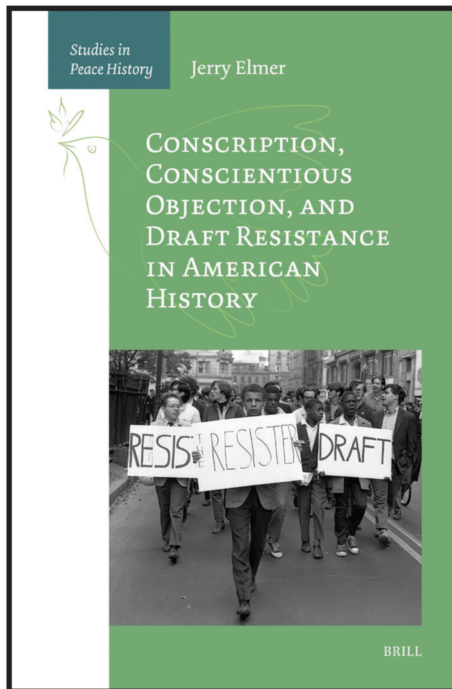
BOOKREVIEWS



CONSCRIPTION, CONSCIENTIOUS OBJECTION, AND DRAFT RESISTANCE IN AMERICAN HISTORY

By Jerry Elmer

Brill, 2024
Pp. xiv, 343. $136

Review by James C. McNaughton

In the century from 1863 to 1973, the United States resorted to conscription four times, each time evoking serious opposition. Until now, we have lacked a comparative analysis of conscription and those Americans who opposed it across time. Jerry Elmer's *Conscription, Conscientious Objection, and Draft Resistance in American History* admirably fills this gap with his new study. He looks closely at the legal and constitutional foundations of conscription and the government's often clumsy struggles with its opponents. This inaugural volume in a new series, "Studies in Peace History," from the academic publisher Brill deserves attention not just by peace historians but by military historians as well, especially those interested in how America filled its military ranks and how it dealt with those who refused to serve.

In each section of the book, Elmer describes the enacting legislation, the legal challenges brought against it, and court rulings. For twentieth-century conflicts, he also draws from the archives of peace and church groups, as well as Federal Bureau of Investigation documents obtained through the Freedom of Information Act. Although the publisher has priced it out of reach of individual readers, this essential work would make a welcome addition to any American military history library.

Elmer comes to this work as a legal historian and peace activist, as he described himself in his previous book, *Felon for Peace: The Memoir of a Vietnam-Era Draft Resister* (Vanderbilt University Press, 2005). During the Vietnam War, he explains, antiwar activists and draft resisters knew little about their ancestors. "My principal thesis," he writes, "is that opposition to conscription in the United States has been far more widespread and active than is generally recognized, even by historians" (4).

American debates over conscription began in the colonial period, when every "free able-bodied white male citizen" was obligated to serve in the militia, as codified in the Militia Acts of 1792, but not all did.[1] In the new republic, some asserted that Congress's power to "raise and support armies" did not include the power to "take children from their parents & parents from their children & compel them to fight the battles of any war, in which the folly or the wickedness of Government may engage it," as Daniel Webster thundered in 1814 (16–17).

During the Civil War, the United States resorted to conscription to fill its ranks. However, the system, administered by the provost marshal general, was deeply flawed. Elmer calculates that "more than 50 percent of the men who were supposed to be enrolled either refused to be enrolled or refused to be drafted" (62). Those who did not want to serve could pay a $300 commutation fee or hire a substitute. The New York draft riots of July 1863 were the best-known example of widespread evasion and resistance throughout the North. Armed mobs murdered enrollment officers and burned draft records. Although the draft prompted thousands to volunteer, Elmer calculates that only 3.67 percent of U.S. Army soldiers were conscripts (62).

The Confederacy, short of White manpower, turned to conscription with even worse results. Especially unpopular was the "Twenty Slave Law" that exempted plantation owners because, according to an earlier historian, "of course agriculture and the lives of families could not be entrusted to slaves unrestrained by overseers" (72). Armed bands of resisters and deserters lurked in swamps and mountains. Elmer sums up conscription in the South as "slow to be organized, chaotic and ineffective when operating, and deeply and widely opposed by the populace" (73).

During World War I, America used conscription more effectively, this time under civilian control with community draft boards. Selective Service (a list of male residents subject to the draft) also was used to channel men into different sectors of the war effort: soldiering for some, agriculture, mining, or industry for others. Unlike in the Civil War, 78.8 percent of the Army was conscripted (62). Yet Elmer cites estimates that as many as 3 million men failed to register

as required, and 11.23 percent of those drafted refused to go (112, 156).

The new laws and regulations made little provision for conscientious objectors (COs), whose treatment "was wildly inconsistent and chaotic" (129). Consequences were severe for resisters. The Espionage and Sedition Acts, which criminalized political speech, targeted historic peace churches, such as the Religious Society of Friends (Quakers) and the Anabaptists (Mennonites), and antiwar groups. COs also faced violence from vigilante groups and endured beatings and torture. Several died of mistreatment in custody.

During World War II, local draft boards once again ordered Selective Service. This time the laws and regulations made more generous accommodations for COs. As many as 50,000 members of the "greatest generation" served as noncombatants and another 12,000 served in Civilian Public Service camps, established by the peace churches in cooperation with Selective Service. However, some COs even objected to this cooperation with the war effort. Courts sent over 6,000 draft resisters to federal prison. Elmer briefly describes the further injustice of African Americans drafted into a Jim Crow Army by all-White draft boards, and Japanese American men drafted from behind the barbed wire of government internment camps.

Congress reauthorized Selective Service in 1948 in time to fight in Korea and maintained a postwar army of over a million soldiers. However, the system faltered when America committed ground troops to South Vietnam. Selective Service faced wide-ranging opposition, from the peace churches to individuals who were opposed to a war they considered morally outrageous. Many African Americans objected to being conscripted to fight what many believed to be a White man's war.

Local draft boards, once considered the bedrock of the system, became a weakness when they applied standards unevenly. A loose network of thousands of draft counselors sprang up to advise young men who chose not to fight. The system for enforcing the draft laws eventually broke down under the sheer number of offenders. "At the height of the war, . . . one-sixth of the prison population was composed of violators of Selective Service law" (325) and the Department of Justice resorted to "highly selective prosecutions" (327). Millions of others found creative ways to evade service with few consequences. Selective Service ended in 1973, only to be revived in 1980 on a stand-by status.

My greatest criticism is that Elmer does not suggest how the United States ought to balance the rights and obligations of citizenship. He meticulously identifies all the reasons why men have objected to, resisted, or simply evaded conscription, but not the circumstances in which conscription might be necessary and legitimate. If, in a future conflict for America's vital interests, voluntary enlistments fall short of requirements, how should the country fill its ranks, while making allowances for conscientious objectors? That is something every military historian ought to consider.

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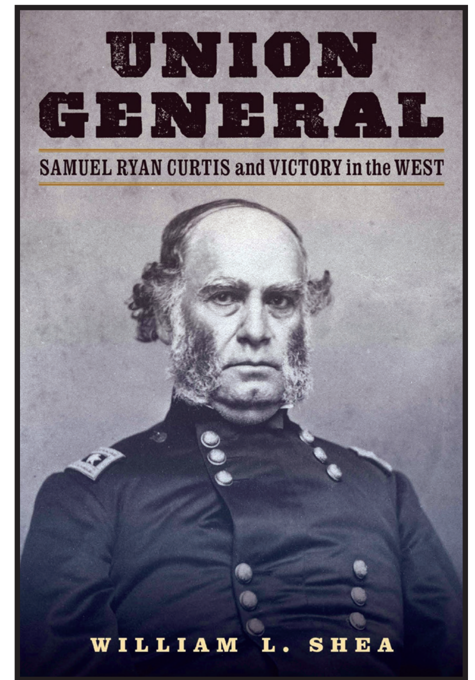
Note

1. "Militia Act of 1792." George Washington's Mount Vernon. https://www.mountvernon.org/education/primary-source-collections/primary-source-collections/article/militia-act-of-1792.



UNION GENERAL: SAMUEL RYAN CURTIS AND VICTORY IN THE WEST

By William L. Shea

Potomac Books, 2023
Pp. xii, 346. $34.95

Review by Michael P. Gabriel

William L. Shea, the coauthor of *Pea Ridge: Civil War Campaign in the West* (University of North Carolina Press, 1997), has directed his considerable talents to writing the first biography of the victor of Pea Ridge, Samuel Ryan Curtis. According to Shea, Curtis undoubtedly was the most important figure in the Trans-Mississippi Theater during the Civil War and arguably one of the conflict's most successful generals. However, he largely is overlooked today. This fine biography goes a long way toward demonstrating Curtis's importance and explaining why he does not hold a larger place in Civil War historiography.

The younger son of an industrious Ohio family, Curtis learned early the value of hard work. He obtained an appointment to West Point, graduated twenty-seventh of thirty-three in 1831, and after a brief stint in the Army, resigned his commission to seek his fortune in business. Shea fully documents Curtis's numerous ventures, most of which involved civil engineering. He was an early proponent of a transcontinental railroad, later served on the commission which