



**THE
LAND
WARFARE
PAPERS**

No. 61W JANUARY 2007

**The Texas Militia:
National and Local Implications**

Bruce L. Brager

A National Security Affairs Paper
Published on Occasion by

**THE INSTITUTE OF
LAND WARFARE**

ASSOCIATION OF THE
UNITED STATES ARMY
Arlington, Virginia

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AN AUSA INSTITUTE OF LAND WARFARE PAPER

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The Texas Militia: National and Local Implications

by **Bruce L. Brager**

Bruce L. Brager is a writer residing in Northern Virginia, with a particular interest in military history, defense, foreign policy and energy policy. He has published 10 books for the general and young adult markets. Titles include *John Paul Jones: America's Sailor* (Morgan Reynolds, March 2006); *John Kerry: Senator from Massachusetts* (Morgan Reynolds, 2005); *There He Stands: The Story of Stonewall Jackson* (Morgan Reynolds, 2005); *The Iron Curtain: The Cold War in Europe* (Chelsea House, 2004); *The Monitor vs. The Merrimack* (Great Battles Series, Chelsea House, 2003); *The Siege of Petersburg* (Chelsea House, 2003); *The Texas 36th Division: A History* (Eakin Press, 2002); and *The Trial of Adolf Eichmann* (Lucent Books, 1999). His 11th book, about the American Civil War battles of Chancellorsville and the Wilderness, is awaiting publication.

Mr. Brager has also published more than 100 articles and essays on a wide variety of topics. He is currently working on young adult books on the Roanoke and Jamestown colonies and a study of the American Revolution.

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Inquiries regarding this and future Land Warfare Papers should be directed to: Director, ILW Programs, AUSA's Institute of Land Warfare, e-mail sdaugherty@ausa.org or telephone: (direct dial) 703-907-2627 or (toll free) 1-800-336-4570,

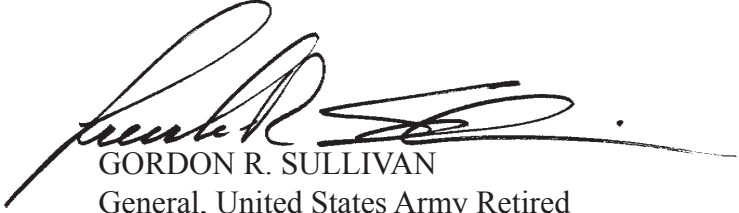
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Foreword

A major element in the ongoing debate over United States military policy and structure is the role of the National Guard. The National Guard, by history and by design, is both a national and a state organization. This has been illustrated vividly in recent years by its role in the war against Saddam Hussein's forces and the subsequent insurgency in Iraq, and in the rescue and recovery efforts after Hurricane Katrina.

This paper uses the Texas militia as a starting point to discuss the history and development of the National Guard—known as the militia until its formal designation as the National Guard in 1903—and to provide background for the current debate.



GORDON R. SULLIVAN
General, United States Army Retired
President

January 2007

The Texas Militia: National and Local Implications

Texans! The troops of other states have their reputations to gain; the sons of the defenders of the Alamo have theirs to maintain! I am assured you will be faithful to the trust!

Jefferson Davis, Confederate President, 1861¹

Introduction

A few months before Confederate President Jefferson Davis dramatically welcomed some Texas soldiers to Richmond, a Texas Militia captain told his company of just sworn-in Texans,

The war we are going into will be only a breakfast spell and we are in an awful hurry to get to the front to have a part in whipping the Yankees. It is a fact that one Southern man can whip ten Yankees.²

No one could accuse the Texans, or most other new recruits of that period, of lacking confidence.

Despite their hurry, Texans had a hard time getting to the front. As was the case in most of the United States, there was little effective militia or full-time military structure to expand to meet wartime needs. The American militia had stumbled along with the rest of the American military system until 1861. The militia, like the regular Army, performed well on some occasions, badly on others. Outside of wartime, militia organizations were social clubs far more than military training organizations. “Muster day, in the period before the Civil War, was primarily a social occasion.”³ It is stating the obvious to say that in the century and a half since, the role of the militia, now the National Guard, has drastically changed.

“Citizen soldier,” the idea that every able-bodied man has the responsibility to defend his homeland and his monarch, goes back to ancient times. The Anglo-American tradition has been traced back to Anglo-Saxon England, well before the Norman invasion of 1066.⁴ As the system evolved, all men, within certain age limits, owed an obligation to serve when needed in defense of the realm. The Normans adopted a similar system, eventually adding the variation of “trained bands”—volunteers and draftees who received better training—a predecessor to the “ready” militia. Even with these variations, the militia was a home service force, never approaching the effectiveness of medieval knights or of a regular army.

Colonial Americans inherited this tradition and structure. Every man within a range of ages was a member of the ordinary militia. The volunteer militia, the first to be called out in case of crisis, is considered an ancestor of the modern National Guard. The closest recent equivalent to the ordinary militia would be the liability of all men to the draft.

One very significant difference emerged between the American and British militia systems. The American militia was not considered a tool *of* the central government, but a means of protection *from* the central government. “‘Democratic’ militia versus ‘tyrannical’ standing army versus emergency volunteers” would be a significant part of the debate over military structure, as common and as vigorous two hundred years ago as today.

Political realities have always interfered with the ability to implement military policy based on purely military needs. Even before there was a United States, during the French and Indian War of 1754–1763, British commanders frequently complained about the alleged, and actual, recalcitrance and lack of cooperation by American political and military leaders in the military aspects of the war. The tide of that war was turned when new British leadership accepted these political realities and gave the local leaders a greater role in planning the war.

George Washington was not happy with the way the American militia performed in the Revolutionary War. Modern historians have both agreed and disagreed. One historian has even offered an interesting analysis of one overlooked role the militia played in the Revolution:

[R]epeatedly it was the militia which met the critical emergency or, in less formal operations, kept control of the country, cut off foragers, captured British agents, intimidated the war-weary and disaffected. . . . While the regular armies marched and fought more or less ineffectually, it was the militia which presented the greatest single impediment to Britain’s only practicable weapon, that of counter-revolution. The militias were often much less than ideal combat troops. . . . But their true military and political significance may have been underrated.⁵

The United States Constitution compromised between centralized operations and quality control and “the more democratic” control of the states. The government compromised by neglecting the regular Army. By 1784, the official complement of the Army was 80 privates and just a few officers.⁶ Growing problems with Indian tribes, along with unsettled issues with the British and the French, led to expansion of the regular Army and the 1792 efforts to regularize the militia—the last such laws until 1903. Both forces were put to the test in the War of 1812, which was settled by treaty rather than by force of arms. Militia troops reached their low point when the Maryland militia fled the field at Bladensburg, allowing the British to enter and burn Washington, D.C. The Tennessee militia, however, played a major role in the overwhelming American victory at New Orleans on 8 January 1815, after the war had formally ended. Little had changed

by 1835, when the militia was supplementing the small regular Army in meeting the limited military needs of the United States.

The militia formally began in Texas almost at the same time as English-speaking settlers arrived. On 18 February 1823, the emperor of newly independent Mexico authorized Stephen Austin, the leader of the first efforts at Anglo settlement of Texas, “to organize the colonists into a body of the national militia, to preserve tranquility.”⁷ Soon after, Austin’s militia unit was authorized, basically, to provide homeland security, to “make war on Indian tribes, who were hostile and molested the settlement.”⁸ Austin’s militia soon battled raiding parties of Karankawa Indians, finally forcing them to cease raiding. According to a study of the Texas militia, however, “Despite this success Austin’s militia remained small and imperfect, relying on mostly small units recruited for the duration of an emergency.”⁹

The Texas militia did little. Frontier defense was handled by volunteer ranging companies, soon called Texas Rangers. (The Rangers’ formal law-enforcement role did not come until after the American Civil War). The 1835–1836 Texas Revolution depended on Sam Houston, the regular Texas Army and informally organized volunteers, most famously at the Alamo. On 6 December 1836, eight months after the War of Independence ended at San Jacinto, the Texas Congress passed a law organizing a militia.¹⁰ However, the Congress refused to appropriate any money to carry out this law.

In 1846, just before the start of the Mexican War, General Zachary Taylor arrived in Texas with regular United States Army troops. Expecting war, Taylor asked the governor for militia troops to supplement his Army. Governor J. P. Henderson replied that the militia was not sufficiently well organized and issued a call for volunteers.

When the Mexican War ended, effectively so did the Texas militia. The regular United States Army took over protection of the frontier. Ranger companies provided a second line of defense. In 1856, the sole remaining formal member of the militia, the adjutant general, was suspended from office. A new militia law was passed on 14 February 1860, at the urging of Governor Sam Houston, who appointed a commanding Adjutant-General, A. B. Norton, and several brigadier generals. Though some units continued to exist, the Texas militia itself was never organized. This likely resulted from a combination of inertia and Houston’s reluctance to help recruit troops that might be used to fight the Federal government.

The military needs of the country, and of Texas, changed drastically in 1861, from repelling foreign invasion to engaging in civil war. The two “national” governments faced similar problems—how to meet massive military needs with portions of the tiny regular Army of about 16,000 men. The enlisted soldiers of the Army, unable to resign at will, remained Federal. Indications are that only 26 enlisted men deserted to go South, though this figure is considered low.¹¹

Able to resign at will, 329 of 1,080 Army officers did so, most of them joining the Confederacy. The figure for the Navy was 287 of 1,457.¹² Both sides could also call on West Point-trained and experienced officers who had left the military. This was the source of many of the best known generals on both sides, including Ulysses S. Grant, William T. Sherman, George B. McClellan and Ambrose Burnside for the North, and Thomas J. Jackson and Daniel H. Hill for the South.

Recruitment of volunteers provided the bulk of manpower for both armies. When the initial excitement wore off and the hard realities of a long war became known, both sides eventually adopted conscription, the first national draft laws in United States history. Such a drastic measure was not feasible in 1861. A historian of the Civil War military command structures summarizes the problems facing both armies:

Both the Union and the Confederacy followed the same procedures in establishing their military commands and recruiting the huge armies they perceived as necessary for attack and defense. Both relied on new volunteer forces, rather than on the ill-trained militia units, to provide the framework for mobilization. Both central governments depended on the individual states to play a crucial part in the creation and mobilization of the mass armies. This was a natural, and indeed an essential, approach in view of the available machinery of government. . . . In their turn the states depended on a good deal of local and individual entrepreneurship. Notwithstanding the military imperative and the issues at stake, politics had much to do with the raising of the armies. This was natural in an era when people took their politics very seriously.¹³

This was also natural in a civil war, that most political of conflicts. State power and influence, even in the far more nationalistic North, made it politically necessary to pay close attention to the wishes of the states. States' rights, the foundation concept for the Confederacy, made things hard for Jefferson Davis and the central Confederate government in Richmond, but this was as real a part of the South's war as any military necessity.

The same was true for Abraham Lincoln and the North. Northern state political leaders were more responsive to the idea that some things had to be done by a central government. Lincoln, however, still had to take state wishes into account when creating Federal policy. The political realities of the Civil War would often be ignored in some later analysis of the conduct of the war. The best known of the post-Civil War military reformers, it was later said, "never understood the necessities under which Lincoln operated, which forced him to appeal to the governors for aid and to give them something in return."¹⁴ Lincoln and Davis could not afford the luxury of ignoring politics.

When the Civil War ended, the United States had a substantial number of trained and experienced soldiers, both Federal and Confederate. Some militia activity continued after the war. In the South, however, this quickly took on an anti-black tone, resulting in

its banning in the 1867 Reconstruction Acts. When Southern militia rights were restored a few years later, it was to fill a law enforcement need, not to function as a reserve for the regular military.

The Federal armies declined drastically in size during the same period. Just over 1,000,000 men (regular and volunteer) were serving in the United States Army in 1866. Just over 57,000 served in 1866, roughly 37,000 in 1869. In 1870, total strength dropped below 30,000, staying below that level until 1898.¹⁵ The declining strength of the Army showed the decline in interest in things military among the general public, and among the Congress. “[T]he former citizen soldiers came back home again to become citizens, and after four years of bitter war, to devote little time to soldiering.”¹⁶

Even the volunteer militia units, the ante-bellum “cream” of the citizen militia, declined. One historian has noted, “In the decade or so after the Civil War, the militia was at its lowest ebb in our history. Only a few Northern states attempted to maintain a militia organization; and during Reconstruction, Southern states could not do so.”¹⁷

Things began to change in 1877. In the South, Reconstruction came to an end as part of the political deal leading to certification of the presidential election of Rutherford B. Hayes. Nationally, a series of railroad strikes began in West Virginia and spread to ten states. “The railroad strike of 1877, and the industrial warfare it induced, was the stimulus that set off the development of the modern National Guard,”¹⁸ another historian states.

In some cases, the militia was not able to handle labor violence, and the regular Army had to be summoned. Use of the regular Army to settle domestic disputes did not sit well with the general American dislike of standing armies. In other cases, such as an incident at Pittsburgh in 1877, the militia (which most states were already starting to call the National Guard) was willing to open fire on demonstrators.

The Texas State Guard

When the Texas legislature met on 26 April 1869, Governor Edmund Davis submitted legislation calling for the formation of a militia—an organized State Guard and a reserve militia—and a state police force. Men between 18 and 45, unless exempted by Federal or state law (including paying a commutation fee) would be members of one of the two forces. Effectively, though, service was voluntary. Two months of intensive debate on Davis’ bill followed, including the arrest of some opponents in the legislature who had fled to break the quorum, and their forced return to the capitol. The act was finally approved and signed on 24 June 1870, technically before militia rights were restored to Texas. By 22 July 1870, the first company was organized. James Davidson, who later fled the state after embezzling \$38,000,¹⁹ was appointed Adjutant General and Chief of State Police.

The act provided that:

In time of war, rebellion, insurrection, invasion, resistance of civil process, breach of the peace or imminent danger thereof, the Governor shall have full power to order into active service the military forces of this state. . . . It shall be the duty of the Governor, and he is hereby authorized, whenever in his opinion the enforcement of the law of this State is obstructed, within any county or counties, by combinations of lawless men too strong for the control of the civil authorities, to declare such county or counties under martial law, and to suspend the laws therein until the Legislature shall convene, and to take such action as may be deemed necessary.²⁰

Thirty-nine companies of State Guard were rapidly enrolled. A state police force was also recruited. A considerable number of members of both organizations were black. This was more a result of circumstances than of planning. One recruiter reported,

In raising volunteers for my command I found only eight or nine white citizens who showed a willingness to offer their services, consequently colored men were selected for the duty. Many hundreds more than were required offered their services.²¹

The militia was supposed to back up local law enforcement and the state police. When law enforcement was “beyond the control of the civil authorities, militia units were placed on a war footing and sent in to enforce gubernatorial declarations of martial law.”²²

December of 1873 saw Davis losing his bid for reelection to the Democratic candidate, Judge Richard Coke, by a considerable margin. Davis tried to have the results thrown out, claiming the legislature had passed an illegal law to govern the election. The Texas Constitution called for elections to be held at county seats, and for the polls to be open four days; these provisions were separated by a semicolon. The March 1873 law—which Davis had signed—changed both provisions. Davis admitted that the legislature could hold elections in each precinct, as the possibility of such a change was specifically allowed. He claimed, however, that the semicolon made it illegal to change the number of days the polls were kept open.²³

On 5 January 1874, the Texas Supreme Court, with judges appointed in 1867 by Major General Philip Sheridan (overall commander of Federal troops occupying Texas), supported Davis’ position—giving legal meaning to what appears to have been a typographical error.²⁴ The court earned itself, and its entire tenure, the nickname “semicolon court,” and a reputation that “no court accepts as authoritative precedents the opinions of the semicolon court.”²⁵

Davis, determined not to yield his office, called out the mostly black units of the militia. They took over the lower floor of the Capitol. The newly elected legislature, and

its militia supporters, controlled the upper floor. On 15 January, after finally getting the election records, Coke was declared the new governor and inaugurated.

On 16 January, after seeing at least some of “his” militia units join the Coke supporters,²⁶ Davis requested help from President Grant in Washington. Grant refused, and Davis gave up his efforts to remain governor.

The Houston Light Guard

Efforts at forming the unit had begun in October 1872, when it became apparent the Democrats would gain a majority in the November elections. The editor of the *Houston Daily Telegraph* played a key role in encouraging participation in the new militia company. Allen Charles Gray, who purchased the paper in late 1873, was the brother of Edwin Fairfax Gray, the key organizer of the company. An 1874 editorial in the *Daily Telegraph* declared:

There are young men enough in the city with ample means and time to go into the military companies and organize a handsome battalion of infantry, and there certainly ought to be enough willing to form one good company, especially as the trouble of obtaining a charter and arms has already been gone through with.²⁷

The company had a charter insuring that the unit would have to approve by vote any attempt by the governor to use it in establishing martial law. At the beginning of the Civil War, Confederate volunteer units had elected their own officers. However, no unit presumed to have veto power over its use by higher commanders.

By 1877, some members of the militia from the Galveston area thought the organization of the militia should expand beyond the company level. They looked into holding a convention, inviting representatives from other units. Adjutant-General William Steele, who favored militia reform, had discussed the convention idea with Texas Governor Oran Roberts. Roberts, however, wanted the convention postponed. He was concerned about its possible effects on the North, presumably not wanting anything to interfere with the ongoing Hayes-Tilden dispute over the results of the presidential election of 1876 and the pending end of Reconstruction.

The convention met anyway, on 12 February 1877, and organized a provisional brigade with two regiments and a battalion. Governor Roberts confirmed its decisions.²⁸ Two years later, the Adjutant-General’s report showed that the militia had expanded to include a third regiment and 22 unattached companies.²⁹ Three of these companies were all black, the others all white. Under the Davis administration, some militia companies had been integrated.

A new militia law was passed in 1879, formalizing the expanded structure. With amendments ten years later, this law would govern the Texas militia until the 1903 Dick Act reorganized the militia on a national level.³⁰ A similar active/reserve structure was

maintained, with the more formal militia now called the Texas Volunteer Guard. Universal military obligation was “rendered meaningless”³¹ by the failure to provide any means of identifying those so obligated. However, procedures were established for forming militia companies and for organizing those companies into regiments and brigades. Company officers were to be elected, with regimental officers appointed by the governor on the recommendation of line officers of the regiment. Brigade and division officers would also be appointed by the governor. Drill and encampment requirements were specified, though political exigencies would cause their alteration over the years. Military offenses were listed, and made enforceable by civilian authorities. Procedures for use of troops in civil disturbances were also specified. Guard uniform laws were still a bit flexible; except at times specifically prohibited, units could adopt different uniforms.³²

The new militia law was printed and distributed in the late summer of 1879, but not until September 1880 had 46 companies taken a new oath of enlistment and reorganized themselves according to the new law. On 6 April 1880, the earliest recognized regimental ancestors of the 36th Division—the 1st and 2nd Regiments of Infantry, Texas Volunteer Guard—were “Constituted . . . and organized from existing companies in southern Texas.”³³ Company A of the First Regiment, Texas Volunteer Guards, was the Houston Light Guard.³⁴

“In a history of the Houston Light Guard, written for publication, one had to decide what good things to reject and what will be of most interest to the readers.”³⁵ The author of the early 1900s brochure from which the quotation comes thought drilling was the only thing of interest to the readers—and the Houston Light Guard was good at drilling. At one time they were actually barred from interstate competition.³⁶ Yet during their early history they would do more to “show the people of the United States that they were of the stuff that soldiers are made; that the martial flames burned so brightly in the sunny Southland that her youths have few lessons to learn in war’s school!”³⁷

National Debate Over Reform

National debate over the militia paralleled the debate within Texas, and much of the national debate was political. John Logan, a Civil War “political general” who turned out to be an excellent commander, was an outspoken critic of West Point and the professional military establishment. In 1887 Logan wrote:

Away off in the wilds of America a soldier had been found totally different from any that ever walked a battlefield. Upon one day he was a citizen, quietly following the plow; upon the next he became a soldier, knowing no fear and carrying a whole destroying battery in his trusted rifle. He was a soldier from conviction to principle, from loyalty to his country, from duty to his family. He moved with the discipline of an educated soldier but he fought with the desperation of a lion at bay.³⁸

The best known military theorist of the later 19th century was Emory Upton, an 1861 graduate of West Point and a Civil War “boy general” with a distinguished and innovative combat record. In 1875, after some work revising a manual on infantry tactics, Upton was sent on a world tour to study the military structure of other nations.

In 1878, after his return from Europe, Upton published *The Armies of Asia and Europe*. Upton recommended that the United States adopt a modified version of the German military system—a general staff, a professional conscript army and a trained reserve system. Upton was particularly impressed by the German army’s apparent freedom from civilian control. The public and Congress, however, were not impressed. America had always won its wars by using a small professional army augmented by mass, state-controlled, civilian volunteers in wartime. With the congressional desire for economy and the public desire to forget about things military, Upton’s recommendations went nowhere.

Americans did not care what other nations’ armies were doing. Upton’s colleagues, therefore, urged him to make his points by writing a history of the United States military experience. Focusing on the Civil War—the major American military experience to that point—Upton started writing what became *The Military Policy of the United States*.

Upton made specific suggestions as to how the Army should be organized in the future. He called for a system based on an expandable “cadre” Army, a structure able to incorporate additional troops into a wartime force. “National volunteers,” based on trained conscript reserves, would provide much of the emergency Army. The militia would be the last line of defense, to be used only in the United States itself.

These, however, were just details; control of the military was the real issue. Upton chose to blame civilian control of the military and the resulting politicization of command appointments for Northern delay in winning the Civil War:

In time of war the civilian as much as the soldier is responsible for defeat and disaster. Battles are not lost alone on the field; they may be lost beneath the Dome of the Capitol, they may be lost in the Cabinet, or they may be lost in the private office of the Secretary of War. Wherever they may be lost, it is the people who suffer and the soldiers who die, with the knowledge and conviction that our military policy is a crime against life, and crime against property, and a crime against liberty.³⁹

In every country save our own, the inability of unprofessional men to command armies would be accepted as a self-evident proposition. . . . The disasters [of the North during the American Civil War] . . . must therefore be credited to the defective laws which allowed the President to dispense with an actual

General in Chief and substitute in his stead a civil officer supported by military advisors, disqualified by their tenure of office and occupations from giving free and enlightened opinions.⁴⁰

Upton's book was incomplete in 1884, when unbearable headaches drove him to suicide. The book was finally published in 1904. Upton's ideas, however, were known within the Army.

Like other prominent American military theorists, Upton was quite impressed with the German command structure. An autonomous general staff was apparently able to rely solely on its professional judgment in using a well-trained mass conscript Army. Upton failed to notice the great degree of effective civilian political control exercised by the highly skilled Chancellor Otto von Bismarck over the German military. During the Franco-Prussian War the generals constantly complained about Bismarck's control.

Upton's expandable "cadre" Army evolved into the system this country used in both world wars. However, Upton's lack of political realism in creating his ideas may have killed any immediate impact they might have had on United States military reform. In the opinion of noted military historian Russell Weigley,

Emory Upton did lasting harm in setting the main current of American military thought not to the task of shaping military institutions that would serve both military and national purposes, but to the futile task of demanding that the national institutions be adjusted to purely military expediency.⁴¹

Whatever the motivation—law enforcement, concern about standing armies or expert lobbying—interest in the militia, and appropriations, began to rise at this time. Labor violence continued periodically into the 1890s, culminating in a strike against the Pullman Sleeping Car Company. The Guard was a major choice for law enforcement efforts—often really just strikebreaking. This led Guard leaders from around the country to seek to reform the Guard, to refocus the Guard on its primary military function, and to formalize its position in the Federal military structure.

Many states began to increase funding for Guard units, enabling these units to improve their quality and frequency of training. Some regular Army technical assistance was sought and received. The bulk of the costs of training, however, was still born by the states and the individuals involved.

A prescient 1897 editorial in *Army and Navy Journal* on possible use of the Guard stated:

If the United States should be involved now with Spain or any other power of consequence, the first move would be to place the regular Army into the field, and immediately afterwards the National Guard would be mobilized for active service. Right here would ensue . . . a confused tangle, made all the more desperate by

the patriotic enthusiasms of delays, bickerings, rivalries and dangerous disputes, all permitted to thrive because a general war organization was not previously laid down.⁴²

Then, on 15 April 1898, the American battleship *Maine* blew up in Havana harbor. Historians now blame an accident or Cuban revolutionaries, but the explosion and loss of life led to a United States declaration of war against Spain ten days later.

At the start of the war with Spain, the United States Army had an authorized strength of just under 28,000—though of relatively good quality. This was proportionally smaller, relative to national population, than the Army of 16,000 officers and men at the start of the Civil War. The year before, at a banquet of the Grand Army of the Republic (Union Civil War veterans) Secretary of War Russell A. Alger had expansively toasted the quality and fighting power of the United States Army. A few days later an editorial in the *New York Times* pointed out that Secretary Alger knew

we could offer no resistance on either coast to a first-class or second-class naval power, and that two army corps could traverse the country as far as their commanders choose to take them without meeting any effectual opposition.⁴³

Fortunately, by this time Spain had deteriorated into a third-class naval power, distracted by the additional need to fight Cuban and Filipino rebels.

The war was fought by regular Army troops and volunteers raised for the purpose. (Actually, President William McKinley issued the call for volunteers two days before war was declared.) Guard units could not be accepted into Federal service, but individual members could volunteer and reform their units in the Federal military. A sizable number volunteered as individuals. Volunteer units ended up with varying records when the treaty of peace with Spain was signed on 10 December 1898. Some participated in putting down the rebellion in the Philippines, following the islands' transfer to United States control.

As it has done in the Civil War and would do again in World Wars I and II, the War Department in 1898 responded to crisis with improvisation, trial, and error, followed by a growing mastery of the circumstances that confronted it.⁴⁴

Two immediate results followed from the war. Casualty figures showed a remarkable pattern: Battle deaths totaled 379, while disease, food poisoning and other causes killed 5,083.⁴⁵ These figures, and the outcry that followed, are credited with inspiring efforts to better guarantee food safety. Further motivated by the construction of the Panama Canal, eventually successful efforts began to eradicate yellow fever. The United States was now a world power and needed to have the military of a world power.

The value of the Texas militia at this time was questionable. Describing the Texas Volunteer Guard just before the start of the Spanish-American War, one historian stated:

[I]t is evident that the Texas Volunteer Guard had now come of age. Given a minimum of state support it revealed widespread soldierly talents which require only proper training and incentive to produce a sound military organization as distinguished from a collection of clubs having merely the outward appearance of some military skills.⁴⁶

Another historian was not so generous: “Put simply the Texas militia from 1835 to 1903 was superfluous to the survival and prosperity of the state and its citizens.”⁴⁷ He probably is ungenerous in slighting the law enforcement role of the militia; however, the record shows that his general conclusion is probably right. San Jacinto was won by regular Texas Army troops and emergency volunteers. The Texas Rangers fought the Comanches and other Indian tribes. Texas participation in the Mexican War comprised Rangers and volunteers. Texas Civil War troops came from the same source as most of the troops the first two years of that war—volunteers.

Texas militiamen saw no formal military action between the end of the Civil War and the start of the Spanish-American War, when Texas militiamen responded to President William McKinley’s 23 April 1898 call for volunteers to fight Spain. Militia members eventually served in all five of the Texas regiments raised for the brief conflict. Only one of these regiments, however—the First Texas Infantry—even left the United States, and they almost did not get overseas. Disputes over the proper role of militia/guard volunteers hindered recruitment. Units from all over the country, not just Texas, questioned their proper place in the Federal military structure and whether they would be able to keep their own state identities.

Three months of occupation duty in Cuba began on 26 December 1898, ending when the regiment returned to Galveston to be mustered out on 25 March 1899. Some of its members had died of disease, including the regiment’s commander, Colonel Woodford H. Mabry. (Camp Mabry in Austin, Texas, still the headquarters for the Texas National Guard, is named after Colonel Mabry.) No Texas regiment, however, saw any combat. The pessimistic historian of the Texas guard, quoted earlier, summarizes, “No Texas militiaman fired a single shot in anger at the Spanish during the entire war and it seemed time has passed the Texas militia by.”⁴⁸

National Military Reform

Secretary of War Russell Alger became an easy target for criticism of the conduct of the military during the Spanish-American War. He resigned in 1899, replaced by Elihu Root. Several years younger than Alger, Root was a successful attorney from New York State; he had no military experience when he took the job but was considered able to administer the new territories acquired as a result of the war with Spain. Root found the War Department to be “a mess. The war had demonstrated its inefficiency and corruption. Its red tape was proverbial. Personal jealousies and spite crippled the efficiency of the personnel.”⁴⁹

Root saw that properly administering the new territories—his specific assignment from President McKinley—required an effective military system. War Department problems during the Spanish American War could not be repeated. The revolt in the Philippines provided the impetus for Root’s first measure, increasing the size of the regular Army. The acts establishing the military force for the war would have caused the Army to shrink back to prewar size. However, Congress had already increased the authorized strength of the military, until July 1901, to 65,000 regulars and 35,000 volunteers.

In his first annual report, Root addressed what he saw as the fundamental problem—American fear of a large standing army. He criticized the practice of solving military problems singly. Root then called for first determining the purpose of the military and then seeing how current structures met this purpose:

Two propositions seem to me fundamental in the consideration of the subject:

First. That the real object of having an army is to provide for war.

Second. That the regular establishment in the United States will probably never be by itself the whole machine with which any war will be fought.⁵⁰

Root pointed out advantages to immediate military reform: the lessons of the war were still fresh, and troops were needed to fight the Philippine rebellion. The size of the Army was increased in 1901 and never again slipped below 60,000.

Root added qualitative changes to the Army and the War Department. He created the post of Army Chief of Staff, abolishing the old command structure with a General-in-Chief. The specific powers, duties and responsibilities of the new position would be worked out over the next twenty years. Root created the Army War College. Partially influenced by Emory Upton, though he had not yet read (or arranged to have published) Upton’s *Military Policy of the United States*, Root included a planning division. His designers hid the planning staff inside the War College to avoid legislators’ fear of permanent, standing armies.

Most significantly, Root saw the need for the United States to have a workable reserve system to back up the regular military. This view was reinforced in 1900, when Colonel William Sanger, Inspector General of the New York National Guard (and later Assistant Secretary of War), returned from a trip to Europe to study the militia systems of Great Britain and Switzerland. Sanger’s report concluded, “We have always been and always shall be largely dependent on our citizen soldiery to fight our battles . . . an effective militia is a force of the greatest value.”⁵¹

Root’s familiarity with Upton’s ideas proved most influential in structural reforms within the regular Army. Root thought volunteers would still have to play a major role in any future conflict; the regular Army would only be a part, and a small part, of the American military in a war. Volunteers would be necessary, and the best way to

obtain qualified volunteers would be to train and support the militia, to have a pool of experienced individuals who could volunteer. The Guard would be the training school for any future emergency volunteer Army. Guard officers would be trained at the War College to better serve in their positions.

What Root was proposing was a system similar to that used during the Spanish-American War, but better organized and with increased professionalism of both the regular Army and the Guard-based pool of volunteers. “In the event of war, it would be the Guard to which the War Department would turn to take care of the Volunteer Army, to train it, and make it into an effective force.”⁵² Root did not seem to be calling for the National Guard, in that form, to play a major role in the wartime Army. However, the Guard would be valuable. As Root stated:

National Guard organizations are the great school of the volunteer to which the country must look, in order that its young men, when they go out to fight the battles of their country, shall find officers competent to lead them, to organize them, to transport them, to equip them, to feed them, to keep them in health, and lead them against the enemy.⁵³

Root proposed efforts to bring the Guard up to Federal standards. Full Federal control, as Upton desired, was not politically feasible.

The actual Militia Act of 1903—the Dick Act—was a joint effort of the War Department and the National Guard Association (NGA). Congressman Charles Dick, the chief sponsor of the legislation, apparently worked with the War Department during its initial drafting by the NGA. Despite Dick’s hedging, the opinion of at least one historian (and retired National Guard general) is that Dick’s committee had a War Department draft among the papers, drafts and suggestions it was considering.⁵⁴

The association convention approved a draft bill, which was introduced in the House of Representatives on 23 January 1902. The House and Senate made further changes. “An Act to promote the efficiency of the militia and for other purposes”⁵⁵ was signed into law on 21 January 1903. The organized militia, now called the National Guard, was a formally recognized part of the United States military. Procedures existed for calling it into Federal service, for giving militia members equal treatment with regular Army troops, and for training the National Guard to Federal standards. Officers would have access to the same military education given regular officers. Federal financing would pay for training, and cost of the Guard in Federal service. Important changes in 1908 would eliminate a nine-month limitation in service, allow the Guard to be used outside the country, and specify that it was to be called into service before any volunteer forces.

On 1 July 1903, provisions of the Dick Act were adopted by the Texas State Legislature for the Texas National Guard. Legislation in 1916 further refined the 1903 and 1908 Acts.

Conclusions and Implications

The National Guard—in the United States Constitution, by legislation and by tradition—has always had both state and federal roles to play. In the past few years, this has been shown vividly by news stories about the Guard in Iraq, Afghanistan, New Orleans, the United States border with Mexico and the streets of New York City. In the response to the 11 September 2001 terrorist attacks on the U.S. homeland, as well as in other homeland security roles, the Guard even went back to the first role of the militia—defense of the homes of the militiamen.

The debate over precise balance in the American military has been with us from the beginning. In the past, as discussed in this paper, we debated the balance among regulars, militia, emergency volunteers and draftees. How best could we serve the needs of economy, adapt to the political tradition of opposition to a large standing army, and still be able to raise a large force, on as short notice as possible, if war came? Opposition to a large standing army as a threat to democracy is a long-settled issue, but political debates over the use of the military remain. The draft no longer exists. Modern war is likely to be “come as you are,” not offering time for expanding the military to meet an emergency.

Issues frequently remain the same, while details change. The political reality of having to draw troops from different sources—regular, National Guard and Reserve—is likely to be with us for the foreseeable future. The question of how best to use these troops will remain. The need for future defense planners to adapt to circumstances, not all of them military, will not change. Both the need to plan for a future that can never be fully predictable and the need to have a military able to meet expected and unexpected realities and challenges existed in the 19th century when the Texas Militia was established, and those issues are still with us in the 21st century.

Endnotes

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- ² Excerpt of the speech of Captain William K. Martin on the mustering of his company (Henderson Guards, later Company K, 4th Texas Infantry Regiment), May 1861, Fincastle Texas, quoted in J. J. Faulk, *History of Henderson Country, Texas* (Athens, Tex.: Athens Review Publishing Company, 1929), p. 129.
- ³ Louis Cantor, *The Creation of the Modern National Guard: The Dick Militia Act of 1903*, unpublished PhD dissertation, Duke University, Graduate School of Arts and Sciences, 1963, p. 44.
- ⁴ Allan Robert Purcell, *The History of the Texas Militia, 1835–1903*, unpublished PhD dissertation, The University of Texas at Austin, 1981, pp. 1–2.
- ⁵ Walter Millis, *Arms and Men: A Study in American Military History* (New York: Putnam, 1956), pp. 34–35.

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- ¹⁹ Christian G. Nelson, “Rebirth, Growth and Expansion of the Texas Militia, 1868–1898,” *Texas Military History*, vol. 2, no. 1, February 1962, p. 5.
- ²⁰ Hans Peter Nielson Gammel (editor), *The Laws of Texas 1882-1897*, vol. VI (Austin: H. P. N. Gammel, 1898), p. 190.
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- ²² Singletary, “The Texas Militia During Reconstruction,” pp. 23–35, quote from p. 28.
- ²³ *Ibid.*, pp. 32–33.
- ²⁴ George E. Shelley, “The Semicolon Court of Texas,” *Southwestern Historical Quarterly*, XLVIII, pp. 449–468, specific discussion of incident on pp. 463–466.
- ²⁵ *Ibid.*, p. 468.
- ²⁶ *Austin Daily Democratic Statesman*, 16 January 1874.
- ²⁷ *Houston Daily Telegraph*, 1 October 1874.
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