

The Militia Acts of 1792

Setting the Foundation of the Civil War Armies

"In time of actual war, great discretionary powers are constantly given to the Executive Magistrate. Constant apprehension of War has the same tendency to render the head too large for the body. A standing military force with an overgrown Executive will not long be safe companions to liberty. The means of defence agst. foreign danger have been always the instruments of tyranny at home... Throughout all Europe, the armies kept up under the pretext of defending, have enslaved the people."
James Madison, speech before Constitutional Convention, June 29, 1787

Our nation was born in dangerous times: Britain remained adversarial (with its command of the oceans and control of Canada and various islands in the Caribbean, and the War of 1812 was just over the horizon); Spain was to our south and west, nominally friendly, but restive and decrepit; and our own



The Concord Minute Man of 1775

expansionary urges were pushing us against hostile American Indian tribes all along our western and southern frontiers. Surely a large, standing, professionally led army would make sense to meet these myriad threats, yet that's not the direction we took. We instead decided to rely on a state-based militia for national defense with a small national military that provided for coastal defense and, in effect, a frontier constabulary. Why? And what impact did that policy have with regard to the Civil War?

The Continental Congress based its ideas for military depth via militia on traditional English laws and customs.¹ Under English Common Law, all able-bodied males over 15 years of age could be called. Following the destruction of the feudal armies during the Wars of the Roses (1455-1487), the Militia had been the only military force remaining in England. This Militia system carried over into the Colonies.² Opposition to a professional full time army can be traced to the English Civil War from which Cromwell and his New Model Army emerged as the prototype of a "standing army." Parliament did not secure control of this "standing army" until the passage of the Mutiny Act of 1697, a development too recent to establish a precedent in English views.

The Colonies made military training compulsory, typically extending to all males from 16 to 60, with certain exceptions such as justices, sheriffs, ministers, constables, physicians, schoolmasters, ship masters, notaries, and similar public servants. The employment of *Negroes* in the armed forces was a matter for considerable thought and concern in most of the Colonies. Many, at first, were disposed to include them among those compelled by law to bear arms for defense, but very quickly disquietude arose concerning possible dangers from slaves bearing arms. The laws were accordingly changed to exclude slaves from military service; to justify this action it was remembered and pointed out that service in the traditional English Militia had been the compulsory prerogative of freemen only. Thus, the exclusion of slaves from bearing arms was in the accepted legal tradition.³

Militiamen reported in with their own arms, clothes, and provisions. If field service were to last longer than a few days, the colony typically would appoint one or more commissaries to purchase set amounts of specific food items. Rations were easily secured locally and involved little or no prior planning. Regimental quartermasters existed in colonial regiments, but their mission never went beyond distribution of supplies within their units.

Popular election of militia officers also dates back to the Colonies. A system inherited from the English Militia, militiamen selected company-grade officers whose commissions were then issued by the governor. Company officers similarly elected the field grade officers (i.e., the level between company grade and general officers). This was an age when strangers typically were mistrusted, so the judgment of the community was relied upon. An officer sent to command a local company to which he was unknown would have been rejected by the ranks, likely with no small amount of "ceremony" involved. General officers were appointed by the royal governors, generally on the advice of the colonial assemblies.⁴

After independence, controversy reigned over whether a standing Army was necessary for protecting economic freedom and projecting power, and whether professional soldiers were more capable than militia amateurs (views generally held by those that became known as the Federalists), versus the view (among the Anti-Federalists) that a standing army would only give more power to the central government and reduce the authority of the states.⁵ The latter view associated "professional soldiers more with King George's redcoats than with Washington's Continentals."⁶ They also succumbed to the (not unreasonable) popular belief that the militia had won the war.

The Continental Congress in 1784 held that ". . . standing armies in time of peace are inconsistent with the principles of republican governments, dangerous to the liberties of a free people, and generally converted into destructive engines for establishing despotism." It rejected George Washington's proposal for a peacetime standing army supported by a nationally uniform militia with universal conscription, and discharged all of the Continental Army except for a remnant of some 80 men and a few officers.⁷ As an alternative to a national army, *the states retained full control over their respective militias.*

Although Congress virtually disbanded the Continental Army, policing the frontier required a national force of some kind. The Continental Congress had authorized in 1784 a small frontier constabulary to be raised voluntarily from the state militias for one year. When the original enlistments expired in 1785, Congress converted this small force into a semi-standing army of regulars by authorizing new three-year recruits without any direct reference to state militias. In 1786, in reaction to Shay's Rebellion in western Massachusetts, Congress voted to enlarge this frontier army from 700 to 2,000 men. Recruitment failed to produce many additional soldiers, but this was the start of a slow, fitful, yet inexorable expansion of a national standing military force. The federal-state tug of war for control of the nation's defense forces was underway.

Who ultimately prevailed? Both sides did, but Anti-Federalists more so. Federalists such as General Washington desired a national military strong enough to rival those of the European states and to quell domestic disturbances. They succeeded in putting their military ideas into the new Constitution. “Though the point has not often been noticed,” Walter Millis wrote in his classic study of US military policy, “the Constitution was as much a military as a political and economic charter.”⁸ It granted the central government unequivocal authority both to create a standing national military and to nationalize state militias. Article 1, Section 8, provided Congress (not the President) with the power “To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years”, and “To provide and maintain a Navy”. (Keep in mind that Senators at this point were still selected by the legislatures of the various states, i.e., another source of direct influence by the states.) It went on to give Congress authority over the militia in what has come to be known as the Militia Clause: “[Congress shall have the power...] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; to provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.” This moved overall control of the militia from the States to Congress, although the degree of that control was often disputed by State governments.

To sum up: Congress (the central government) could raise armies and call out the militia for national defense in certain circumstances and had overall control of the militia, but federal policy still favored a *small* standing army and a militia system whose organization, training and leadership during peacetime was reserved in large part (i.e., decentralized) to the various states. Moreover, since the Constitution permitted *Congress* to call forth the militia, it was understood the President could *not* do so on his own authority absent statutory provision. That authority would be provided by the Militia Acts of 1792.

(In the process of ratifying the new Constitution, the Bill of Rights was added, Amendment II of which added the most often-cited phrase associated with the militia: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” And yet, the militia were already susceptible to control from the Federal government as outlined in Article I, although this was often disputed by State governments. What this means in regard to *individual* rights to keep and bear arms is a highly contentious issue that carries down to today but plays no role in this discussion. For our purposes here, this reinforced the idea that militia service was required of all, and the militia came to be known as the *common* militia. More about this shortly.)

President Washington used trouble with various American Indian tribes in the Northwest Territory to justify a national army projected to number nearly 4,000 regulars by 1795. Congress, however, hesitated to authorize a force of this size and actual recruiting lagged behind authorizations. Congress, therefore, delegated to the President the emergency power to call out the state militias for frontier defense. Consequently, the national government, when preparing its first American Indian campaign under General Josiah Harmar in 1790, supplemented the regulars with 1,500 militia from Kentucky and Pennsylvania—most of them raised by state militia drafts. Both Harmar’s expedition (three-fourths

militia) and the subsequent mixed expedition under General Arthur St. Clair, went down to ignominious defeat at the hands of the American Indian tribes.

Following the disaster that was St. Clair's Defeat (also known as the Battle of the Wabash) in the Ohio Valley on November 4, 1791, there was a widespread fear that the Western Confederacy of American Indians would exploit their victory during the recess of Congress. St. Clair's defeat was blamed in part on the poor organization and equipment of his army.

In response, Congress passed the Militia Acts of 1792. These were a pair of statutes that authorized the President to call up the militia but provided for their *organization by their respective States*. Militia were still considered the de-facto defense force for the nation, but were *governed by State laws*, most of which did not allow service either outside the State or outside the nation.

The first Act (sometimes referred to as the Calling Forth Act), passed May 2, 1792, and authorized the *President* to call out the militias of the several states, "whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or [American] Indian tribe". The law also authorized the President to call the militias into Federal service "whenever the laws of the United States shall be opposed or the execution thereof obstructed, in any state, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act". This provision likely harkened from uprisings such as Shay's Rebellion back in 1786-87. Call-ups were made by placing levies on states. These levies, in turn, were filled by the states through a combination of volunteers and, if necessary, drafts, all drawn from what was to become known as the *common militia*.

The second Act, passed May 8, 1792, provided for the organization of the state militias. It conscripted every "free able-bodied white male citizen" between the ages of 18 and 45 into a local militia company. (This was later expanded to all males, regardless of race, between the ages of 18 and 54 in 1862.) Militia members, encompassing "every citizen, so enrolled and notified", "...shall within six months thereafter, provide himself..." with a musket, bayonet and belt, two spare flints, a cartridge box with 24 bullets, and a knapsack. Men owning rifles were required to provide a powder horn, ¼ pound of gunpowder, 20 rifle balls, a shooting pouch, and a knapsack." (You can see the connection with the 2nd Amendment.) Some occupations were exempt, such as congressmen, stagecoach drivers, and ferryboatmen.



Petersburg Grays
1828

Nucleus for
12th Virginia Volunteer Infantry Regiment
May 1861

The militias were divided into "divisions, brigades, regiments, battalions, and companies" *as the state legislatures would direct*. The provisions of the first Act governing the calling up of the militia by the President in case of invasion or obstruction to law

enforcement were continued in the second act. Court martial proceedings were authorized by the statute against militia members who disobeyed orders.

The Militia Acts of 1792 provided their authority for only two years, i.e., until 1794. (Something of a trial run, perhaps.) The authority to call forth the militia was first invoked by George Washington to put down the Whiskey Rebellion in Western Pennsylvania in 1794, just before the 1792 laws expired. Congress quickly passed the Militia Act of 1795 (on February 28), which provided much the same authorities as the 1792 Acts and then some and withdrew the two-year sunset provision.⁹

These laws set the foundation for the organization of the nation's defense for the next 100 years. During this time, however, there was a slow but steady shift of control of the militias from the states to the federal government as evidenced by executive statements, legislation, and Supreme Court decisions, and all the debates and discussion attendant thereto. It also had an interesting effect – perhaps “backdrop” is a better word – on the secession movement, as we’ll touch on later.

Prior to the Civil War, US wars emphasized mobilizing military forces with little need for expanded economic production or thorough engagement of the population. The War of 1812 validated the notion that minimal peacetime preparedness, coupled with a “call to the colors” in time of emergency, was adequate for defense of the nation. The very small standing Army would be expanded for war by use of militia forces and volunteers the infrastructure of shipyards, arsenals, and coastal fortifications provided the backbone of defensive measures and some semblance of preparedness; and the small Navy would protect shipping and “show the flag.”¹⁰

The most significant obstacle to mobilization for the War of 1812 arose from the deep divisions between the Federalists and Republicans. The Federalists, concentrated in New England (the richest section of



Louisville Legion
January 1839

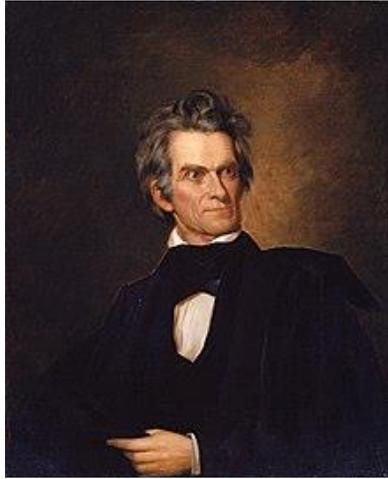
***1st Regiment Kentucky Volunteer
Infantry (USA)***
September 1861

the country), were opposed to the war and refused to support it financially or call up their militias for federal service. As J. P. Clark observed, “...the regular army had not established its monopoly over military leadership; the common expectation was that in any significant conflict, the regulars would comprise only a portion of the national army that would include considerable numbers of militiamen or volunteers fighting under their own officers and retaining their local identities.”¹¹

A similar mobilization pattern was followed in the war with Mexico (1846-1848). The expanded forces of the War of 1812

had been demobilized and the regular Army reduced to a maximum of 10,000 men. Despite rising tensions with Mexico in the early 1840s, there was no mobilization planning beyond general discussions of activating the militias and calling for volunteers.¹² Once war was declared, the Army was again rapidly expanded by calling on state militias, raising volunteers, and adding to the regular force.

Between these wars, significant thought to mobilization planning came from John C. Calhoun, who served as Secretary of War from 1817 to 1825. Calhoun proposed a plan in 1820 for a peacetime staff

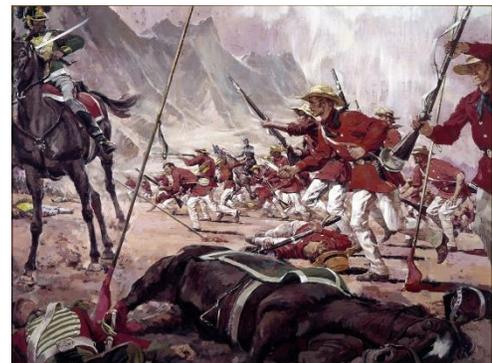


John C. Calhoun
Secretary of War

and “expansible” Army organization to plan for and facilitate rapid increases at the beginning of future conflicts – in effect wanting to smooth the transition of “creating a ‘new’ army from nothing to fight alongside the existing ‘old army’ ...a homogeneous entity with seasoned leaders throughout.”¹³ Congress went along, but the subsequent legislation captured the concept only in a much watered-down way. The dichotomy persisted.

There was another interesting transition that took place in the Jacksonian period: from *common* militia to *volunteer* militia. Going back to the Militia Acts of 1792 (and carried forward in the 1795 Act), service in a local militia company was *mandatory* for every “free able-bodied white male citizen” between the ages of 18 and 45 (with some exemptions), to be organized in community-based units at the local and county levels. Stiff fines were imposed for those that failed to attend required training assemblies (somewhat analogous to National Guard and Reserve drills today) and for draft resistance (apparently an age-old problem). Provisions of various states for exemptions and substitutes made these compulsory requirements far from universal or, in some minds, fair. Moreover, it eventuated that states began to drift from enforcing the mandatory service requirement. Delaware became the first state to repeal some of its militia fines, as early as 1816, and in 1831 abolished the common militia system altogether. It was followed by several other states over the course of the next 15 years. These typically were Northern states; Southern states were not like minded.

This was a transition, not a cliff. As described by Jeffrey Rogers Hummel, “There was a remarkable growth in the volunteer militia [that] was concomitant with this decline in the common militia...The supplanting was so thorough that some call the volunteer component of the pre-Civil War militia the *organized* militia while designating the common component the *enrolled* militia. In prior periods, of course, organized units had come from both the common and volunteer militia. In short, the Jacksonian era witnessed nearly total transformation of the militia from a compulsory to a voluntary system. Because many volunteer units were privately organized, recruited, and equipped, the militia became a partially privatized system as well. A third terminological variation clearly reflects this last trait: the volunteer militia became popularly known as the *uniformed* militia. States rarely provided uniforms to any militia units, so volunteer units purchased their own. Let your imagination dwell on that.”¹⁴



The Mississippi Rifles
June 1799

No Civil War service as a discrete unit

To expand, “Alongside the *common* militia was what came to be called the *volunteer* militia, consisting of privately recruited military units. At first, these volunteer units were completely independent of the common militia. Later, colonial governments and successor state governments integrated them into the general militia systems. Volunteer units provided much of the cavalry, artillery, and elite infantry within the militia. Men could gain exemption from the common militia by joining a volunteer unit. But many of these units remained private fraternities with exclusive memberships and local identify and biases. Regimentation dictated from a national authority was “antithetical to their very ethos.”¹⁵ The total number and aggregate size of such units remained relatively small for most of the eighteenth century.



14th Brooklyn Chasseurs

Organized May 1847

Nucleus for

14th New York State Militia

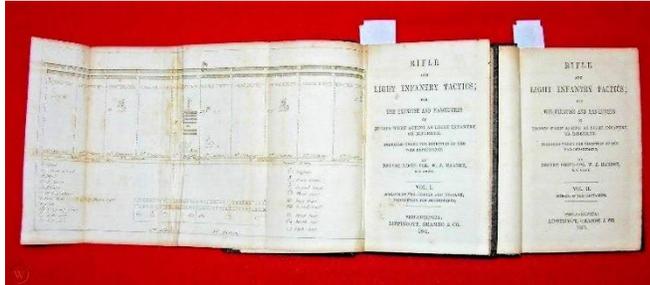
April 1861

One looming problem remained even after the Mexican-American War. As described by Clark, “In the early nineteenth century, aside from physical preparation such as fortifying key locations and stockpiling materiel, preparing for war entailed little more than a regimen of close-order drill meant to instill the habit of obedience in soldiers; there was no pretention that this training replicated war or prepared officers to make decisions under fire. War Department inspectors were concerned primarily with enforcing fiscal and administrative standards; commanders were allowed to train their subordinates and units as they saw fit. Conventional wisdom held that military competence was a product of character, common sense, and natural aptitude; these innate qualities might be refined through experience or study but were largely beyond the ability of the institutions to manufacture. There was consequently little effort to train officers in anything but the technical skills of engineering and gunnery.”¹⁶ Clark is talking about the Regular Army, but it was true

about the militia in spades. Note that West Point’s curricula at this time was focused on “the technical skills of engineering and gunnery”, as were the curricula of state military academies such as VMI (Lexington, Virginia), The Citadel (Charleston, South Carolina), and Norwich University (Northfield, Vermont).

In the 1850s efforts to improve the effectiveness of the Army and increase its strength (in terms of the number of field units, headcount, and senior positions within units) continued. The federal-state tug of war for control of the nation’s defense forces, the push towards increased centralization, and the importance of a standing professional army continued apace. Serious issues remained, though.

One deficiency had begun to stand out. We had no General Staff that would grapple with top-level issues such as how to merge the regular army and the militia into a cohesive military force, or with the rapidly changing technologies that would come into play so dramatically in the Civil War. There was no overarching doctrine for field maneuvers or forums to grapple with broad issues of policy and strategy. There were various publications – General Scott’s Drill Regulations of 1835 and Colonel Hardee’s work



known as Hardee’s Tactics of 1855 (pictured at left, probably the best known drill manual of the Civil War), for example – but they were not “required” reading. Scott’s drew on Napoleon’s experiences; Hardee’s drew on contemporary French Army drills. The curricula at West Point was steeped in Jomini. We observed foreign wars, the best known example being the

Delafield Commission (which included one Captain George B. McClellan) to observe and report on the Crimean War in 1855. We were searching but had not yet pulled it together. (For contrast, look at the US Army’s Active Component-Reserve Component relationship today.)

And then the reckoning. In 1860, on the eve of the Civil War, the War Department staff totaled only about 90, to oversee a Regular army of around 16,300. The army was seldom assembled in units of battalion strength, let alone larger, and the various companies were scattered all over the country. On paper the militia was a formidable force of over 3.1 million, but this count was of dubious value since many states had not reported their rosters to the federal government in years.¹⁷ More importantly, too often the militia was militarily ineffective as drill requirements were often ignored or devolved into social occasions.



“When the news [of Fort Sumter] reached Washington, the President immediately issued a proclamation calling out 75,000 of the militia of the several States of the Union, to ‘repossess the forts, places, and property which had been seized.’”¹⁸ His goal was a 90-day campaign to put down the Southern rebellion. It wasn’t enough. Game on. The ensuing mobilization on both sides is a story all its own, so I’ll stop here except to express a few ruminations about the militia.

Perote Guards
1859
Nucleus for
Company D, 1st Alabama Infantry Regiment
1861

We have seen how the use of militia for community defense is an idea that goes back into the 1600s in the English homeland and its colonies. The earliest such unit was the Ancient and Honorable Artillery Company of Boston, chartered in 1638 and still in existence.

The concept – indeed, the preference for this approach – carried over into the United States 1.0 and 2.0. It carried over into the initial mobilizations of both North and South in 1861. We can easily follow the thread of its basic characteristics – militia providing their own weapons and accouterments, often their own horses (more prevalent in the South), and locally-elected company and field grade officers. We can also see the evolution from common militia to volunteer militia, thence to volunteers as needs exceeded expectations and on to compulsory drafts on both sides as the war progressed – all overlaid by a growing need for a standing professional army.

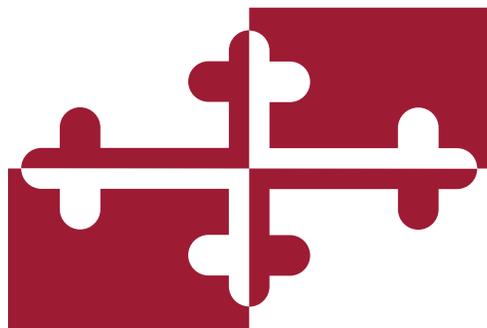


Ancient and Honorable Artillery Company
March 1638 (Massachusetts Colony)

No Civil War service as a discrete unit

As the local threat of hostilities receded, the militia morphed from a true defensive measure into more of a community social organization — social clubs as it were — with less emphasis on war and more on the pomp and ceremony of military glory in which local men could preen and strut. They provided a rallying point for community spirit and identity that local leaders could leverage. In that sense, they facilitated local color and custom, as well as local control. However, their usefulness for combat – their readiness – dropped, in some cases to near zero.

The militia system facilitated allegiance to community and state – in a broader sense, to sectionalism – rather than to a nation. It promoted individual responsibility, particularly the Second Amendment. How



Maryland Line
January 1776

Nucleus for
1st Maryland Infantry (CSA)
April 1861
and
1st Regiment Maryland Vol Inf (USA)
May 1861

might the sectional crisis have come down had we had a national standing army instead of reliance on a militia system? On one level anyway, the militia system gives credence to *War between the States* as a valid descriptor of the American Civil War.

With a focus on state militias and a small standing army, the onus for development of tactics, organization, leadership, deployment, replacements, and such, was more on states than on the federal government. In fact, there was little federal/state interface in the beginning. It evolved as the 19th century went along, with a pace hastened by Civil War lessons learned, ultimately culminating (thus far) in the close interaction between the federal military services and the states' National Guard counterparts today, but it still was a long climb.

Did the CSA rely on militia units for initial mobilization more than the USA? In one sense, yes. They provided the basis for the initial state forces upon secession. (Recall that some states began mobilizing even before their declared secession, which for the initial seven states was before Ft. Sumter.) It wasn't until a formal CSA government was established that a formal CSA army was begun, and it was formed initially by pulling various state forces (militia units) under Montgomery's (later Richmond's) control.

"Now, therefore, I, ABRAHAM LINCOLN, President of the United States, in virtue of the power in me vested by the Constitution and the laws, have thought fit to call forth, and hereby do call forth, the militia of the several States of the Union, to the aggregate number of seventy-five thousand, in order to suppress said combinations, and to cause the laws to be duly executed."

Proclamation by President Abraham Lincoln, April 15, 1861



Many thanks to Jeff Ewing, David Lady, and John Mason for their valuable guidance and editorial support. --Emil

Notes –

¹ According to *"Angry Staff Officer"*: The idea of militia goes back to English traditions beginning with the Assize of Arms in 1181: "He will possess these arms and will bear allegiance to the lord king, Henry, namely the son of empress Maud, and that he will bear these arms in his service according to his order and in allegiance to the lord king and his realm." This was further reinforced in 1285 with the Statute of Winchester in 1285: "Every man shall have in his house arms for keeping the peace according to the ancient assize." Perhaps the clearest origination of what we would consider the American militia tradition can be found in 1581: "If any man being the Queenes Subject, and not having reasonable cause or impediment, and being within the age of sixtie years (except spiritual men, justices of the bench, or other justices of Assise, or barons of the Exchequer) have not a long bow and Arrowes readie in his house, or have not for every man childe in his house betweene seven years and seventeene of age a bow and two shaftes, and everie such being above seventeene years, a Bowe and foure shaftes, or have not brought them uppe in Shooting: if any man under the age of four and twentie years, have shotte at standing pricks [targets] (being above that age) have shot at any marks under eleven score yards with any prickshaft or flight." (<https://angrystaffofficer.com/2017/03/20/a-short-history-of-the-militia-in-the-united-states/>)

² *History of Military Mobilization in the United States Army 1775-1945*, Marvin A. Kreidberg and Merton G. Henry, Dept of the Army Pamphlet No. 20-212, November 1955, 3.

³ Kreidberg and Henry, 4. Free Negroes were welcome to bear arms, a tradition that carried forward to the advent of the Civil War. For example, Salem Poor, a slave who purchased his freedom, enlisted in the Massachusetts militia in May 1775, and served gallantly with Colonel James Frye's regiment against British regulars at the Battle of Bunker Hill and elsewhere during the Revolution until his discharge on March 20, 1780. Note that on July 10, 1775, General George Washington ended the recruitment of Negroes and on November 12 of that year issued orders prohibiting all black men from serving in the Continental Army. Those already serving were "grandfathered" and allowed to continue to serve. (https://en.wikipedia.org/wiki/Salem_Poor) Another example is the 1st Louisiana Native Guard, the only black militia regiment in the Confederacy. (<https://opinionator.blogs.nytimes.com/2012/02/17/free-soldiers-of-color/> and [https://en.wikipedia.org/wiki/1st_Louisiana_Native_Guard_\(CSA\)](https://en.wikipedia.org/wiki/1st_Louisiana_Native_Guard_(CSA)))

⁴ Kreidberg and Henry, 5.

⁵ See Nooks and Crannies “Antebellum Politics” for more on Federalists and Anti-Federalists, as well as other political parties. For greater detail on this particular controversy, see “Standing Armies: The Constitutional Debate, Griffin Bovée, *Journal of the American Revolution*, May 8, 2018, <https://allthingsliberty.com/2018/05/standing-armies-the-anti-federalists-and-federalists-constitutional-debate/>.

⁶ *Preparing for War: The Emergence of the Modern U.S. Army, 1815-1917*, J. P. Clark; Cambridge: Harvard University Press, 2017; 11.

⁷ General Washington defended the militia in public, but in correspondence to John Hancock on September 25, 1776, he expressed a different opinion: “To place any dependence on the Militia, is, assuredly, resting upon a broken staff. Men just dragged from the tender Scenes of domestic life; unaccustomed to the din of Arms; totally unacquainted with every kind of military skill, which being followed by a want of confidence in themselves, when opposed to Troops regularly trained, disciplined, and appointed, superior in knowledge and superior in Arms, makes them timid, and ready to fly from their own shadows ... if I was called upon to declare upon Oath, whether the Militia have been most serviceable or hurtful upon the whole, I should subscribe to the latter.” (For the full text, see <https://founders.archives.gov/documents/Washington/03-06-02-0305>.) He believed the militias’ major weaknesses to be the lack of systematic army organization (i.e., or overarching doctrine or organization tables), and a lack of training (technical and leadership skills) for engineers and officers. This formed the basis, in part at least, for his constant lobbying for the establishment of a national military academy.

⁸ *Arms and Men: A Study in American Military History*, Walker Millis; New York: G. P. Putnam’s Sons, 1956; 40.

⁹ The 1792 Acts required judicial notification to the President that calling out the state militias was necessary in any given emergency before the President could release the order. The 1795 Act removed that prior judicial notification requirement. *Luther v. Borden*, 48 U.S. 7 How. 1 1 (1849). President Lincoln used this authority when he made the first call for state militias in 1861.

¹⁰ Volunteer units were often formed within the soldiers’ neighborhoods, states, or territories of residence, lending decidedly regional compositions to those units. Some enlisted in the Regular Army or were assigned to Regular Army units as well.

¹¹ Clark, 1.

¹² Kreidberg and Henry, 61 and 64-7.

¹³ Clark, 26.

¹⁴ Hummel, “The American Militia and the Origin of Conscription: A Reassessment”, *Journal of Libertarian Studies*, Volume 15, no. 4 (Fall 2001). Italics for emphasis are in the original. A great source if you want to really get down into the weeds of it.

¹⁵ Clark, 25.

¹⁶ Clark, 2.

¹⁷ Kreidberg and Henry, 91-92.

¹⁸ *History of the Great Rebellion*, Thomas P. Kettle; New York: L. Stebbins, 1865; 73.