S. to the NEWS
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VETERANS' DISCRIMINATION OR PREFERENCE

The veterans of the Vietnam War are a class of Americans who deserve better than they have received from the hands of their fellow citizens. They not only accepted the call of duty to fight a futile war 7,000 miles away from home, but many of them feel they have even been deprived of a pride in their patriotic service and the appreciation of a grateful nation for their sacrifices that might be some compensation for their risk or loss of life or limb.

Vietnam veterans have an unusually high rate of divorce, suicide, and mental problems. Their earnings rate is lower and they suffer from a lack of adequate "GI Bill" college benefits.

Worse than that, as Robert Muller, head of the Council of Vietnam Veterans, said, they "learned very quickly not to talk about it afterwards, because people either considered you a sucker or some kind of psychopath who killed women and children."

To argue that the Vietnam War was the wrong war at the wrong time and the wrong place is essentially irrelevant to the plight of the veterans who answered their "Greetings" from the President with service in the highest tradition of "duty, honor, country." They had no choice as to whether or how to serve, and no voice in the horrible way the war was conducted and prolonged.

Yet Vietnam veterans feel shortchanged because the multimillion-dollar veterans' pension bill passed by Congress this year provides higher benefits to older retired veterans who were never in combat than to disabled Vietnam veterans.

Much as ost veterans want adequate pensions and fringe benefits, especially for disabled veterans, getting a job so they can be self-supporting is vastly more important. Our country has given some kind of job preference to veterans since 1865.

Veterans' preference was reaffirmed in the Civil Service Act of 1883, somewhat expanded in 1919, and greatly expanded and made a permanent feature of federal

employment with the Veterans' Preference Act of 1944. Widespread support for this approach was indicated by the House vote of 375 to 1 and the unanimous Senate vote. Veterans' preference statutes have repeatedly withstood court challenge.

However, two years ago, a federal court in Massachusetts struck down a state law that gave veterans a preference for state civil service jobs. The court said that the law discriminated against women because only two percent of Massachusetts veterans were women.

Last year the Supreme Court ordered the lower court to reconsider its decision in the light of the Washington v. Davis decision which ruled that legislative intent, rather than the result, is the decisive factor in equal protection cases. That decision created considerable confusion in the civil rights field because it was not definitive on the intent requirement, and the "result" test has been so widely used in discrimination cases.

The three federal judges in Massachusetts v. Feeney again found the Massachusetts veterans' preference law unconstitutional. The Supreme Court recently agreed to hear the case, and the decision is expected to produce a clarification of Washington v. Davis.

The Massachusetts veterans' preference statute could be easy for the Supreme Court to uphold because the lower court admitted it ''was not enacted for the purpose of disqualifying women from receiving civil service appointments." On the other hand, it could be easy for the Court to strike down the law (especially if the Court indulges in its sometime practice of second-guessing legislatures) because the Massachusetts law gives an absolute preference to veterans instead of a qualified preference through a bonus point system on examination scores. This latter is the more customary type among the many states and municipalities granting veterans' preference.

The real discrimination was in sending the flower of our nation's youth to fight a no-win war in Vietnam. That discrimination demands the remedial action of a job preference in government employment now.

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