every important college and university in the East and into the Midwest, and will include, we understand, a minimum of two to three hundred clergymen.

Question: Dr. Spock, have you considered at all encouraging Americans to express their convictions at the polls rather than an outright defiance of the draft?[23]

Dr. Benjamin Spock:

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[22] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-90-3-91.

[23] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-92-3-94.

I think that we've been very active, and I would call your attention to the fact that in the 1964 election I and millions of Americans went to the polls to vote for Lyndon Johnson and the Democratic Party, because Lyndon Johnson very specifically promised that he was against escalation of the war in Vietnam and against letting American boys fight a battle that should be fought by Asian boys. We did that, and Lyndon Johnson and the Democratic Party has betrayed us.

This has not kept us from political action since. We have been engaged in political action. We've been engaged in writing letters, writing telegrams to the president and our representatives. We've engaged in demonstration after demonstration, not only to convince our government how we feel, but to persuade the American people that the Vietnam war is wrong, and we are partly satisfied to realize that now, for the first time this fall, a majority of the American people, according to the polls, are opposed to further escalation and believe in de-escalation or withdrawal.

Question: Is there a danger, sir, that civil disobedience regarding the draft may spread among Americans to other areas of our lives here?[24]

Paul Goodman:

Of course, there is such a danger, but our belief is that there has been a usurpation of legitimacy by the industrial military, the hidden government, the FBI, the CIA, the over-capitalized Pentagon, et cetera.

Therefore, the president is thrown into the position, whether he wills it or not, of the Mikado before Pearl Harbor where the industrial military took over and did what they wanted anyway.

This might be an explanation of what happened after 1964 when the overwhelming mandate was not to escalate in Vietnam and yet, nevertheless, we escalated.

If that's the case, the sovereignty has to retreat in such a critical situation to the people.

We are the people.

Question: Finally, Dr. Spock, may I ask you flat out is your opposition to just the war in Vietnam or to the system of the draft?[25]

Dr. Benjamin Spock:

I myself am opposed both to the war in Vietnam and to the draft. I'm not against all wars. I was very much for our war against Hitler, but I in my resistance to the draft has increased when I realized how easily it can be used by a government that wants to throw its weight around in the rest of the world…(cut off by the court).[26]

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[24] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-94-3-95.

[25] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-95.

[26] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 3-95-3-96.

Appendix J

"A Time to Say No"
Michael Ferber's Sermon on October 16, 1967
Arlington Street Church, Boston, MA[27]

We are gathered in this church today in order to do something very simple: to say No. We have come from many different places and backgrounds and we have many different ideas about ourselves and the world, but we have come here to show that we are united to do one thing: to say No. Each of our acts of returning our draft cards is our personal No; when we put them in a single container and set fire to them from a single candle we express the simple basis of our unity.

But what I wish to speak about now is what goes beyond our saying No, for no matter how loudly we all say it, no matter how loudly we all say it, no matter what ceremony we perform around our saying it, we will not become a community among ourselves nor effective agents for changing our country if a negative is all we share. Albert Camus said that the rebel, who says No, is also one who says Yes, and that when he draws a line beyond which he will refuse to cooperate he is affirming the values on the other side of that line. For us who come here today, what is it that we affirm, what is it to which we can say Yes?

But it would not surprise me if many of the clergymen who are here today feel some of the same contempt for organized religion that our unreligious or anti-religious brothers feel. They know better than we do the long and bloody history of evils committed in the name of religion, the long history of compromise and Erastian subservience to political power, the long history of theological hair-splitting and the burning of heretics, and they feel more deeply than we do the hypocrisy of Sunday (or Saturday) morning. Perhaps the things that made some of us leave the church are the very things that made some of them become ministers, priests, and rabbis, the very things that bring them here today. Many of them will anger their superiors or their congregations by being here but they are here anyway.

There is a great tradition within the church and synagogue which has always struggled against the conservative and worldly forces that have always been in control. It is a radical tradition, a tradition of urgent impulse to go to the root of the religious dimension of human life. This tradition in modern times has tried to recall us to the best ways of living our lives: the way of love and compassion, the way of justice and respect, the way of facing other people as human beings and not as abstract representatives of something alien and evil. It tries to recall us to the reality behind religious ceremony and symbolism, and it will change the ceremony and symbolism when the reality changes.

The radical tradition is still alive: it is present here in this church. Those of us who disregard organized religion, I think, are making a mistake if they also disregard this tradition and its presence today. This tradition is something to which we can say Yes.

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[27] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 4-33-4-42.

There is another disagreement among us, or if not a disagreement then a difference in attitude toward what we are doing today. It is a difference that cuts through the other differences, perhaps because it is a little inside each of us, and it leads to a mistake that we are liable to make no matter how else we agree or differ. In religious terms, it is to dwell too much on the possibility of the Apocalypse; in political terms, it is to dwell too much on the possibility of a Utopian Society. We must not confuse the ceremony and symbolism of today's service with the reality that we are only a few hundred people with very little power. And we must not confuse the change inside each of us, important though that may be, with the change that we have yet to bring about in this country and the world. Neither the Revelation nor the Revolution is at hand, and to base our hopes and plans on them would be a tragic blunder.

Maybe all of us--Leftists or Liberals, Reformers or Revolutionaries, Radical Religionists or Hippies--maybe all of us are apocalyptarians, I don't know. Surely something else besides a cold rational calculation of sociological options has brought us here to this church, And surely we are in this church partly to celebrate the occasion of our noncooperation (and many of us will celebrate in a somewhat different way at parties with friends tonight). But let us not be deceived. The sun will rise tomorrow as it does every day, and when we get out of bed the world will be in pretty much the same mess it is in today. American bombers will continue to drop incendiary bombs on the Vietnamese people and American soldiers will continue to "pacify" their villages. The ghettos will continue to be rotten places to live. Black and Mexican farm workers will continue to get miserable wages. America's schools will continue to cripple the minds and hearts of its pupils. And the American Selective Service System will continue to send young men out to the slaughter.

Today is not the End. Today is the Beginning.

This is the Beginning because, very simply, we have to dig in for the long haul. It is not going to be easy to change this country. To change it is going to mean struggles and anguish day in and day out for years. It will mean incredible efforts at great human cost to gain a few inches of ground. It will mean people dedicating their lives and possibly losing them for a cause we can only partly define and whose outcome we can only guess at. We must say Yes to the long struggle ahead or this service will be a mockery.

We are brought to a third difference among us. Earlier today Nick Egleson spoke out against the kind of resistance whose primary motivation is moralistic and personal rather than political. He is saying that we must make ourselves relevant to the social and political condition of the world and must not just take a moral posture for our own soul's sake, even though that too is a risk.

To some extent this argument depends on terminology rather than fact. Today we have heard our situation described in religious terms, moral terms, political terms, legal terms, and psychological terms. Very few of us are at home in all these different modes of speech, and each of us habitually uses only one of them to talk and think in. But what is happening today should make it clear that that these different modes of speech, all overlap one another and they often all say the same essential things. Albert Camus, who struggled in a more serious Resistance than ours, believed that politics is an extension of morality, that the truly moral man is engaged in politics as a natural outcome of his beliefs.

To return to Nick's concern, the real difference is not between the moral man and the political man, but between the man whose moral thinking leads him to political action and the man whose moral thinking leads him no farther than to his own "sinlessness." It is the difference between the man who is willing to dirty himself in the outside world and the man who wishes to stay "clean" and "pure."

Now this kind of "sinlessness" and "purity" is arrogant pride, and I think we must say No to it. The martyr who offers himself meekly as a lamb to the altar is a fool unless he has fully taken into account the consequences of has sacrifice not only to himself but to the rest of the world. We cannot honor him for his stigmata or his purple hearts unless he has helped the rest of us while he got them.

If we can say Yes to these things, and to the religious tradition that stands with us today, and to the fact that today marks not the End but a Beginning, and to the long hard dirty job ahead of us--if we can say Yes to all this, then let us come forward together to say No to the United States government.

Then let our Yes be the loudest No the government ever heard.

Appendix K

Indictment[28]

68-1-F
50 U.S.C. App. 462 (a))

WILLIAM SLOAN COFFIN, JR.,
MICHEAL FERBER
MITCHELL GOODMAN
MARCUS RASKIN and
BENJAMIN SPOCK

1. From on or about August 1, 1967, and continuously thereafter up to and including the day of the return of this indictment, in the District of Massachusetts, the Southern District of New York, the District of Columbia and elsewhere,

WILLIAM SLOAN COFFIN, JR.
Of New Haven in the District of Connecticut,
MICHAEL FERBER
Of Boston in the District of Massachusetts,
MITCHELL GOODWIN
Of New York in the District of Southern New York
MARCUS RASKIN
Of the District of Columbia, and
BENJAMIN SPOCK
Of New York in the District of Southern New York,

the defendants herein, did unlawfully, willfully and knowingly combine, conspire, confederate, and agree together and with each other, and with diverse other persons, some known and others unknown to the Grand Jury, to commit offenses against the United States, that is,

a. To unlawfully, knowingly and willfully counsel, aid and abet diverse Selective Service registrants to unlawfully, knowingly and willfully neglect, fail, refuse and evade service in the Armed Forces of the United States and all other duties required of registrants under the Military Selective Service Act of 1967 (50 U.S.C. App. 451-471) and

[28] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-22-2-32.

the rules, regulations and directions duly made pursuant to said Act, in violation of 50 U.S.C. App. 462(a);

b. To unlawfully, knowingly, and willfully counsel, aid and abet diverse Selective Service registrants to unlawfully, knowingly and willfully neglect, fail, and refuse to have in their personal possession at all times their registration certificates (SSS Form No. 2), prepared by their local boards, as required by the rules, regulation and directions (32 C.F.R. 1617.1) duly made pursuant to the provisions of the said Military Selective Service Act of 1967, in violation of 50 U.S.C. App. 462(a);

c. To unlawfully, knowingly, and willfully counsel, aid and abet diverse Selective Service registrants to unlawfully, knowingly and willfully neglect, fail, and refuse to have in their personal possession at all times valid notices of classification (SSS Form No. 110), which had been issued to them by their local boards showing them their current classification, as required by the rules, regulations and direction (32 C.F.R. 1623.5) duly made pursuant to the provisions of the said Military Selective Service Act of 1967, in violation of 50 U.S.C. App. 462(a);

d. To unlawfully, willfully, and knowingly hinder and interfere, by any means, with the administration of the Military Selective Service Act of 1967, in violation of 50 U.S.C. App. 462(a);

2. It was a part of said conspiracy that the defendants WILLIAM SLOANE COFFIN, JR., MITCHELL GOODMAN, MARCUS RASKIN, and BENJAMIN SPOCK would sponsor and support a nation-wide program of resistance to the functions and operations of the Selective Service System, which said program would include, but not limited to, the interruption of the induction process at induction centers throughout the United States; the public counseling of Selective Service registrants to resist the draft, to refuse to serve in the Armed Forces of the United States, to surrender their valid Selective Service notices of classification and registration certificates, and aiding and abetting of such registrants in such activities.
3. It was a further part of said conspiracy that on October 16, 1967, the defendants WILLIAM SLOANE COFFIN, JR. and MICHAEL FERBER and other co-conspirators, some known and others unknown to the Grand Jury, would conduct and participate in a public meeting at the Arlington Street Church, Boston, Massachusetts, which said meeting would be attended by Selective Service registrants.
4. It was a further part of said conspiracy that at the aforesaid public meeting on October 16, 1967, the said Selective Service registrants would surrender possession of their valid notices of classification and their registration certificates.
5. It was a further part of the said conspiracy that at the aforesaid public meeting on October 16, 1967, the defendant WILLIAM SLOANE COFFIN, JR. and other co-conspirators, some known and others unknown to the Grand Jury, would accept possession of their aforesaid notices of classification and

registration certificates from the said Selective Service registrants for the purpose of tendering the same to the Attorney General of the United States.

6. It was a part of said conspiracy that the defendants WILLIAM SLOANE COFFIN, JR., MICHAEL FERBER, MITCHELL GOODMAN, MARCUS RASKIN, and BENJAMIN SPOCK would accompany a large number of Selective Service registrants and other individuals to the Building of the United States Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. on October 20, 1967, and participated in a demonstration of resistance against the operation and functions of the Selective Service System.
7. It was a part of said conspiracy that at the aforesaid conspiracy that at the aforesaid demonstrations, valid notices of Selective Service classification and Selective Service registration certificates surrendered and collected at various demonstrations of resistance to the functions and operations of the Selective Service System previously held in various communities throughout the United States, including those surrendered and collected at the aforesaid meeting conducted at the Arlington Street Church in Boston, Massachusetts on October 16, 1967, would be collected by MICHAEL FERBER and other co-conspirators, some known and others unknown to the Grand Jury, and deposited in a common repository.
8. It was a further part of said conspiracy that at the aforesaid demonstration at the United States Department of Justice the defendants WILLIAM SLOANE COFFIN, JR. would address Selective Service registrants and other participating and in attendance at such demonstration, publicly counseling said registrants to continue in their resistance against the draft, to continue to refuse to serve in the Armed Forces of the United States as long as the war in Vietnam continued and pledging himself and other to aid and abet said registrants in all ways possible.
9. It was a further part of said conspiracy that the defendants WILLIAM SLOANE COFFIN, JR., MITCHELL GOODMAN, MARCUS RASKIN, and BENJAMIN SPOCK and other co-conspirators would enter the building of the United States Department of Justice on said October 20, 1967, and would deliver to the Attorney General of the United States the aforesaid repository containing the said notices of classification and registration certificates."

The overt acts are as follows:

"At the time hereinafter mentioned, the defendants committed the following overt acts of said conspiracy and to effect the objects thereof:

1. During the month of August, 1967, the exact date being to the grand jurors unknown, the defendants WILLIAM SLOANE COFFIN, JR. and BENJAMIN SPOCK distributed and caused to be distributed at New York, New York, a statement entitled, 'A Call to Resist Illegitimate Authority.'
2. On October 2, 1967, the defendants WILLIAM SLOANE COFFIN, JR., MITCHELL GOODMAN, MARCUS RASKIN, and BENJAMIN SPOCK held a press conference at the New York Hilton Hotel, Rockefeller Center, New York, New York.

3. On October 16, 1967, the defendant MICHAEL FERBER gave a speech at a meeting at Arlington Street Church, Boston, Massachusetts.
4. On October 16, 1967, the defendant WILLIAM SLOANE COFFIN, JR. gave a speech at a meeting at Arlington Street Church, Boston, Massachusetts.
5. On October 16, 1967, the defendant WILLIAM SLOANE COFFIN, JR. accepted notices of classification and registration certificates from Selective Service registrants at a meeting at the Arlington Street Church, Boston, Massachusetts.
6. On October 20, 1967, the defendant WILLIAM SLOANE COFFIN, JR. spoke at a demonstration of resistance against the operations and functions of the Selective Service System at the United States Department of Justice Building, 10th and Constitution Avenue, N.W., Washington, D.C., publicly counseling Selective Service registrants to continue in resistance against the draft and to continue to refuse to serve in the Armed Forces.
7. On October 20, 1967, the defendant WILLIAM SLOANE COFFIN, JR. entered the United States Department of Justice Building, 10th and Constitution Avenue, N.W. Washington, D.C.
8. On October 20, 1967, the defendant MARCUS RASKIN entered the United States Department of Justice Building, 10th and Constitution Avenue, N.W. Washington, D.C.
9. On October 20, 1967, the defendant BENJAMIN SPOCK entered the United States Department of Justice Building, 10th and Constitution Avenue, N.W. Washington, D.C.
10. On October 20, 1967, the defendant MITCHELL GOODMAN entered the United States Department of Justice Building, 10th and Constitution Avenue, N.W. Washington, D.C.
11. On October 20, 1967, in the Andretta Room, United States Department of Justice, Washington, D.C., the defendant WILLIAM SLOANE COFFIN, JR., MITCHELL GOODMAN, MARCUS RASKIN, and BENJAMIN SPOCK and other co-conspirators abandoned the fabricoid briefcase containing approximately 185 registration certificates and 172 notices of classification, together with other materials.

You can see, members of the jury, that the indictment charges essentially four things, as illustrated in Paragraphs 1(a), (b), (c), and (d).

(a) Charges the defendants with counseling, aiding and abetting Selective Service registrants to refuse and evade service in the Armed Forces, and all other duties required of registrants.

(b) Charges them, again, with counseling, aiding and abetting the registrants to fail and refuse to have in their personal possession at all times their registration certificates, and that is Selective Service System Form No. 2.

(c) As indicated, charges them with counseling, aiding and abetting diverse registrants to fail and refuse to have in their personal possession at all times their valid notices of classification, and that is Selective Service System Form No. 110, and

(d) Charges a conspiracy to hinder and interfere by any means with the administration of the Military Selective Service Act of 1967.

Appendix L

Conscientious Resistance Group's Letter to the Department of Justice
Wellesley, Pennsylvania
Postmarked at New Haven, Connecticut, October 16, 1967
October 7, 1967[29]

To the Attorney General of the United States:

This group, calling itself Conscientious Resistance, is made up exclusively of members of the clergy, the professions and of professors from almost every major college and university in the east and the near mid-west.

We shall present to the Justice Department the draft cards turned in by many hundreds of young people all over the nation on October 16th, along with the statements by them attesting to their refusal to cooperate in any way with the Selective Service System. With us will come representatives of these young men who have formed themselves into groups which they called the Resistance.

Our action on October 20 will constitute the commencement of a formal alliance between us and these young men and will represent our affirmation of the concrete support for them in their conscientious resistance to the draft and to the war in Vietnam. Our intention is to aid, abet, and counsel them to refuse the draft when they have decided to do it otherwise would be a violation of their conscience.

Basing ourselves on the Nuremberg principal, it is our further intention to assist these young men in building a nationwide movement of draft resistance in the colleges and elsewhere as a matter of conscience.

In coming to the Justice Department, we will avail ourselves of the constitutional guarantee of free speech and peaceful assembly and the right to petition.

We wish to request an appointment with you for 3:30 p.m. on October 20, so that a delegation from among us may present these draft cards and statements and discuss with you the illegality of the war and the reasons for this action.

Mitchell Goodman and Denise Levertov

Enclosed: A Call to Conscientious Resistance by Clergy, Faculty and Professional People

P.S. Please send the answer to the Reverend William Sloane Coffin, Jr., 258 Yale Station, New Haven, Connecticut 06520.

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[29] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-61-2-63.

Appendix M

Reverend William Sloane Coffin, Jr.'s Post-Meeting Speech
October 20, 1967
Outside of the Department of Justice Building, Washington, DC [30]

We then told him of our determination to stand solidly with young men who felt in conscience that they could no longer cooperate with the Armed Services as long as the war continues, and then after considerable discussion on the part of all of us, we offered him these cards, 992.

He then refused to accept them, and friends, this, when you stop to think of it, is an incredible thing. Here was an officer of the law facing what was clear evidence of an alleged crime committed against the law of the United States refusing to accept evidence and therefore, in our minds, not upholding his own oath to prosecute the law as he saw it.

To the young men this appeared like a kafka-esque scene. No one to whom they could talk anymore, no doors open, no ears to hear. Clearly if one cannot talk any other way, one can talk with one's body in an action like this, but even then they refused; they were as if they did not exist in the mind of Mr. McDonough.

But I think it's an incredible thing, when you stop to think of it, that one of the highest officers of the law in the United States was really derelict in his duty to accept evidence of an alleged crime, and simply refuse to accept the cards which we put on the table. He also refuse to discuss, in his prepared statement, any of the laws upon which we are prepared to base our case. He made lots of comments about Section 462. He made no comments whatsoever upon the Geneva Agreement that the United States solemnly signed. So this, too, was rather a remarkable thing to hear.

Let me simply sum up my own deep feeling, one which I have had now for some time. We've come here today in as dignified and as solemn a manner as possible for a moral, legal confrontation with the proper agency of our Government. If this Government cannot accept this type of confrontation, then it surely says something about its own convictions that it does not have enough morality on its side to carry through with such a moral confrontation. Furthermore, I want to say very clearly that in my own mind, at least, if the Government refuses to confront us in a solemn, dignified, non-violent fashion, then it must bear the onus for some of the less non-violent, the less non-dignified, the less non-respectable demonstrations which may now begin to occur throughout the country. It is not our verdict. We offered them one kind of confrontation. Now they, by their refusal to accept this confrontation, are inciting another kind of confrontation. Therefore, let the American people judge that it is not we who are avoiding this confrontation, it is the Government. And let the American people judge

[30] Coffin, William Sloane, and United States, District Court, *United States of America v. William Sloane Coffin, Jr., Michael Ferber, Mitchell Goodman, Marcus Raskin and Benjamin Spock*, 2-70-2-73.

who now must be responsible for the less quote responsible demonstrations and actions that may take place throughout the rest of the country.

Appendix N

Military Services during the Escalation of the Vietnam War
Document Submitted by Thomas D. Morris
Asst. Secretary of Defense in Manpower
Manpower Implication of Selective Service hearings, March 20, 1967[31]

During the period of extended Vietnam operations, from June 1965 to the termination of hostilities, it is anticipated that a large proportion of all career members (individuals serving in other than an initial term of service) in Navy and Air Force, and substantially all career members of Army and Marine Corps will serve at least one tour in-country in Vietnam or in off-shore waters. The outlook for members who enter the service in fiscal year 1967 for the first time is summarized below:

a. Army: A proportion of Army's fiscal year 1967 entrants will be inductees with a two-year term of service; for them, no more than a single overseas assignment is feasible. The fact, together with extensive pattern of Army deployments in oversea locations other than Vietnam (in Europe, Korea, etc.) means between 45 and 50 percent of this year's Army entrants, during their initial term of service are likely to serve in Vietnam.
b. Navy: New Navy entrants insofar as practicable, are assigned after entry training directly to fleet units or ships; at the present time the majority perform one or more cruises in waters adjacent to Vietnam during their assignment. For certain types of ships-aircraft carriers, for example—assignees to the Atlantic fleet also have a high probability of a Vietnam cruise. On a service-wide average basis, Navy estimates that approximately 60 percent of its fiscal year 1967 entrants will see Vietnam duty if present levels of activities continue.
c. Marine Corps: Insofar as is practicable, new Marine Corps entrants are assigned after entry training directly to combat units of the fleet Marine Forces; at the present time the large majority are assigned to the Pacific fleet with high probability of Vietnam duty
d. Air Force: The Air Force estimates that between 30 percent and 45 percent of its fiscal year 1967 entrants will see Vietnam service during their initial term of service. As in other Military Services, there is wide variation among various personnel specialties.

[31] United States, Congress, Senate, *Manpower Implications of Selective Service*, 47-48.

## Appendix O

## Definition of Terms

*Deferment*: The difference between deferments and exemptions, according to Michael E. Tigar and Robert J. Zweben, "is sometimes stated as follows: Deferments are temporary, a 'delay in going into service,' while exemption is relatively permanent." Ministers were "exempted," but students were "deferred" for the period of their studies.[32]

*Draft resisters*: Draft registrants and activists who opposed the Selective Service System and its draft policies. Unlike draft dodgers who spent time looking for deferments, draft resisters were in a movement to end the draft system of deferments and "inequitable" draft laws. The draft resisters' groups opened at least one office in each metropolitan city during the period of 1967 to 1969. The movement eventually faded by late 1969, because activists lost interest as the Selective Service System implemented a draft lottery system.[33]

*Exemption*: Registrants who do not have to serve in the military on a permanent basis due to the following reasons: 1) physical and mental disability, 2) age (over 26 for those who do not have deferments, or over 35 for those who do have deferments), 3) fatherhood, or 4) ministerial service.[34]

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[32]Michael E. Tigar and Robert J. Zweben, "Selective Service: Some Certain Problems and Some Tentative Answers," *George Washington Law Review* 37 (1968) 512 n. 21, accessed October 1, 2014, <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5875&context=faculty_scholarship>.

[33] Barrie Thorne, "Resisting the Draft," 13-14.

[34]Wilson, "The Selective Service System," 2128-2129.

*Hershey's Directive*: In November 1967, General Hershey issued his "Hershey's Directive" to local draft boards nationwide, which threatened Vietnam War protesters with loss of their draft deferments and possible immediate induction into the Armed Forces. When the local draft boards found protesters delinquent and reclassified them 1A, the draft boards could send protesters to Vietnam first, ahead of volunteers, according to the "oldest men first" policy.[35]

*Nonviolent disruptive protest*: Any campus incident that involved the following: (a) the occupation of a building or section of a building, (b) the barring of entrance to a building, (c) holding officials captive, (d) the interruption of a school function (e.g., classes, speeches, or meetings), (e) a general class strike or the boycott of classes or a school function.[36]

*Violent Protest*: Any campus incident that involved the following: (a) burning of a building, (b) damage to a building, (c) the destruction of records, files, or papers, (d) a campus march, picketing, or rally that included physical violence, (e) one or more persons killed, or (f) some persons injured.[37]

*War related protests*: The types of protests against the following: (a) U.S. military policy (e.g., Vietnam, Chemical and Biological Warfare (CBW), Anti-Ballistic Missile (ABM), (b) Selective Service policy, (c) ROTC programs, (d) on-campus military or government research, or (e) on-campus recruiting by government or industry.[38]

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[35] Tigar and Zweben, "Selective Service: Some Certain Problems," 516 n. 50, 519, 520 n. 63.

[36] Alan E. Bayer and Alexander W. Astin, "Violence and Disruption on the US Campus, 1968–1969," *Educational Records* 50, no. 4 (Fall 1969) 337-350.

[37] Bayer and Astin, "Violence and Disruption," 339.

[38] Bayer and Astin, "Violence and Disruption," 339-340.

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