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American as Cherry Pie?: Unofficial Militias in American History

by *Roger Beaumont*

INTRODUCTION

The Federal Office Building bombing in Oklahoma City in April 1995 momentarily focused American public attention on the armed bands of indeterminate size and number across the United States that deemed themselves "militias," and many of which appeared on the Internet. Although links between those unofficial militias and the bloodiest terrorist attack in American history were ultimately found to be tenuous,¹ their apparent proliferation led observers to suggest many different notional causes, including such paramilitary popular culture imagery as "Ramboism"; an American predisposition to conspiracy theory and overreaction;² a revival of secessionism; survivalism; the linking of alienates on computer networks; reactions to Cold War militarization and secrecy; after-effects of Vietnam, including the glamorization of "special ops," and distrust of government arising from that war; Watergate and the Iran-Contra affair;³ gun control debates; ⁴ concern over the growth of the Federal government,⁵ especially its law enforcement elements, and the courts;⁶ expanding United Nations authority (which has contracted dramatically since);⁷ social tensions and frustrations,⁸ especially in reaction to rising crime;⁹ a new manifestation of Richard Hofstadter's hypothesis of minorities resorting to "paranoid style" in American politics;¹⁰ and anti-modernist nostalgia for simpler times and format.¹¹ Foreign observers expressed bemusement and alarm, including the assertion that "the armed and angry white males of America are the psychopathic price to be paid for the furious energies of what remains the most consistently exciting and creative society on the planet."¹² There was certainly enough rage evident in public discourse from talk radio and fundamentalist polemic to political rhetoric to make that understandable.

VARYING PERSPECTIVES ON MILITIAS

At that time, Major-General Bruce Jacobs, former editor of *National Guardsman*, hastened to point out that "Factions which now call themselves militias have interposed a protest movement that is essentially political in character . . . There is no authority in the Constitution for creating private armies."¹³ That was certainly true, but unofficial militias and armed bands have dotted the American political landscape since the colonial era. The Minutemen of the Massachusetts militia became the symbol of the Revolution, and ultimately the National Guard citizen-soldier. The transition of colonial militias into those of the rebellious states, and the role they played as a seed bed of revolution for eight years has faded somewhat from general view, along with the fact that the appearance of armed insurgents, including many actual militiamen, albeit acting without official sanction or despite it, led to the calling of the Constitutional Convention.¹⁴ Little note was made of the militia, official and unofficial, in analyses of the current wave of unofficial militias,¹⁵ and much of the evidence of forerunners, to the extent that they are causally linked, lies scattered through regional history, statutes, court decisions, political

theory, and legal and historical scholarship.[16](#) The number of cases of armed dissidents is greater than generally appreciated, as the following illustrative list suggests:[17](#)

<i>Date/s</i>	<i>Region</i>	<i>Basic Events</i>
1642	New York	Rebellion of Dutch settlers led by "Twelve" vs. governor
1656-60	Maryland	Catholic-Protestant friction, including "Civil War"
1676	Virginia	Bacon's Rebellion frontier settlers seize Jamestown seek democratic reforms and support in fighting Indians
1676	Maryland	Uprising led by William Davyes and John Pate, and Fendall's Rebellion
1684-89	Maryland	Ongoing unrest, including Coode's Rebellion
1689	New York	Leisler's Rebellion militia captain heads anti-Stuart regime
1689	Virginia	Backwoodsmen demand aid from Governor
1750s-60s	South Carolina	Rocky Mount Surveyors blocked by frontier settlers
"	North Carolina - Granville	Riots against land speculators
1750s	Hudson Valley, New York	First of anti-rent "wars"
1760s	New Jersey	"Liberty Boys" versus county courts
1760-1815	Maine	"Liberty Men" vs. "Great Proprietors"
1762-1808	Northeastern Pennsylvania	"Wild Yankees" vs. proprietors
1763-64	Central Pennsylvania	"Paxton Boys" killed Indians and threatened to march on Philadelphia
1764-71	North Carolina Regulators	Major armed insurgency ends with the Battle of Alamance
Late 1760s	South Carolina Regulators	Vigilante rule in back country
1770s	Pittsburgh area	<p>Holdings of lenient Virginia land titles resist</p> <p>Pennsylvania control and land speculators</p>
1770-75	East Vermont	Insurgents threaten county courts
1774-80	Western Massachusetts	Berkshire Constitution
1782	Western Massachusetts	Ely's Rebellion
1786-87	Connecticut, Massachusetts	New England Regulation "Shays' Rebellion" Revolutionary War veterans and militiamen threaten legislatures, courts and foreclosure sales
1794	Western	Whiskey Rebellion major uprising versus Federal excise tax

	Pennsylvania	
1799	Central Pennsylvania	"Fries's Rebellion" vs. Federal land tax
1830s on	United States	Armed urban gangs
1837	New York - Canada border	Hunter's Lodges support of Canadian rebels
1839	New York - Hudson Valley	Heidelberg War farmers vs. rent crackdown on van Rensselaer holdings
1841-42	Rhode Island	Dorr's War rump government leads to new constitution
1840s	New York - Hudson Valley	Last of "Anti-rent Wars" raids and threats by "Calico Indians"
1856	Kansas	"Bleeding Kansas" pro and anti- slavery insurgents clash
Mid-1850s	California	Vigilante groups, San Francisco
1857-58	Utah	US Army punitive expedition stymied by Mormon militiamen
1859	Harper's Ferry, Virginia	Seizure of Federal arsenal by John Brown and abolitionists
1867 ff.	Former Confederacy	Insurgent groups, e.g., Red Shirts, Ku Klux Klan
1878	New Mexico	Lincoln County War
1860s - 70s	Pennsylvania	Molly Maguires; terrorist bombings in coal mines
1890s-1930s	United States	Various terrorist acts, e.g. Haymarket and Wall Street bombings, McKinley assassination, industrial sabotage
1892	Wyoming	"Cattle War"
1930s	United States	"Shirt" movements; armed farmers block foreclosures
1965-72	United States	Vietnam era riots, sabotage, demonstrations
1960s-70s	United States	John Birch Minutemen; Posse Comitatus movement; Black Panthers; Weathermen; anti-Vietnam sabotage, arson, bombings
1994	Oklahoma City	Bombing of Federal office building

CATEGORICAL UNCERTAINTIES

Wherever the current wave of unofficial militias should be properly placed, either overall, or each one unto itself on a matrix derived from that or a more exhaustive list is difficult to say at this point, since it is not clear how many units and members there are, let alone the degree of coordination and activity. While differences in the ideology and focus of concern have been visible beyond the apparent common thread of anti-centralism, there is no way to tell how much they are a cyber-age phenomenon rather than a substantive

coherent paramilitary insurgent movement. In 1974, awareness of the fact that a web-page was only a web-page and might not represent anything substantive or factual was not as widely appreciated as it became soon afterward. Nor was the extent to which software typography and design features gave a certain graphic authority to irate and quirky elements of a type previously limited in credibility to their access to legitimating formats. Uncertainty regarding those and other aspects does not warrant discounting something that both proponents and critics have defined as dissident and a potential threat to public order, for while it is not easy to define the myriad differences between the current setting and the colonial and early national eras, they obviously outweigh similarities. Aside from Maryland in the mid-1700s and New York during Leisler's Rebellion, religious fervor was a more muted theme in colonial and early national dissidence. Variations in military technology and weaponry are also vast and complex, and complicate if not confound any attempt to draw common definitions of matters like bearing arms, let alone drawing analogies. Nor is it easy to tease critical variables and parallels out of all that, or plot current unofficial militias on a spectrum of American alienates and dissidents. A designer of any continuum or matrix, let alone a variable equation, would face a host of possibly significant elements and characteristics, such as symbolic/demonstrative, active but non-violent, episodically violent, and so on, as well as variants in the focus of resentments and/or demands. Pauline Maier pointed to that intricacy when she noted that in eighteenth-century active dissidence:[18](#)

Not all eighteenth-century mobs simply defied the law; some used extralegal means to implement official demands or to enforce laws not otherwise enforceable . . . [or] extended the law in urgent situations beyond its technical limits.

HISTORICAL ALLUSIONS AND LEGITIMAZATION

As academic or irrelevant as the question of precedents, patterns and parallels may seem at first glance, historical allusions and justifications lace the rhetoric of advocates of the current wave of unofficial militias and their critics alike, especially interpretations of the United States and state constitutions and laws. Claims of legitimacy and precedents for forming private armed bands are drawn from selected portions of the US Constitution, especially the Second and Tenth Amendments. Despite their opponents' assertion that the Second Amendment was "never intended to protect the formation of private armies,"[19](#) the unofficial militia enthusiasts echo claims laid by seventeenth-century English Radical Whigs and some of the Founding Fathers that citizens-in-arms serve as a check-and-balance against tyranny, and a salutary way to "to threaten government."[20](#) That point of view is caught in essence by Jerry Cooper's assertion that:[21](#)

The colonial view of military affairs demonstrated a suspicion of central authority, a preference for local control of military forces, a strong predilection for voluntary over compulsory service, and an open distaste for military professionalism. and in what Charles Royster called "a widespread intuitive suspicion of governmental power of all kinds."[22](#) This debate is complicated by the Second Amendment's vague language, which has generated sharp differences over how much it was aimed at properly establishing a militia rather than protecting the right of individuals to own firearms, a paradox born of another paradox. While that was taken for granted in 1787,[23](#) and guns

were widely used for hunting, and for individual and organized defense along the frontier, many colonists could not afford them. Some of the Constitution's drafters, including Madison, saw such vagueness and the omission of difficult issues from the Constitutions as products of compromise, ambiguities and details that would be dealt with later more specifically by Congress and by state legislatures. Their expectations were realized over the next two centuries in respect to militia affairs, as many states passed laws forbidding "private armies," and court decisions, and such federal laws as the Dick Act of 1903 reshaped the militia until it evolved into the National Guard, mainly controlled and funded by federal authorities.

MILITIA MEMBERSHIP

It would, of course, have been surprising if many unofficial militias that cropped up frequently during the first two centuries of American history did not include many militiamen, since most adult males between 18 to 45 in the colonies and in the states of the early Republic were enrolled. Unfortunately, the intricate structure of those forces are somewhat out of focus in the current arguments, especially the diversity and contradictions noted by such scholars of those institutions as John Shy, Lawrence Cress and Richard Kohn.²⁴ In the current discussions, we find little sense that militia units raised in British North America were much like those created in Great Britain and its other imperial possessions, including India, whose lineage some have traced to the medieval fyrd, William the Conqueror's Assize of Arms, and/or Tudor-Stuart train bands. Like the militia in Great Britain and Ireland, American variants were all at once regional security forces, social organizations, constabulary, and, most importantly, a manpower pool for large-scale mobilization. After the initial interlude of pacific relations with the Indians ended in 1622, local defense became increasingly crucial. Up to the 1670s, when the first small detachments of British regulars arrived, militia companies provided immediate defense.²⁵ Militias varied in texture and quality from region to region in other ways,²⁶ but, in general, most adult males in each colony were required to maintain personal arms and equipment, respond to musters and deploy in emergencies. In New Jersey, for example, fines were levied for shortages noted by sergeants in quarterly surveys.²⁷ Militia membership and rank structure reflected the colonial social hierarchy. Although junior officers and NCOs at lower levels were often elected during mobilizations, those in the upper echelons received commissions from colonial governors, and substantial private wealth was required to hold high rank, especially when regiments were formed. As John Mahon pointed out, organized militia units during the colonial era were "no cross-section of the citizenry."²⁸ In some cases, as in modern Switzerland, individuals were required to take commissions if deemed "officer material" and could not resign without authorization,²⁹ while eligibility and liability for militia service varied from colony to colony. British militia law restricted membership to Protestants,³⁰ and in New England, many militia rolls were based on the dominant congregation's roster. Slaves, indentured servants, judges, transported convicts, clergymen, university faculty or students might be excluded or exempted in a particular colony, as well as newcomers and slaves.³¹ Although some of the latter were armed as militiamen, as in West Indian colonies, more often they were used, as were some freedmen, as porters and laborers when the militia mobilized. In the South, from the

colonial period until the American Civil War, militias overlapped with slave patrols to intimidate and subjugate blacks, and quash rebellions,³² and during mobilizations, about a quarter of the white population was exempted to serve as overseers and slave patrol members.

In the late 1600s, the colonies' involvement in military operations increased, episodically and regionally, as the frontier advanced. After the Stuart dynasty was deposed in the "Glorious Revolution" of 1688, and the "understanding" between the British and French monarchies ended, almost 80 years of wars and simmering conflict ensued, during which most colonists lived in some fear of sudden raids, attacks or invasion.³³ Even before that, however, tensions over jurisdiction and support of militias had erupted within and between some colonies, and between various colonies and the Crown. The premium on militia readiness led to the creation of "minute companies" of younger militiamen, more frequently and intensively trained than the general militia, and able to quickly form and respond to emergencies, raids or invasions. War and the expectation of it also increased the burden on colonial governments of enrolling, administering and equipping militia units, which grew in scale and complexity throughout the eighteenth century, as the growing colonies were converted to provinces under Royal governors, and advances in military and naval professionalism in Europe changed the nature of warfare and brought about varying degrees of standardization of organized militia units' organization and equipment. While colonial forces -- more often in the form of provincial troops than militia units -- sometimes joined British forces on active service, and colonies occasionally mounted their own military expeditions, several major operations were aborted when British forces failed to arrive, despite plans and promises. Others were confounded by storms or defeat. By the mid-1700s, the Crown began to recruit provincial units in the colonies, as standing forces as well as for campaigns in North America and the Caribbean, including the 60th Royal Americans and Roger's Rangers, regiments that were trained, equipped and controlled by the British Army. That produced another paradox, as both the colonial wars and the advancing frontier reinforced the powers of local authority and responsibility for defense at the same time that many colonists left home and gained a new and more cosmopolitan view of the world.

DEBATES ON MILITIA EFFECTIVENESS

The uneven military performance of militiamen in the colonial wars and afterward fed debates over their military effectiveness versus that of Regulars. By the eve of the American Revolution, as Fred Anderson suggested, the militia system in general was "a problematic military tool . . . which could be used only briefly, in extreme emergencies . . . an all-purpose military infrastructure" whose "most important military function was to provide volunteers -- or if necessary, conscripts -- for the provincial armies."³⁴ In counterpoint to that evolutionary progression were the unofficial militias that appeared in different forms and degrees during Bacon's Rebellion in Virginia in 1675, and in Leisler's Rebellion in New York, 1688-89. Those upheavals, along with the Regulators in the Carolinas in 1741,³⁵ and other outbreaks of mob violence and insurgency, were later deemed precursors of the Revolution, although historians are not of one mind on the subject.³⁶ The rebel forces that gathered around Boston at the outset of the rebellion

showed rather more diversity than unity of standardization in the variety of militia training, equipage, discipline and leadership. Although some units, especially the Pennsylvania and Virginia rifle companies, were of very high quality, the central role of campaigning was assumed over time by units of the Continental Army, which became something akin to Mao Ze Dong's vision of a fish swimming in the proverbial sea of the people, or, more specifically, the diffuse but pervasive network of the militia. In yet another paradox, the regional forces worked both for and against the purposes of the Continentals. On the credit side, they performed a function akin to Russian military districts, or what John Shy called "a hybrid of a draft board and a modern reserve unit," which served as a conduit for disseminating revolutionary ideology, and a "virtually inexhaustible reservoir of rebel military manpower."³⁷ While militiamen in combat sometimes played a key role in winning victories, most notably at Saratoga and Cowpens,³⁸ on the debit side of the ledger were their diversity, which bedeviled Washington, their high enlistment bounties, which worked against recruiting Regulars, and enlistment terms, which sometimes excluded militiamen from serving beyond state boundaries and deprived the Continentals of manpower. Unhappy experiences with militia led General Nathanael Greene, who had used cadres of Continentals and local militia contingents in his southern campaign, to exclaim "from which the Good Lord deliver us."³⁹ Their uneven performance frustrated Washington as much as it had British general James Wolfe barely a quarter century earlier, and led some to doubt the utility value of the militia, whatever its value as a counterpoise to standing forces. On the other hand, many New Englanders during the Revolution had fresh memories of British Army redcoats quartered in private homes and enforcing the "intolerable" writ of the Crown, which reinforced the Radical Whig view that Regulars of any stripe were instruments of tyranny.

There was, then, a division of opinion, with even so ardent a rebel as Samuel Adams calling for "a permanent and well-appointed Army," while Benjamin Rush echoed the dissident rhetoric of the English Civil War and Radical Whigs in expressing his hope that the militia would be the mainstay of Congress' military forces, and that he would "despair of our cause if our country contained 60,000 men abandoned enough to enlist for three years or during [for the duration of] the war."⁴⁰ The citizen-soldier ideal continued to thrive despite defeats, and the parochialism and local politics that continued to hamper militia military discipline and professionalism. Another persistent problem was the fact that when militia units suffered heavy losses, it decimated their locale's male population. While that was serious enough in Europe, in America, it left a unit's home region undefended, and crippled its agriculture and commerce -- a dilemma that had been buffered by using provincial forces in the colonial period. In addition to inadequate training, and fear of well-disciplined and brutal Regulars, that helps to explain why militiamen often failed to rally, fled or deserted. The general pattern of the Revolution roughly paralleled that of the English Civil War, in the first phase of which the Parliamentary army that had been formed around "train bands" of middle-class citizens-in-arms from London and East Anglia was defeated by Charles I's army, originally raised despite Parliament's attempts to deprive him of taxes. The "Roundheads" then gained the initiative by reforming their forces, and creating a formidable standing army, the "New Model," which put another tyrant in power. That contradiction, and the very unpleasant

Protectorate of Oliver Cromwell, a prototypical modern dictatorship, were left out of focus when Whigs hailed that evolutionary product of citizens-in-arms as the nemesis of monarchical power, and are today as well.

HOSTILITY TOWARD STANDING FORCES

That was, of course, not the only historical instance which politically active Americans had in view during the Revolution and early National period. Many were educated or self-educated, and knew something of classical history, including the rivalry of "democratic" Athens and its militia-based forces with the garrison state of Sparta, and Marius' reforms, which undermined the Roman Republic by replacing the militia with a standing army.⁴¹ While Edward Gibbon's *The Decline and Fall of the Roman Empire*, published in 1776, offered a fresh view of that, and Machiavelli urged Florentines to found a democracy around a people's militia, and throw off the mercenary condottieri, more powerful influences were Justice Blackstone's protest against a standing army in his *Commentaries*,⁴² and such political pamphlets as John Trenchard's *A Standing Army is Inconsistent With a Free Government and Absolutely Destructive of the English Monarchy* (1697).⁴³ Closer at hand in the flow of history were, aside from the New Model Army, the excesses of the Thirty Years' War, Prussia's garrison state, the Jacobite levies, and British provocations that led to the American Revolution, most notably the Quartering Act, and British Regulars' coercing of Bostonians. In any case, in 1787, some delegates urged that the new constitution outlaw a standing army as some states had done under the Continental Congress and during the period of the Articles of Confederation. Disagreement over the phrase "a well-regulated militia" in the Constitution's Second Amendment in the 1790s was only one of many differences among American elites after the Revolution, in a world which, as Disraeli later said, was "for the few and the very few." The Constitution's framers also debated military organization and the military effectiveness of militia forces. While some opposed creating standing armed forces, or saw a militia-based defense as a "cheap buy" for the new, small nation, or the only feasible course given the limited resources, such senior Revolutionary War leaders as Alexander Hamilton, George Washington, Baron von Steuben and Henry Knox, were less than enthusiastic about the militia.⁴⁴ Drawing on their experiences in that conflict, they devised roughly similar models, each based on a small core of standing armies supplemented by tiers of militia forces, whose quality and readiness decreased with size, and all under the authority of a central government. Nor was their full agreement on the definition of militia. While Thomas Jefferson, who lacked personal military experience, defined it, as many others did at the time, and some do today as all adult males (and by implication and in some of the states, free adult white males) able to serve if required.⁴⁵ Baron Von Steuben, the trainer of the Continental Army, in dismissing that suggested that "It would be as sensible and consistent to say every Citizen should be a sailor,"⁴⁶ and expressed a view also shared by many others of the militia being those members of the Unorganized Militia -- the pool of eligibles -- who were armed, equipped and enrolled in organized, disciplined units, which trained frequently and were able to mobilize quickly.

INSURGENCY AND FEDERALIZATION

Those issues had been overshadowed in 1786 as disturbances erupted in North Carolina, where the rump state of Franklin was formed, and in western Pennsylvania, Kentucky and Virginia. Most critically, in Massachusetts, armed bands of farmers and small businessmen angered by foreclosures and bankruptcies, and claiming the status of militias, began to intimidate courts and legislatures. Since the Confederation's tiny standing army of 900 men was scattered throughout the states, mainly as caretakers of stands of arms, arsenals and fortifications, the central government's inability to aid threatened states' militias led many observers to fear a general insurrection as insurgency intensified. Most of the insurgents were, like much of the adult male population in general, members of the organized state militias, or veterans of them, and/or the Continental Army. The uprising, initially deemed the New England Regulation, soon became popularly known as Shays' Rebellion, named for the militia captain whom the insurgents chose for their leader.[47](#)

Washington, long concerned by the weak common defense, feared that the unofficial militias portended a more general upheaval, in contrast with Jefferson, away in Paris, who saw them as in keeping with his hopes for periodic revolutions whose blood would nourish the roots of the tree of liberty. Many shared that view at a time when mob action had been enshrined in both radical politics in Britain and American patriotic symbolism, and was more common and not yet fully delimited by law -- the French Reign of Terror and the creation of police forces lay in the future.[48](#) Jefferson's zeal soon gave way to alarm, however, as the Massachusetts outbreaks intensified, and an inflammatory letter over Shays' signature (later proved a forgery) made them seem to be a well-organized conspiracy. As such gatherings grew to well over a thousand armed men, the insurgents' list of demands further alarmed men of property and especially creditors in calling for a remission of all debts, issuance of paper money, and common ownership of all property won by common effort during the Revolution.

As local officials floundered and vacillated, General Henry Knox, a Revolutionary War general and the Secretary of War in the Articles of Confederation government, sought to juggle with both his own conflicting options and theirs. Although he agreed with Massachusetts legislators that only regional militias should be deployed against the insurgents, since using central government forces might be seen as inflammatory, and wanted to safeguard the central government's arsenals, especially the one at Springfield that was most threatened by Shays' followers, he nevertheless denied local militiamen access to arms. In another oblique move against the insurgents, in October, the Confederation Congress increased its standing forces by 1,340 men, officially raised to fight Indians in Ohio. Those soon joined forces, however, with reliable units of New England militiamen from higher tiers of society whom Knox described as "men of respectable character and great property as compared with their opponents."[49](#) In late January 1787, the Shaysian insurgents were routed at Springfield by cannon fire with light losses. Although several of their leaders were sentenced to death, including the fugitive Shays, they later received amnesty, and the Massachusetts legislature ultimately reviewed their grievances.

Even after the Constitutional Convention was called, many feared further waves of insurgency, or battles between state forces,⁵⁰ but those apprehensions eased as the delegates struggled to balance centralism and regionalism in respect to many issues. In the realm of national defense and militia affairs, they named the President as commander-in-chief of the "Army and Navy of the United States, and of the Militia of the several States, when called into the actual service of the United States . . ." ⁵¹ and gave Congress power to raise and support armies, write rules and regulations for their governance, and to "provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrection, and repel Invasions" and "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." ⁵² Clearer boundaries were drawn in the Militia Act and Calling Forth Acts of 1792, which defined militia as "citizens of the respective states . . . organized as the legislature of each state shall direct." ⁵³ Able-bodied males, 18-45, were to stand ready to respond with specified personal military weapons and equipment, and procedures were established for a President's calling out the militia. Each State was to have an Adjutant General, and an Inspector of troops who would prescribe organization and training, and authorize the forming of companies.

UNOFFICIAL MILITIAS FOR AND AGAINST THE REPUBLIC

Unofficial militias continued to appear, however, and the new government's will and strength were tested two years later in western Pennsylvania when some 13,000 angry farmers and supporters who opposed the Federal tax on whisky produced from surplus crops claimed the status of militias, and began marching through towns to defy the excise. An array of about 12,000 Regulars, and militiamen from several nearby states, dispersed them, and a year later, another Militia Act increased Presidential call-up powers, and authorized using militia to enforce federal laws against reluctant states. Throughout the first half of the next century, however, state and federal funding of the militia slowly declined, and the colorful populism of annual muster and attendant carousing passed into history. Despite that, until well after the War of 1812, many Americans still saw militias as a check to the tyrannical threat of a standing army and centralized government, even though Congress and the courts continually tightened federal control over state forces. Despite that broad trend, unofficial militias continued to appear, and not always insurgent in nature. Literally hundreds of social paramilitary companies and regiments were formed from the 1820s to the Civil War, many of them along the lines of such socially elite militia units as Boston's Ancient and Honourable Artillery Company, formed in 1638, and others created from the mid-1740s on, which George Washington, when he commanded the Continental Army, saw as a drain on the general militia, and a source of bewildering variations in training, administration and leadership quality.⁵⁴ From the War of 1812 to the Civil War, the benign unofficial militias became a fad in America, as they formed "independently of the statewide system" for social purposes, generally under state militia laws,⁵⁵ and receiving no government funds. Members were those who could afford distinctive, elegant uniforms and equipage, and prominent citizens were usually elected as senior officers, although some were formed by mechanics, artisans and various ethnic groups.⁵⁶ While election of state militia officers continued until the early twentieth century, and informal screening

into the latter half of the twentieth century, as Jerry Cooper noted, the elitism of "antebellum uniformed companies" was the antithesis of the citizen-soldier ideal, and far from the Revolutionary view of militia as the people-in-arms.⁵⁷ Yet they did resemble the old militia in becoming a center of local community life and politics, and such activities as parades, balls and public ceremonies.

Although many of those unofficial militia units were short-lived, some aided militiamen and federal troops in emergencies, or supported watchmen and the small police forces that began to appear before the Civil War, as well as aiding federal marshals when they formed a posse comitatus to enforce the Fugitive Slave Law, and sometimes playing a crucial constabulary role.⁵⁸ The aid to federal forces was justified by the "Cushing Doctrine," coined by President Franklin Pierce's Attorney General, Caleb Cushing, who held that all citizens, military or civilian, were bound to support federal officers if required.⁵⁹ While about 25,000 men were enrolled in actual militias in 1804, mainly in bigger cities, there were literally thousands of the social, unofficial militia companies throughout the nation when the Civil War began, as well as roughly two million state militiamen in all categories, North and South, most of them enrolled but not serving in organized units. Despite the wide range in military quality, and what Marcus Cunliffe deemed "a thread of make-believe running through the whole affair," many of the social unofficial militias evolved into Volunteer regiments in the Civil War.⁶⁰

On the other side of the coin, a number of insurgent unofficial militias resembled those that had appeared in Shays', the Whiskey, and Fries's Rebellions in their inclusion of active or former militiamen, or veterans of active service. That was the case in the Hunters' Lodges affair in upper New York in the late 1830s, and during the 1850s, in the Mormon War, California vigilantism, and "Bleeding Kansas." After the Civil War, during the Reconstruction era in the South, 1865-77, federally controlled militias and Southern unofficial militias were engaged in a bitter struggle. Initially, with the old white Southern militias outlawed, federal troops and black militias served as constabulary, but as the ranks of the former were steadily reduced, military governors relied on black militiamen for local security, supported by flying squads of Regular cavalry. Local armed bands appeared, first in Tennessee, then across the South, some of them night riders, wearing the ghostly garb of the slave patrols, and sporting such florid titles as the Ku Klux Klan and Knights of the White Camellia, while others, like the Red Shirts in Alabama, were overtly paramilitary, drilling in public, all in essence resurrecting the old slave patrol. As an official historian concluded a century later:⁶¹

the tactics, covert and overt, of the secret societies and the rifle clubs eventually triumphed in 1877, and when the troops were removed, white supremacy had been restored to the South.

POST-BELLUM DEVELOPMENTS

As federal forces withdrew after the Compromise of 1877, the militias' status in the United States, North and South, was dramatically altered by the Posse Comitatus Act,⁶² which forbade Regular military forces troops from policing civilians except in extreme circumstances. The shunting of the constabulary role toward the militia created a chasm

between workers and citizen-soldiers over the next two generations, mainly in the North and West, and in the South, between the white populace and troops confronting lynch mobs.⁶³ The Posse Comitatus Act also left federal authorities in remote areas of the West without forces to deal with small private armies, some of whom claimed the status of militia, most dramatically in the Lincoln County War of 1878 in New Mexico, a quandary not addressed directly until a federal marshal force was created to deal with civil rights related disturbances in the mid-twentieth century.⁶⁴ At the same time, throughout the late nineteenth century, the old people-in-arms concept was not only eroded by the growing emphasis on constabulary service, and the increasing use of the French revolutionary term "National Guard" in lieu of "militia," but by advances in military technology and professionalism, which led Regular Army officers to attempt to impose their standards on militia/National Guard units. Some militia officers and state governments cooperated, but others resisted. After the Franco- Prussian War of 1870-71, in which the Prussian General Staff raised and deployed large armies of reservists and conscripts by using a web of railways and telegraph lines, Germany scored another victory as many nations agreed to outlaw civilians-in-arms, and label them franc-tireurs after the French snipers that harried German troops in 1871. At the end of the century, however, Germans and others cheered when Boer commandos, mounted citizen marksmen, harried the British Army in South Africa 1899-1901. Despite the proscription of franc-tireurs, visions of defense-in-depth and the harrying of invading armies by citizen sharpshooters became a popular idea in the late 1800s as mass-production and marketing of weapons and ammunition fed a boom in recreational shooting, especially in Britain and the United States. At the same time, court decisions began to construe the Second Amendment in favor of justifying the personal ownership of guns. Despite the enthusiasm for civilian marksmanship, growing costs and complexity were putting more and more of the arsenal out of the reach of private citizens financially and technically, and at the end of the 1800s, an American Regular Army officer judged militia forces as "almost valueless in a strictly military point of view."⁶⁵

THE MILITIA BECOMES THE NATIONAL GUARD

In 1903, the US Congress passed the Dick Act, which defined the National Guard's "role in the entire national defense structure . . . in law what it had been in fact, namely," as "the military reserve of the Army."⁶⁶ When the US entered World War I, few traces were left of the old concept of the militia being a populist counterpoise to the smaller Regular forces of the central government. The National Guard's constabulary role was thrown into relief when many of its units were called up for service on the Mexican border in 1916, and then for World War in 1917. Concerns over sabotage and disorder led to the forming of State Guard forces, about 80,000 in all, as well as the creation of a federally-formed United States Guard of almost 30,000.⁶⁷ That caused bristling in some quarters, as it did again when such forces were re-formed in some states on the eve of World War II.⁶⁸

UNCERTAIN LINES OF CONTINUITY

In looking back at that broadly-limned pattern, it is hard to trace lines of historical continuity between the various stages of militia/National Guard evolution, let alone trace

the precise roots of the recent appearance of unofficial militias as a whole, still less those of each of the estimated 400-some separate units. The Constitution's provision that "No State shall, without the consent of Congress . . . keep Troops, or Ships of War in times of peace . . ." [69](#) does not on the surface of it seem to provide small groups and individual citizens with a greater right to wield military power than the states themselves. [70](#) But neither is it clear at what point forming armed bands conforms with or diverges from rights of assembly and free expression, or where the boundary lies between brandishing weapons and disorderly conduct, let alone insurrection. The Alien and Sedition Acts of Madison's and Wilson's times showed how defining treason and insurgency in itself could have a powerful catalytic effect, while Shays' Rebellion showed that time's passing and cooling tempers can resolve tense situations. Do the current unofficial militias in general fit into a continuum or matrix with other dissidents in American history? The wide range of ideologies and resentments that drove various unofficial militias is confusing enough, and blurs our sense of whether such occasional eruptions are symptoms of some sort of syndrome that have appeared from time to time, the emergence of long waves of chronic frustration and friction in a culture in which the image of guns in the hands of citizens has long had a special iconic power, positive and negative. Where do we fit such apparent anomalies as uniformed bands that struck paramilitary postures but did not bear arms openly like the German-American Bund, and fascistoid "Shirt" movements from the 1930s to 1950s, and the more recent Islam Brotherhood, those who were armed but not paramilitary, such as the gaggles of angry armed farmers that blocked foreclosures in the Great Depression, and the Black Panthers of the 1960s? What of those who bore arms violently but in secret, like the Mafia and the Ku Klux Klan? Do common threads beyond mimicry actually run through the Regulators, 1930s paramilitary extremist groups, [71](#) the "Minutemen" linked to the John Birch Society in the late 1950s and early 1960s, or the Posse Comitatus movement of the 1970s? Or was each one sui generis? Has the Internet allowed an easy amalgamation of those who fear modernization, gun control, [72](#) secrecy in government, the proliferation of federal police agencies, and the increasing intrusiveness of government? [73](#) What of such diverse factors as paint-gun and enactment groups, mass-marketed military gear, the resurgence of religious fervor and intolerance, the international resurgence of neo-Fascism, long-standing American impulses toward secession, or chronic alienation? Although such searching for patterns sounds like academic speculation, there is no shortage of practical implications. For example, who, either in the near or distant future, might choose to form armed groups on the basis of all those precedents, including the current ones, but with more coherence, skill and purpose.

CONCLUSION

Over what is now nearly four centuries of American history -- when that is defined as what evolved from the settlements at Jamestown and Massachusetts Bay -- legal and unofficial militias have been dealt with reactively and episodically, both in the realm of practical political affairs and by historians. Some may take comfort from the fact that nearly all of the many dissident groups of varying hues had little impact and faded away, but the scale and effect of the major exceptions -- the militias' role as a social matrix and ideological conduit in the Revolution, the deceptively bland pre-Civil War social quasi-militias that flowed into the burgeoning armies, and the terrorist Klan -- do not present a

consistent or comforting pattern. Nor is it easy to create an analytical matrix that encompasses such disparate specimens as the slave patrols, the anti-rent movement, cattle wars, and Vietnam era terrorists, let alone the Know Nothings, the Jewish Defense League, the Black Panthers and the Christian Identity movement. Treating them as beads on a long string of curiosities may seem to be the higher wisdom, since the overall phenomenon of chronic dissidence in American history might be used to either attack and defend the model of exceptionalism. Not only does the sheer complexity of the phenomenology of dissidence in all its forms, including the unofficial militias, confound analysis and the tracing of causality, but also puts prevention, diagnosis and cure in abeyance, and the question of whether that is beyond our grasp in any case. If we were certain of being able to work the diversity of purpose and motive of unofficial militias and insurgent groups into meaningful patterns beyond some Brownian model of random collisions, the central question to examine would be the larger significance of their recurrence, and whether it has been a symptom of chronic social and political pathology. If such groups have for the most part been, as Richard Hofstadter averred, a kind of low order infection controlled by the auto-immune system of a great democracy, that is one thing. But there is no guarantee of that, nor certainty whether any specific recurrence would be proportional to the vast majority of precedents, or to those very few which were of great magnitude and consequence.

Endnotes

1. For example, the Texas Poll of early August 1995 indicated a 13 percent favorable view of "militias." Kathy Walt, "Most Texans Look Down on Groups," Houston Chronicle, 21 August 1995, Sec. A, p. 11.
2. For example, the anti-Masonic and "Know Nothing" parties of the mid-nineteenth century; the flight from eastern American coastal cities in 1898; the Red Scare of 1919; the Orson Welles' "War of the Worlds" broadcast in 1938; the McCarthy era; and the mass panic during the Cuban Missile Crisis of 1962.
3. Peter Applebome, "An Unlikely Legacy of the 60's: The Violent Right," New York Times, 7 May 1995, sec. 1, pp. 1 and 18; and Frank Rich, "New World Terror," New York Times.
4. John Flesher, "A Private Army," Houston Chronicle, 10 October 1995, p. 8A. National Rifle Association advertisement, New York Times, 15 May 1995, p. 10A; Ted Gest, U.S. News and World Report, 22 May 1995, pp. 37-38.
5. Stephen Labaton, "How the A.T.F. Became a Demon," New York Times, 14 May 1995, pt. 4, p. 5.
6. Peter Applebome, "Radical Right's Fury Boiling Over," New York Times, 23 April 1995, p. 13, pt. 2; and Hope Viner Samborn, "Courting Trouble: Emergence of Common-Law Courts Raises Concerns Among Critics," ABA Journal (November 1995), pp. 33-34.

7. Allan Turner, "Militias Sounding Alarm of Constitutional 'Crisis,'" *Houston Chronicle*, 27 November 1994, pp. 1A-24A.
8. For example, see James William Gibson, *Warrior Dreams: Paramilitary Culture in Post-Vietnam America* (New York: Hill and Wang, 1994); Victoria Pope, "Notes from Underground," *U.S. News and World Report*, 5 June 1995, pp. 24-27; Gail Sheehy, "There's No Soothing Angry, Anxious White Males," *Houston Chronicle*, 20 June 1995, p. 17A; Richard Wolin, "Extremists a Product of Changing U.S. Economy," *Houston Chronicle*, 11 May 1995, p. A 41; and "Abortion Foes, Militias May be Linked," *Houston Post*, 24 January 1995, p. A 24.
9. An especially darkling view is Adam Walinsky, "The Crisis of Public Order," *The Atlantic Monthly*, 276, no. 1 (July 1995), pp. 39-41, 44, 46-49, and 52-54.
10. George Johnson, "The Conspiracy That Never Ends," *New York Times*, 30 April 1995, p. 5, pt. 4; Jill Smolowe, "Enemies of the State," *Time*, 8 May 1995, pp. 59-64, 66, and 68-69; and "Word for Word: Conspiracy Theories: The Unending Search for Demons in the American Imagination," *New York Times*, 23 July 1995.
11. For example, see Thomas Fleming, "Don't Look to 1776 Militias for Role Models," *Houston Chronicle*, 2 August 1995, p. 25A.
12. Martin Walker, "America's Angry White Males," *World Press Review* 42, no. 7 (July 1995), pp. 28-29.
13. Bruce Jacobs, "Notebook: Militia: The Trashing of a Grand Old Name," *National Guard* 45, no. 6 (June 1995), p. 42.
14. No reference is made to any salient instance of insurgent "militias," from Bacon's Rebellion to "bleeding Kansas" in such defenses as Stephen P. Halbrook, *That Every Man be Armed: The Evolution of a Constitutional Right* (Oakland, CA: Independent Institute, 1994), and only Bacon's rebellion is mentioned in Larry Pratt, ed., *Safeguarding Liberty: The Constitution and Citizen Militias* (Franklin, TN: Legacy Communications, 1995), nor in such critiques as Jonathan Karl, *The Right to Bear Arms: The Rise of America's New Militias* (New York: Harper Paperbacks, 1995); Kenneth S. Stern, *A Force Upon the Plain: The American Militia Movement and the Politics of Hate* (New York: Simon and Schuster, 1995); Klanwatch Project, *False Patriots: The Threat of Antigovernment Extremists* (Montgomery, AL.: Southern Poverty Law Center, 1996); and Morris Dees and James Corcoran, *Gathering Storm: America's Militia Threat* (New York: Harper Collins, 1996).
15. For an essay on the 1990s militias as evidence of a "national propensity to . . . political violence in our past," see Sean Wilentz, "Bombs Bursting in Air, Still," *New York Times Magazine*, 25 June 1995, pp. 40-41. Brief, historically based overviews include Michael Barone's "A Brief History of Zealotry in America," *U.S. News and*

World Report, 8 May 1995, pp. 44-45; and T. Stiles, "Freemen, the Latest Chapter in a Bloody History," *Houston Chronicle*, 11 April 1996, p. 25A.

16. Unofficial militias are, of course, not peculiar to the United States. Better-known European cases include Garibaldi's Red Shirts, the Franc-tireurs of the Franco-Prussian War, the Einwohnenwehren and Freikorps in Weimar Germany, Mussolini's Fascist militias, and partisan bands from Hereward the Wake to Salvatore Giuliano.

17. Derived partially from Alan Taylor, "Agrarian Independence: Northern Land Riots After the Revolution," in Alfred Young, ed., *Beyond the American Revolution: Explorations in the History of American Radicalism* (De Kalb, IL: Northern Illinois University Press, 1993), pp. 227-28.

18. Pauline Maier, "Popular Uprisings and Civil Authority in Eighteenth-Century America," *William and Mary Quarterly* 27, no. 1 (January 1970), p. 4.

19. Andrew A. Reding, "States, Not Extremists, Have Militia-Forming Role," *Houston Chronicle*, 24 July 1995, p. 13A.

20. Quoted in Molly Ivins, "Waco Hearings: Something Old, Borrowed, Not New," *Bryan College Station Eagle*, 21 July 1995, p. A5.

21. Jerry Cooper, *The Rise of the National Guard: The Evolution of the American Militia, 1965- 1920* (Lincoln, NE: University of Nebraska Press, 1997), p. 4.

22. Charles Royster, *A Revolutionary People at War: The Continental Army and American Character, 1775-1783* (New York: W. W. Norton, 1979), p. 38.

23. For perspectives on the Second Amendment question, see Royster, *Revolutionary People at War*, pp. 11, and 38-39; and Joyce Lee Malcolm, *The Keep and Bear Arms: The Origins of an Anglo-American Right* (Cambridge, MA: Harvard University Press, 1994).

24. John Shy, *A People Numerous and Armed: Reflections on the Military Struggles for Independence* (London: Oxford University Press, 1998); Lawrence Delbert Cress, *Citizens in Arms: The Army and Militia in American Society to the War of 1812* (Chapel Hill, NC: University of North Carolina Press, 1982); and Richard H. Kohn, *Eagle and Sword: The Federalists and the Creation of the Military Establishment in America, 1783-1802* (New York: Free Press, 1975).

25. For example, see John K. Mahon, *History of the Militia and National Guard* (New York: Macmillan, 1983).

26. For a discussion of variations in texture among colonial militias, see Shy, *A People Numerous and Armed*, pp. 23-24.

27. John O'Sullivan and Alan M. Meckler, eds., *The Draft and Its Enemies: A Documentary History* (Urbana, IL: University of Illinois Press, 1974), pp. 10-11.
28. Mahon, *History of the Militia*, pp. 18-21.
29. *Ibid.*, p. 16.
30. For an essay on links between British and American militia models, see Chapter 8, "The Second Amendment and the English Legacy," in Malcolm, *To Keep and Bear Arms*, pp. 135-68.
31. Fred Anderson, *A People's Army: Massachusetts Soldiers and Society in the Seven Years' War* (Chapel Hill, NC: University of North Carolina Press, 1984), p. 26.
32. Shy, *A People Numerous and Armed*, p. 29; Cooper, *Rise of the National Guard*, p. 13.
33. For an overview, see Howard H. Peckham, *The Colonial Wars 1689-1762* (Chicago, IL: University of Chicago Press, 1964).
34. Anderson, *A People's Army*, pp. 26-27.
35. Marvin L. Michael Kay, "The North Carolina Regulation, 1766-1776: A Class Conflict," in Alfred E. Young, ed., *The American Revolution: Explorations in the History of American Radicalism* (De Kalb, IL: Northern Illinois University Press, 1976), pp. 71-124.
36. An useful survey is Robert M. Calhoun's *Revolutionary America: An Interpretative Overview* (New York: Harcourt Brace, 1976).
37. Shy, *A People Numerous and Armed*, pp. 174 and 253.
38. For a sympathetic appraisal of revolutionary militia, and analysis of the Cowpens battle, see Robert C. Pugh, "Revolutionary Militia in the Southern Campaign," *William and Mary Quarterly* 14, no. 2 (April 1957), pp. 154-75.
39. Royster, *A Revolutionary People at War*, p. 324.
40. *Ibid.*, p. 115.
41. *Ibid.*, p. 13.
42. Malcolm, *To Keep and Bear Arms*, p. 142.
43. For a detailed analysis, see Cress, *Citizens in Arms*, esp. pp. 41-46.

44. For example, see Peckham, *The Colonial Wars*, pp. 214-15.
45. For a discussion of terms and definitions, see Jim Dan Hill, *The Minute Man in Peace and War: A History of the National Guard* (Harrisburg, PA: Stackpole, 1964), pp. 27-29. Hereafter referred to as MMPW.
46. William L. Shaw, "The Interrelationship of the United States Army and the National Guard," *Military Law Review* vol. 31, p. 43.
47. A recent collection of essays is Robert A. Gross, ed., *In Debt to Shays: The Bicentennial of an Agrarian Rebellion* (Charlottesville, VA: University Press of Virginia, 1993); for detailed studies, see David P. Szatmary, *Shays' Rebellion: The Making of an Agrarian Insurrection* (Amherst, MA: University of Massachusetts, 1980); and Thomas P. Slaughter, *The Whiskey Rebellion: Frontier Epilogue to the American Revolution* (New York: Oxford University Press, 1986). A more concise overview is Robert J. Taylor, *Western Massachusetts in the Revolution* (Providence, RI: Brown University Press, 1954), pp. 128-67; for brief accounts, see Robert W. Coakley, *The Role of Military Forces in Domestic Disturbances 1789-1878* (Washington, DC: Center for Military History, 1988), pp. 4-7, hereinafter referred to as ROMFIDD; and Kohn, *Eagle and Sword*, pp. 74-75.
48. Calhoun, *Revolutionary America*, pp. 75-78.
49. Quoted in North Callahan, *Henry Knox: George Washington's General* (New York: Rinehart, 1958), p. 245.
50. C. Joseph Bernardo, and Eugene H. Bacon, *American Military Policy: Its Development Since 1775* (Harrisburg, PA: Stackpole, 1961), pp. 66-70; and Russell Weigley, *History of the United States Army* (New York: Macmillan, 1967), pp. 83-85; Coakley, ROMFIDD, pp. 4-7; and Kohn, *Eagle and Sword*, pp. 74-75.
51. US Const., Art. II, sec. 2, cl. 1.
52. *Ibid.*, Arts. I, Sec. 8, Cls. 12, 14, 15, 16.
53. For a discussion in apposition to the citizens-in-arms as check-and-balance argument, see Wilbur Edel, *Gun Control: Threat to Liberty or Defense Against Anarchy?* (Westport, CT: Praeger, 1995), pp. 62-63.
54. Lyle D. Brundage, "The Organization, Administration and Training of the United States Ordinary and Volunteer Militias, 1792-1861," Ph. D. Dissertation, University of Michigan, 1958, p. 396.
55. *Ibid.*, pp. 69 and 101.

56. Marcus Cunliffe, *Soldiers and Civilians: The Martial Spirit in America, 1775-1865* (New York: Free Press, 1973), p. 218.
57. Cooper, *Rise of the National Guard*, p. 16.
58. *Ibid.*, pp. 236 and 248.
59. See Coakley, *ROMFIDD*, pp. 92-95, and 128-67.
60. Cunliffe, *Soldiers and Civilians*, p. 248.
61. Coakley, *ROMFIDD*, p. 341.
62. 10 U.S. Code 1385
63. Cooper, *Army and Civil Disorder*, p. 14. For an overview, see Sidney Lens, *The Labor Wars: From the Molly Maguires to the Sitdowns* (Garden City, NY: Anchor Books, 1974).
64. See William A. Keleher, *Violence in Lincoln County 1869-1881* (Albuquerque, NM: University of New Mexico Press, 1957), pp. 155-56 ff.
65. Jerry M. Cooper, *The Army and Civil Disorder: Federal Military Intervention in Labor Disputes, 1877-1900* (Westport, CT: Greenwood, 1980), p. 11; also see Francis P. Prucha, *The Sword of the Republic: The U.S. Army on the Frontier 1783-1846* (Bloomington, IN: Indiana University Press, 1969), pp. 311-14 and 320.
66. Ch. 196, 32 Stat. 775.
67. Mahon, *History of the Militia*, p. 157.
68. For example, see "What Sort of Home Guards?" *New Republic*, 104, no. 15 (14 April 1941), pp. 517-18.
69. Art I, sec. 10, U.S. Const.
70. For example, see Samuel Francis, "Talk of Secession in the Global (and American) Air," *The Washington Times*, 11 January 1994, p. A 17.
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