David W Fletcher, Spring 2005

DRAFT REGISTRATION AND STUDENT FINANCIAL AID

By law, every male in the United States age eighteen through twenty-five must register with the Selective Service System. Failure to do so may violate the Military Selective Service Act and may put the individual in jeopardy of penalties that include "imprisonment for up to five years or a fine of not more than $10,000, or by both such fine and imprisonment."[1] The law traditionally has specified and even upheld stiff penalties for non-registrants and draft evaders. But societal pressures that favored judicial leniency toward draft violators after the Vietnam War have been counterbalanced by the ongoing need to acquire able-bodied men for all branches of the United States military. Early in 1973, an all-volunteer force concept replaced the selective service method of military recruitment. But the all-volunteer approach failed to provide sufficient numbers of personnel especially from non-minority groups. To remedy the situation, President Jimmy Carter authorized restart of compulsory draft registration in 1980. Carter initially requested mandatory registration of males and females equally, but Congress rejected inclusion of women. This practice has persisted but not without revisions, intended to enforce compliance, and challenges to the law's constitutionality.[2]

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[1] *War and National Defense: Military Selective Service Act, Offences and Penalties*, *U.S. Code*, vol. 50 App., sec. 462 (1948).

[2] See William V. Kennedy, "Draft," and J. Garry Clifford, "The Draft since the 1970s," in *Macmillan Information Now Encyclopedia: U.S. History*, revised edition, ed. Mark C. Carnes (New York: Macmillan Library Reference USA, 1996), 210-211.

Exemption of women from compulsory draft provisions comes from venerable traditions that support exclusion of women from combat operations.[3] The courts have consistently supported this historic distinction based on gender and, most recently, since the restart of selective service provisos for males in 1980.[4] But significant numbers of non-registrants still have slipped through the system's loopholes. This forced Congress to look hard at what could be done to enforce the law. In 1982, Congressman Gerald Solomon from New York introduced legislation that linked draft registration to certain federal benefits such as federal employment,

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[3]See Kingsley R. Browne, "Women at War: An Evolutionary Perspective," *Buffalo Law Review* 49 (Winter 2001): 51-248; Linda K. Kerber, "'A Constitutional Right to be Treated Like . . . Ladies': Women, Civil Obligation, and Military Service," *University of Chicago Law School Roundtable* (1993): 95-129.

[4]See United States v Bertram 477 F.2d 1329 (10th Cir. 1973); United States v Baechler 509 F.2d 13 (4th Cir. 1974); United States v Reiser 532 F.2d 673 (9th Cir. 1976); Rostker v Goldberg 448 U.S. 1306 (1980).

Concerning the *Rostker* case, Emily L. Dowdy concluded, "In its most favorable light, the Court's decision in *Rostker* to uphold gender-based registration may be viewed as a continuation of the traditional policy of affording almost complete deference to Congress in military decisions. At its worst, *Rostker* represents a step backwards from the progress that was being made toward application of a stricter and more uniform standard for evaluating cases involving gender-based discrimination. Certainly, it is apparent from the *Rostker* decision that the Court is yet unwilling to put sex discrimination on an equal footing with race discrimination or to recognize as impermissibly discriminatory any law that 'embodies stereotyped assumptions about sex as the determinant of an individual's social role and disadvantages any person of either sex whose interests, abilities or needs fall outside the prescribed role'." "Constitutional Law–Sex Discrimination–Gender-Based Draft Registration: Rostker v. Goldberg, 453 U.S. 57 (1981)," *Tennessee Law Review* 49 (Winter 1982): 462.

Compare Karen Lazarus Kupetz's assessment of overbreadth as *Rostker's* fatal flaw in constitutional theory, "Equal Benefits, Equal Burdens: 'Skeptical Scrutiny' for Gender Classifications after United States v. Virginia," *Loyola of Los Angeles Law Review* 30 (April 1997): 1373-1377.

Job Training Partnership Act monies, and student financial aid.[5] Ineligibility of non-registrants to acquire "loans, grants, or work assistance" under Title IV of the Higher Education Act (1965) was set to begin the following summer. Another conundrum had been added to higher education's burdensome plethora of legal entanglements.

Early in 1983, Minnesota Public Interest Research Group (MPIRG), a student-oriented, nonprofit organization, filed suit in U.S. District Court in Minneapolis against the Selective Service System and the U.S. Department of Education on behalf of three students–John Doe, Richard Roe, and Paul Poe.[6] MPIRG asked for preliminary injunction to enjoin enforcement of Section 1113 of the Department of Defense Authorization Act (1983) that conditioned receipt of federal student financial aid on draft registration.[7] In response, the defendants moved for judgment that the court regarded as summary judgment, since the defendants argued that the suit failed to be justiciable per plaintiff's lack of standing to sue and failure of suit to pose a "case" or "controversy."[8] The court agreed that MPIRG and the intervening plaintiffs certainly raised a justiciable case or controversy and not a premature, hypothetical, or contingent question. They reasoned, "The issues are ripe for decision, more settled facts are unlikely to become available or

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[5]R. Charles Johnson, *Draft Registration and the Law: A Guidebook*, 2nd ed. (Occidental, California: Nolo Press, 1985), 40.

[6]Minnesota Public Interest Research Group v. Selective Service System 557 F. Supp. 925 (3rd Cir.1983).

[7]See appendix for text of Public Law 97-252, Title XI, par. 1113(b) (8 September 1982).

[8]U.S. Constitution, art. 3.

to prove helpful in assessing the constitutionality of a statute allegedly invalid on its face, and, finally, withholding review creates the risk of irreparable harm to important constitutional rights." But the court denied MPIRG's standing to file suit on behalf of plaintiffs Doe, Roe, and Poe when it applied the three-prong test for representational standing.[9]

The court agreed that MPIRG met the injury in fact test, since it claimed no standing in its own right but only for its injured members. But the court was not convinced that MPIRG established a valid connection between "the interests it seeks to protect" and "its broad public interest purpose." Too, in the court's view, MPIRG had failed to show how involvement of individual members was unnecessary. The court applied the reasoning of the Eighth Circuit Court in a comparable case:

> Their status and interests are too diverse and the possibilities of conflict too obvious to make the association an appropriate vehicle to litigate the claims of its members. . . . Some members are not qualified and others are not willing to work on the project; some stand to benefit from working on the project under the Agreement and still others will be hurt by not being able to do so.[10]

As a result, the court concluded that MPIRG, likewise a diverse group with members who possibly held contrary opinions about "the propriety of linking financial aid to draft registration," could not speak for its members on the matter. Plaintiff MPIRG therefore lacked standing to bring suit against agencies of the United States government.

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[9]Hunt v. Washington State Apple Advertising Commission 432 U.S. 333, 343 (1977).

[10]Associated General Contractors v. Otter Tail Power Co. 611 F.2d 684, 690 (8th Cir. 1979).

Even though the court decided in favor of summary judgment against plaintiff MPIRG, they refused to dismiss the suit of intervening plaintiffs Doe, Roe, and Poe. At their discretion, the justices preserved "an independent basis for the intervenors' jurisdiction." They allowed, on this basis, the suit to continue with respect to the intervening plaintiffs who had both standing and an issue ripe for decision. The court avoided in this way any needless delay and additional costs that would come from renewed legal action.

In March 1983, the court decided in favor of the plaintiffs, to which had been added three more "unnamed" litigants–Bradley Boe, Carl Coe, and Frank Foe.[11] Citing *Rostker v. Goldberg* (1981), the court noted that the suit did not challenge the legality of draft registration's sex discrimination. Nor did it question the constitutionality of any statute that would prohibit students federal financial aid after any conviction for failure to register. The suit strictly looked at the question of linking eligibility for federal financial assistance under Title IV to draft registration. To do so, the court proceeded on the basis of standards previously argued that were necessary for issuance of preliminary injunction: (1) the threat of irreparable harm to the plaintiffs; (2) the question of balance between injury to the plaintiffs and injury to the defendants that such injunction would cause; (3) the probability of plaintiff's success in the case; and (4) whether or not the law if left intact would be in the public interest.[12]

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[11]Doe v. Selective Service System 557 F. Supp. 937 (3rd Cir. 1983).

[12]Dataphase Systems, Inc. v. C. L. Systems, Inc. 640 F.2d 109 (8th Cir. 1981).

Citing the role of post-secondary education to earn a living, enjoy life, and be a good citizen,[13] the court conceded the potential irreparable harm ensuing from plaintiff's lack of access to financial aid. Because Section 1113 made draft registration mandatory and financial aid unavailable to those who did not comply and because the court presumed the Secretary of Education would enforce the statute, the court thought it was "inevitable that plaintiffs will be denied financial assistance and, consequently, the opportunity to pursue their educations." The menace of threatened injury rather than its consummation was enough for the court to provide preventive relief.[14] The plaintiffs also faced self-incrimination contrary to the Constitution's Fifth Amendment. The justices reasoned that, where students were required by university administrators to certify compliance with draft registration when they applied for federal financial aid, students had to give potentially self-incriminating information, or they had to choose not to apply. "The dilemma they face is inevitable. Thus, they have clearly shown that they face the *threat* of irreparable harm."

The court quickly dismissed the rejoinder of the defendants concerning the balance of injury caused by preliminary injunction. They agreed that the government might suffer "some administrative inconvenience and delay," but the potential "threat of irreparable harm to plaintiffs" was much greater. More substantial for the court was the question of probability of

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[13]Dixon v. Alabama State Board of Education 294 F.2d 150, 157 (5th Cir. 1961); cf. Plyler v. Doe 457 U.S. 202 (1982).

[14]For this principle, the court cited Regional Rail Reorganization Act Cases 419 U.S. 102, 143 (1974) (quoting Pennsylvania v. West Virginia 262 U.S. 553, 593 (1923)).

success on the merits of the case. On this issue, the justices debated two questions at length: (1) whether or not Section 1113 constituted a Bill of Attainder; and (2) whether or not Section 1113 violated a citizen's protection from self-incrimination.[15]

The court entered a lengthy discussion to ascertain whether or not the statute in question functioned as a Bill of Attainder–whether it, in fact, determined guilt via legislation, inflicted punishment on a specific individual or group, and circumvented the protections of due process. The court looked at legal precedents as far back as the 1860s. But they paid attention particularly to the Supreme Court's three-part test that validated legislative action as punitive based on: (1) a historical element of previous legislative punishments; (2) a functional element concerned about non-punitive legislative purposes; and (3) a motivational element about congressional intent, i.e., to punish or not to punish.[16]

While the court could not align denial of federal financial aid with any historical punishment, they believed that, on the basis of *Nixon*, they were "not strictly confined to those sanctions that have been deemed punishment in the past." They additionally regarded the means of punishment "less direct" but nevertheless a punitive deprivation, effected by congressional legislation, of plaintiff's means to pursue vocation-qualifying education. The court also appealed to historic legal precedents about punitive legislation directed toward groups felt to be disloyal.[17]

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[15]In violation of U.S. Constitution, art. 1, sec. 9, cl. 3 & amend. 5.

[16]Nixon v. Administrator of General Services 433 U.S. 425 (1977).

[17]Cummings v. Missouri 71 U.S. 277 (1867); United States v. Brown 381 U.S. 437 (1965).

The justices affirmed:

> The group affected–nonregistered students–is a group viewed by some as disloyal, just as those who had aided the confederacy were thought to be disloyal in post-Civil War times and just as Communists were thought to be disloyal in the Cold War era. . . . Considering the importance of the opportunity to seek a college education in these times, deprivation of that opportunity based on past conduct of a group deemed to be disloyal seems to this court to be punishment.

In the functional part of the *Nixon* test, the court argued that Section 1113 "imposes both a restraint and disability, assumes non-registrants possess guilty intent, promotes the aims of retribution and deterrence, applies to behavior that is already a crime, and is too broad in relation to its alternative purposes." In the motivational part of the *Nixon* test, the court quoted several statements from legislators:

> There are some 700,000 young men in this country who have failed to register, and . . . I intend to offer the same amendment until every young man is deprived of Federal assistance unless he has obeyed the law. [Representative Solomon]
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> It is a real travesty when those who will not register can turn around and apply for educational benefits. . . . This [is] an important signal to every American that this Congress will not tolerate any willful, blatant rejection of the responsibilities which come with living in a free nation. [Senator Hayakawa]

Congressman Edgar in reply noted that the provision had a "secondary, and more subtle, objective, which is to punish those individuals who do not register." Representative Goldwater reflected on the excessive nature of the punishment and stated that anyone who did not register "not only stands the chance of going to jail, but he also stands the chance of not receiving financial assistance for education, which is just as harsh a penalty in terms of the boy's future." The court therefore labeled "obvious" the intent of Congress to punish those who did not register.

In summary, the court agreed that the plaintiffs had a probability of success on the merits of their claim that Section 1113 constituted an illegal, unconstitutional Bill of Attainder.

As with the Bill of Attainder question, the court gave lengthy discussion to the issue of self-incrimination. The court again appealed to previous cases that outlined what might be considered a violation of an individual's rights under the Constitution. The Fifth Amendment of the Constitution legislates that no person "shall be compelled in any criminal case to be a witness against himself." The judges realized that, while the constitutional provision for "privilege" applied strictly to criminal cases, its application extended to civil, administrative, judicial, investigatory, or adjudicatory cases under certain circumstances.[18] They agreed with the plaintiffs that Section 1113 placed a penalty on those who asserted the privilege and would not incriminate themselves in regard to draft registration: they became ineligible for Title IV funds. The statute's "scheme of operation" incriminated those who chose to use the privilege, because "any student who provides a false statement of compliance will subject himself to prosecution for perjury."

Contrarily, the defendants argued that the students were not "compelled" to give incriminating information; therefore, their right to privilege was not violated. But the court believed otherwise. They reasoned that "economic consequences are relevant in assessing the presence of compulsion." The privilege could be breached by "substantial economic impact." As noted in an earlier case, "The touchstone of the Fifth Amendment is compulsion, and direct

[18]Murphy v. Waterfront Commission of New York Harbor 378 U.S. 52 (1964); Ullmann v. United States 350 U.S. 422 (1956); Quinn v. United States 349 U.S. 155 (1955).

economic sanctions and imprisonment are not the only penalties capable of forcing the self-incrimination."[19] Since the students had no access to funds for education any other way, the government had compelled self-incrimination with Section 1113. With respect to Section 1113 as a Bill of Attainder and a violation of constitutional prohibition against self-incrimination, the court saw strong probability that the plaintiffs' case would succeed.

Finally, since the court agreed to probable success in the plaintiff's challenge to the statute's constitutionality, they dealt with the question of public interest. "Enforcement of a law likely to be found unconstitutional is not in the public interest," they asserted bluntly. But in its closing remarks, the court wanted to be clear that it did not condone noncompliance with the "valid draft registration law of this nation." Nor did they wish to give any comfort to any who intentionally disobeyed the law. They affirmed, "The issue here before the court turns not on whether the registration law should be enforced, but in what manner." That said, the court ordered a preliminary injunction on the Selective Service System and the United States Department of Education.

After the government appealed, the Supreme Court heard arguments in April 1984 and, early in July, reversed the lower court's decision.[20] The vote was close: five to four in favor of reversing the District Court's judgment. They argued that Section 1113 did not constitute a Bill of Attainder for two reasons. First, it did not single out any identifiable group. The District

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[19]Lefkowitz v. Cunningham 431 U.S. 801 (1977).

[20]Selective Service System v. Minnesota Public Interest Research Group 468 U.S. 841 (1984).

Court had read the statute retrospectively. They erroneously judged that it denied financial aid to non-registrants who constituted an identifiable group based on previous conduct. According to the Supreme Court's judgment, this was not the intent of Congress.[21]

Second, the statute did not inflict punishment within the prescribed meaning of the Bill of Attainder clause in the Constitution. The Court believed that harm inflicted by the government does not automatically become punishment. The sanction, they added, merely denied "a noncontractual governmental benefit" and "imposes none of the burdens historically associated with punishment." The history of legislation indicated that the reasons for congressional passage of the statute were not punitive.[22] On this, the higher court judged:

> The District Court ignored the relevant legislative history. Congress' purpose in enacting [Section 1113] was to encourage registration by those who must register, but have not yet done so. Proponents of the legislation emphasized that those failing to register timely can qualify for aid by registering late. The District Court failed to take account of this legislative purpose. Nor did its construction of [Section 1113] give

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[21]Similarly, Robert D. Jacob calls the District Court's judgment "an unnecessarily strict reading of the Solomon Amendment. . . . The court should have concluded that the statutory language is ambiguous and turned to the Department of Education regulations and the legislative record for guidance as to the congressional purpose." "Doe v. Selective Service System: The Constitutionality of Conditioning Student Financial Assistance on Draft Registration," *Minnesota Law Review* 68 (February 1984): 710.

[22]Contrarily, Jane Welsh argues that the Supreme Court decided to be "result-oriented" and by-passed the complications of the Bill of Attainder clause "to insure the smooth operation of a complex society." She concludes, "The bill of attainder clause should be a constant reminder that the democratic system is equally dependent for its survival on the process by which those results are obtained." "The Bill of Attainder Clause: An Unqualified Guarantee of Process," *Brooklyn Law School* 50 (Fall 1983): 113.

> adequate deference to the views of the Secretary of Education, who had helped to draft the statute.[23]

The Supreme Court likewise believed Section 1113 did not deny non-registrants their Fifth Amendment rights. Any student who has not registered for the draft has not yet been asked to state his date of birth. As a result, the government has neither "refused a request for immunity" nor "threatened a penalty for invoking the privilege."[24] About the issue of compulsion, the higher court suggested, "A person who has not registered clearly is under no compulsion to seek financial aid; if he has not registered, he is simply ineligible for aid. Since a nonregistrant is bound to know that his application for federal aid would be denied, he is in no sense under any 'compulsion' to seek that aid. He has no reason to make any statement to anyone as to whether or not he has registered." They could not agree with the District Court, as argued by the appellees, that students occupied the same position as "potential public contractors."[25]

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[23]Heckler v. Edwards, 465 U.S. 870 (1984); Miller v. Youakim, 440 U.S. 125 (1979).

[24]Jacob notes that the government made the sanction escapable, since it allowed male students to register late and still qualify for federal financial aid. Section 1113 "constituted permissible regulation of present and future conduct rather than impermissible punishment of past action." "Doe v. Selective Service System," 677.

But David P. Restaino observes that without a grant of immunity, the statute violates students' Fifth Amendment rights. He suggests that a "grant of witness immunity" would allow the government to gather such information and, at the same time, protect the individual's constitutional rights. "Conditioning Financial Aid on Draft Registration: A Bill of Attainder and Fifth Amendment Analysis," *Columbia Law Review* 84 (April 1984): 804-806.

[25]Lefkowitz v. Turley, 414 U.S. 70, 83-84 (1973).

Finally, the Supreme Court dismissed as without merit the claim that Section 1113 violated equal protection due to discrimination against less well-to-do non-registrants. They affirmed that the statute denied federal student aid to both wealthy and poor if they failed to register for the draft. Section 1113 was nondiscriminatory, since it treated all non-registrants alike. But the Supreme Court did not take up the matter of sex discrimination, something already seen to be settled in *Rostker v. Goldberg* and not at issue in the case before them.[26]

Since the early 1980s, the Supreme Court has not addressed issues of economic discrimination, due process, and illegal self-incrimination in relation to male draft registration. In the past twenty-five years, the world and America's military involvement in geopolitical confrontations have altered significantly. But the judicial system has perpetuated an outdated judgment. The doctrine of judicial deference to military matters has persisted and has prejudiced the courts away from individual rights. In her discussion of "the volatile relationship between constitutional rights and government benefits," Patricia M. Wald, Chief Judge, U.S. Court of Appeals, District of Columbia Circuit, highlights the recent reversal of the Supreme Court's mid-

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[26]According to Ellen Oberwetter, this is an issue that needs to be revisited. "Rethinking Military Deference: Male-Only Draft Registration and the Intersection of Military Need with Civilian Rights," *Texas Law Review* 78 (November 1999): 173-210. She states, "In spite of the lip service paid to the notion that the military is constrained by the Bill of Rights, the Court will almost never strike down congressional legislation related to military policy. . . . In *Rostker*, the Supreme Court invoked military deference to sustain Congress's disparate treatment of men and women, even though the male-only registration system was not consistent with existing equal protection jurisprudence."

Compare Kupetz, "Equal Benefits, Equal Burdens,"1371-1377. She believes, "If Justice Rehnquist's or Justice Scalia's spin on VMI–that the Court is moving toward a more stringent level of scrutiny–is even remotely accurate, then it is almost certain that given the opportunity the Court will overturn *Rostker*."

twentieth-century shift in favor of individual rights. "The pendulum has swung back once again," she notes. Consequently, she concludes, "The Court has shown renewed reluctance to recognize that denial of a benefit can be tantamount to a penalty for exercising a protected right."[27]

Judge Wald understands right-privilege distinction and the problem of government coercion. She acknowledges the legitimacy of the government's conditioning student loan funds on any "recipient's willingness to certify that he has registered for the draft." But she questions the government's "potential to extinguish, or at least seriously undermine, important constitutional rights through the irresistible powers of the government presence and the government purse." She believes that *Selective Service v. Minnesota Public Interest Research Group*, while little noticed, has "some disturbing implications." She warns, "Grave danger lies in the state's use of its power to grant or withhold public benefits as a means of coercing behavior which the state could not compel directly and which is logically unrelated to the benefit itself."[28]

Because Congress and the federal government could not afford in the early 1980s to prosecute male non-registrants for the draft generally, it apparently chose to pursue and punish

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[27]"Government Benefits: A New Look at an Old Gifthorse," *New York University Law Review* 65 (May 1990): 65ff.

[28]Ibid.

them selectively, that is, through the Department of Education's largesse.[29] This obvious and arbitrary linking of male draft registration to federal student financial aid has strained individual constitutional rights. Wald has suggested that, in such cases, the "standard of review" should be elevated, and the burden of proof rests with the government. She noted:

> I suggest that every constitutional right carries within it an equal protection norm and that any governmental program that limits or conditions benefits when a constitutional right is exercised creates a suspect category that must be justified under a heightened standard of review. The state should have to show that the denial of benefits to people who exercise constitutional rights is substantially related to important purposes of the benefit program itself.[30]

Until a new case reaches the Supreme Court, however, male college students over age eighteen must register for the military draft. They otherwise risk ineligibility for federal student financial aid for their post-secondary education.

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[29]On the problem of selective prosecution of draft non-registrants in the early 1980s, see Peter M. Shane, "Equal Protection, Free Speech, and the Selective Prosecution of Draft Nonregistrants," *Iowa Law Review* 72 (January 1987): 359-390. Compare Welsh, "Bill of Attainder Clause," 108-109.

[30]Wald, "Government Benefits," 65ff.

APPENDIX[31]

SEC. 1113. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) Any person who is required under section 3 to present himself for and submit to registration under such section and fails to do so in accordance with any proclamation issued under such section, or in accordance with any rule or regulation issued under such section, shall be ineligible for any form of assistance or benefit provided under title IV of the Higher Education Act of 1965.

(2) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall file with the institution of higher education which the person intends to attend, or is attending, a statement of compliance with section 3 and regulations issued thereunder.

(3) The Secretary of Education, in agreement with the Director, shall prescribe methods for verifying such statements of compliance filed pursuant to paragraph (2). Such methods may include requiring institutions of higher education to provide a list to the Secretary of Education or to the Director of persons who have submitted such statements of compliance.

(4) The Secretary of Education, in consultation with the Director, shall issue regulations to implement the requirements of this subsection. Such regulations shall provide that any person to whom the Secretary of Education proposes to deny assistance or benefits under title IV for failure to meet the registration requirements of section 3 and regulations issued thereunder shall be given notice of the proposed denial and shall have a suitable period (of not less than thirty days) after such notice to provide the Secretary with information and materials establishing that he has complied with the registration requirement under section 3. Such regulations shall also provide that the Secretary may afford such person an opportunity for a hearing to establish his compliance or for any other purpose."

(b) The amendment made by subsection (a) shall apply to loans, grants, or work assistance under title IV of the Higher Education Act for periods of instruction beginning after June 30, 1983.

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[31] *War and National Defense: Military Selective Service Act, Offences and Penalties*, *U.S. Code*, vol. 50 App., sec. 462.

BIBLIOGRAPHY

Browne, Kingsley R. "Women at War: An Evolutionary Perspective." *Buffalo Law Review* 49 (Winter 2001): 51-248.

Carnes, Mark C., ed. *Macmillan Information Now Encyclopedia: U.S. History*, rev. ed. New York: Macmillan Library Reference USA, 1996.

Doe v. Selective Service System 557 F. Supp. 937 (3rd Cir. 1983).

Dowdy, Emily L. "Constitutional Law–Sex Discrimination–Gender-Based Draft Registration: Rostker v. Goldberg, 453 U.S. 57 (1981)." *Tennessee Law Review* 49 (Winter 1982): 433-462.

Jacob, Robert D. "Doe v. Selective Service System: The Constitutionality of Conditioning Student Financial Assistance on Draft Registration." *Minnesota Law Review* 68 (February 1984): 677-711.

Johnson, R. Charles. *Draft Registration and the Law: A Guidebook*, 2nd ed. Occidental, California: Nolo Press, 1985.

Kerber, Linda K. "'A Constitutional Right to be Treated Like . . . Ladies': Women, Civil Obligation, and Military Service." *University of Chicago Law School Roundtable* (1993): 95-129.

Kupetz, Karen Lazarus. "Equal Benefits, Equal Burdens: 'Skeptical Scrutiny' for Gender Classifications after United States v. Virginia." *Loyola of Los Angeles Law Review* 30 (April 1997): 1333-1378.

Minnesota Public Interest Research Group v. Selective Service System 557 F. Supp. 925 (3rd Cir. 1983).

Oberwetter, Ellen. "Rethinking Military Deference: Male-Only Draft Registration and the Intersection of Military Need with Civilian Rights." *Texas Law Review* 78 (November 1999): 173-210.

Restaino, David P. "Conditioning Financial Aid on Draft Registration: A Bill of Attainder and Fifth Amendment Analysis." *Columbia Law Review* 84 (April 1984): 775-806.

Selective Service System v. Minnesota Public Interest Research Group 468 U.S. 841 (1984).

Shane, Peter M. "Equal Protection, Free Speech, and the Selective Prosecution of Draft Nonregistrants." *Iowa Law Review* 72 (January 1987): 359-390.

Wald, Patricia M. "Government Benefits: A New Look at an Old Gifthorse." *New York University Law Review* 65 (May 1990): 65ff.

Welsh, Jane. "The Bill of Attainder Clause: An Unqualified Guarantee of Process." *Brooklyn Law School* 50 (Fall 1983): 77-113.