

America's first draft-dodgers

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In July of 1864, seven men were arrested in Walla Walla County and indicted, charged with the crime of Failure to Comply with Enrollment Laws. In each case, the men had refused to give their names, places of residence and ages to the duly-appointed officer of the United States, Edwin Ells, or had interfered with Ells's efforts to enroll the men of Walla Walla. The cases were heard in the 1st Judicial District of the District Court of the United States. What law was being broken, and why?

On March 3, 1863, the Congress of the United States enacted its first ever conscription law. The law, formally entitled "An Act for enrolling and calling out the national Forces, and for other Purposes," was an act of desperation, and was instantly controversial. In the wake of the passage of the law, protests were launched across the cities in the North, the most famous and bloody of them, perhaps, were the New York City Draft Riots (July 13-16, 1863) which may have cost the lives of some 1,200 individuals. Resistance to the idea of conscription was not always so dramatic nor so terribly violent, but it was fairly widespread.

In his final report to the Secretary of War, the Provost Marshal General summarized the government's conscription efforts by noting that there were a total of 777,000 men liable to the draft over the several years the law was in effect. Of those men, 161,244 simply failed to report, 159,000 were granted physical exemptions from conscript service, 156,000 were granted other sorts of exemptions or purchased their way out of service, and only about 46,000 draftees ever served.¹ The 161,000 men who failed to report were, technically, illegal draft evaders and deserters.

Of course, many who failed to report were not intentionally evading the draft. Communication was slow and unreliable and many people were on the move, often not staying at a given address for more than a few months. In addition, many might not have understood the summons, if it had reached them. The law specified that all able-bodied male citizens were liable to the draft, as were all "person of foreign birth who shall have declared an oath their intention to become citizens..."² Since not all residents could read English, it is likely that some who received notice that they were to enroll themselves would have failed to understand the instruction.

There were, however, certainly those who simply chose not to obey. In Walla Walla in 1864, in the third year of America's bloodiest war, Mr. Ells avowed that seven men refused to do what the law obligated them to do. To wit, he reported to the Provost Marshal General that each of the men charged had "there and then willfully, deliberately, purposefully and feloniously, obstruct, hinder and impede the enrollment of the names of persons..." residing in the County.

The reasons for their refusal to obey are not included in the court filings held at the Eastern Regional Branch of the Washington State Archives, but some of the reasons may be deduced. Peter Levine's excellent article on draft resistance notes that the Washington Territory's politics were

¹ "Final Report to the Secretary of War from the Provost Marshal General," Pp165-212 (WA DC 1866)

² "An Act for enrolling and calling out the national Forces, and for other Purposes," Congressional Record. 37th Congress. 3d, Session. Ch.74, 75. 1863. March 3, 1863

decidedly Democratic. All of the territorial governors had been Democrats, and because of the patronage system, so were most of the lower level government officials. Levine's work shows an interesting and persistent correlation between residents who were poor, foreign born, and had Democratic leanings and those who chose to resist the draft.³ Wealthier men could pay three hundred dollars to "commute," their obligation to serve, or could spend money to acquire a doctor's diagnosis of some physical or mental disability. The poor had no such capacity, and many foreign born had no interest in "preserving the Union," and even less in fighting to "free the slaves."

The men were each indicted by a grand jury in court on April 3, 1865, just a month and a half before the end of the war. This researcher has not been able to discover whether the indictments led to trial, and if so what the results of said trial were. One wonders whether the government chose to press the cases beyond the end of the war. The maximum penalty, specified in the law, was two years of imprisonment or a fine of five hundred dollars, or both. At any rate, it is worth noting that conscription would become a feature of the American involvement in the First and Second World Wars, in the Korean and Vietnamese conflicts, and that resistance to conscription was also an important facet in each of those situations.

³ Levine, Peter. *Journal of American History*. Vol. 67, No. 4. (March 1981). Pp 816-834