

An Examination of the Militia Act of 1792 and its Impact on U.S. Performance in the War of  
1812

Submitted by  
Hunter Compton  
History

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Mentor: Todd Estes, Professor of History  
Department of History  
Oakland University

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Although sometimes referred to in popular history as the “forgotten war,” for academic historians the War of 1812 remains a fertile ground for investigation into the particular causes of and ramifications that evolved from this conflict. Of particular import is the poor showing of U.S. combat troops in this conflict, and the reasons for which this was the case. In order to explain this phenomenon, there has been a great deal of interest in conflating the performance of U.S. troops with legislation created to govern their activities prior to the outbreak of war. In 1792, the Second Congress of the United States passed *An Act More Effectually to Provide for the National Defence, by Establishing a Uniform Militia Throughout the United States*.<sup>1</sup> This piece of legislation, commonly and henceforth referred to as the Militia Act of 1792, sought to create an adequately prepared body of armed forces for the defense of the newly formed United States, but did not achieve its objectives.

Compounding the interest in the subject of the Militia Act of 1792 is not only its effects, but also its extreme longevity, remaining the foundation for the armed forces of the United States until 1903.<sup>2</sup> Such extreme longevity means that the Militia Act of 1792 remains of interest to historians for its impact on not only the War of 1812, but also subsequent conflicts such as the U.S. Civil War and the Spanish-American War. The replacement of the 1792 Militia Act with the 1903 Militia Act, colloquially known as the Dick Act, also means that the 1792 Militia Act has a longstanding effect on the formation of the modern United States military. Inasmuch as the implementation of the differentiation between the Army and the National Guard, created under

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<sup>1</sup> *An Act for Forming and Conducting the Military Force of This State. : Whereas the Congress of the United States Did, on the Eighth Day of May A.D. 1792, Pass an Act, Entitled, “An Act More Effectually to Provide for the National Defence, by Establishing an Uniform Militia Throughout the United States,” Which Is in the Words Following, ...* (Hartford, Conn. : Printed by Hudson & Goodwin, 1792), 1.

<sup>2</sup> John K. Mahon, *The American Militia: Decade of Decision 1789-1800* (Gainesville, 1960), 28.

the 1903 Act which differentiated it from the 1792 legislation.<sup>3</sup> The most direct reason for studying the correlation between the 1792 Militia Act and the War of 1812 is to explain the reasons behind the relatively poor performance of U.S. troops during the conflict, and whether this was the result of federal, state or local oversight in the administration of the military. Additionally, as a result of this former explanation, it will be additionally possible to explain what involvement early U.S. political discourse had on the formation of the military in the early republic. Furthermore, by ascertaining the rationale for the continued desire of militias in the early development of the United States, it will be possible to understand the goals of the founders and conversely, also gather a better explanation to the aversion to standing armies prevalent in the early U.S. period.

Ultimately, this paper will argue that the poor performance of U.S. troops during the War of 1812 was a direct consequence of the Militia Act of 1792 and that the responsibility for such must fall on the federal government of the United States, for they were fundamentally to blame for the creation of the act, its poor implementation and the resulting actions in wartime. In order to do so this paper will assert several points. Firstly, that the Militia Act of 1792 was the result of political infighting and budgetary concerns within the federal government. Secondly, that the deficiency of the militia as enforced under the 1792 Act was evident both prior to and during the War of 1812. Third, that the federal government did not sufficiently revise or replace the 1792 Militia Act prior to or during the War of 1812. By establishing these precedents, my work will conclude that the poor performance of U.S. troops in the War of 1812 resulted from the implementation of the 1792 Militia Act, and that because the federal government of the United States was the only body which had the ability to realize and correct the deficiency, by means of

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<sup>3</sup> Barry M. Steniford, *The American Home Guard: The State Militia in the Twentieth Century* (Texas, Texas A&M University Press, 2002), 12.

repealing or modifying the Militia Act, they must bear the burden of military unpreparedness in the War of 1812.

The first section of this paper will address the historiography and scholarship surrounding the performance of U.S. troops in the War of 1812 and the implications of the Militia Act of 1792 on this conflict. The second section will provide an explanation as to the political discourse and other factors which led to the creation of the Militia Act of 1792. The third section will endeavor to ascertain the exact language and ramifications of the Militia Act of 1792 as is relevant to key aspects of the War of 1812. The fourth section will address the implementation of the Militia Act of 1792 from its creation up to the outbreak of war in 1812. Section five will provide an overview of the performance of U.S. militia troops during the course of the War of 1812. Finally, section six will provide an explanation as to the causes behind the poor performance of U.S Militia in the War of 1812.

## I.

Backed by numerous accounts of soldiers and commanders who served in the American armed forces during the War of 1812, there is a general consensus in the historical community that the performance of U.S. militia troops was exceptionally poor in comparison to their adversaries.<sup>4</sup> Military leadership was the first group of individuals which sought to explain the performance of U.S. troops from 1812-1815. In each instance, their explanations were accusatory, citing the individual character and composition of militia troops rather than external factors for their performance. For example, when General Hull attempted to cross into Canada in July 1812, his militiamen also refused to cross, prompting Hull to report that the militia was “want of discipline” and possessing “mutinous spirit,” and noted further that their compliance

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<sup>4</sup> Robert L. Kerby, “The Militia System and the State Militias in the War of 1812,” *Indiana Magazine of History*, Vol. 73, No. 2 (June 1977): 105.

“could only be persuaded by a bayonet.”<sup>5</sup> Hull inherently blamed the personal convictions of his fighting force rather than acknowledge their lack of training and resources as legitimate reasons for the failed invasion. General Van Rensselaer, writing about his experience when his militia troops refused to cross into Canada during the October 1812 Niagara Campaign, stated that the lack of “ardor” in the troops was the reason for their unwillingness to cross.<sup>6</sup> Such explanations involving the *esprit de corps*, or lack thereof, were more common in the 19<sup>th</sup> century, but in comparison to modern scholarship lack an understanding of the tactical realities of warfare. In Van Rensselaer’s case, the lack of leadership in key positions of the crossing, too few boats, an inability to transport necessary artillery, and a lack of key objectives to take once the crossing occurred all contributed to the failure, but historians did not address them until long after the battle concluded.<sup>7</sup>

It took some time before historians began to address the causes of the poor performance seen in the War of 1812, outside of individual failings of the militiamen. The first modern piece of scholarship to address the issue, and also the first to address the impact of the 1792 Militia Act on U.S. performance in the War of 1812, was Emory Upton’s 1907 work, *Military Policy of the United States*.<sup>8</sup> While Upton attacked the Militia Act of 1792 with a zeal characteristic of an era in which a federalized regular army had finally won out over the concept of a militia, the argument that Upton presented was not unsubstantiated. Furthermore, it has represented the basis for the majority of modern historical works addressing the War of 1812 and the Militia Act of 1792, with Upton’s quote that the 1792 Militia Act was a “pernicious military organization”

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<sup>5</sup> Emory Upton, *The Military Policy of the United States* (Washington, U.S. Government Printing Office, 1907), 99.

<sup>6</sup> Glenn Tucker, *Poltroons and Patriots; a Popular Account of the War of 1812* (Indianapolis: Bobbs-Merrill, 1954), 191.

<sup>7</sup> John R. Elting, *Amateurs to Arms: A Military History of the War of 1812* (Cambridge: De Capo Press, 1995), 42.

<sup>8</sup> Kerby, 102.

being one of the most quoted opinions in modern scholarship on the subject.<sup>9</sup>

Upton argued that the failures of 1812 were primarily a fault of federal leadership delegating their war powers to the states without the ability to repossess them as necessary.<sup>10</sup> This argument, voiced by Upton is the one that modern scholars continue to present. Key figures in the historiography of this subject have echoed this conclusion while operating under similar or different premises. One such figure, Samuel P. Huntington, has perhaps the closest analogue to that proposed by Upton in the last sixty five years, arguing that the dual control of military powers created by both the Constitution and the 1792 Militia Act led to “constant confusion and bickering” but retained that it was inherently a problem he blamed on the federal leadership.<sup>11</sup> One of Upton’s contemporaries, Frederic Louis Huidekoper, argued that the problem lie in the fact that the 1792 Militia Act left all powers to the state, rather than dual control, but continued to assert Upton’s conclusion that the problem lay in federal hands.<sup>12</sup> Harry Lewis Coles has argued that the failures of the 1812 campaign lay in the hands of military leadership, and as such, the generals responsible for leading the war effort were incompetent.<sup>13</sup> However, since the militia was at that time directed by generals appointed by congress, he indirectly places the blame on the federal establishment.

Upton himself did not, however, fully disprove the assertion that the militiamen themselves were at fault. Upton concluded that in addition to the failures of the 1792 Militia Act on a federal level, blame lay with the troops themselves. He said that the “short period of service” and the conviction “that others must soon take their places and bear the burdens and

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<sup>9</sup> Upton, 105.

<sup>10</sup> Upton, 97.

<sup>11</sup> Kerby, 109.

<sup>12</sup> Frederic Louis Huidekoper, *The Military Unpreparedness of the United States: A History of American Land Forces from Colonial Times Until June 1, 1915* (New York: The Macmillan Company, 1915), 48.

<sup>13</sup> Harry Lewis Coles, *The War of 1812* (Chicago: University of Chicago Press, 1965), 70.

dangers” held by militiamen made them inherently poor soldiers.<sup>14</sup> This conclusion, unlike Upton’s former assertion, has not met with popular accord in modern historical circles and has largely fallen from the annals of history. Some historians in recent scholarship, most notably Adam Franti, have attempted to disprove Upton’s conclusion about the personal responsibility of militiamen by arguing against commonly repeated notions of cowardice displayed during the War of 1812.<sup>15</sup> However, by rejecting the personal allocation of blame, Franti’s argument inherently reverts back to placing blame upon the federal establishment. With some few exceptions, modern scholarship surrounding the War of 1812 and the Militia Act of 1792 concludes that the responsibility for the failings of the militia in the war were the fault of the federal government, albeit that the specific reasons for why this is the case differ. In that respect, my work follows the more modern historical approach, citing external factors for the performance of U.S. troops during the War of 1812, rather than personal failings. Unlike previous scholarship, my work adds the issue of adequate supply of arms and equipment made impossible under the 1792 Militia Act, as a predominant reason for the poor performance of U.S. troops.

Ultimately, my work will argue that political conflict within the federal government, combined with budgetary concerns prompted Congress to place the defense of the United States in the hands of citizen soldiers by formal means of the 1792 Militia Act. Furthermore, my work will show that the 1792 Militia Act did not contain sufficient enforcement of its provisions, and no significant amendments were made prior to, during or in the aftermath of the War of 1812 despite obvious deficiencies in the fighting forces of the United States. As such, my work will

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<sup>14</sup> Upton, 105.

<sup>15</sup> Adam Franti, “Our Renown Is Not Yours’: The American Militia in the War of 1812,” PhD Diss., (Eastern Michigan University, 2018), 8.

conclude that the poor performance of U.S. troops in the War of 1812 resulted from the implementation of the 1792 Militia Act, and that because the federal government of the United States was the only body which had the ability to realize and correct the deficiency, by means of repealing or modifying the Militia Act, they must bear the burden of military unpreparedness in the War of 1812.

## II.

At the close of the Revolutionary War, there was the potential for the new American Confederacy to learn a great number of lessons about the nature of warfare. Unfortunately, the potential for education was not always applicable in practice. During the Revolutionary War, the nation's defense relied primarily on regulars of the Continental Army because members of the militia had not proved capable of sustaining the conflict.<sup>16</sup> While at the beginning of the conflict, there had been a reliance on armed citizenry, as the war progressed the reliance on government provided arms and men became greater.<sup>17</sup> Some prominent politicians had taken this fact to mean that the militia as a concept was an untrustworthy fighting force. However, as will become apparent, the concept of a militia for the defense of the newly formed American country remained due to economic austerity and political fears of standing armies in peacetime.

As part of a trend towards transitioning from war to peacetime, on the 2<sup>nd</sup> June 1784, the Continental Congress voted to disband the Continental Army and proceeded to do so, with an exception for a battalion of artillery located at West Point.<sup>18</sup> The general consensus after the Revolutionary War was to create an armed force that met the needs of the new nation, while

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<sup>16</sup> Lawrence Delbert Cress, *Citizens in Arms: The Army and the Militia in American Society to the War of 1812* (North Carolina: University of North Carolina Press, 2011), 76.

<sup>17</sup> Upton, 85.

<sup>18</sup> Upton, 69.



simultaneously embodying notions of republican virtue present at the time, this resulting in the re-emergence and re-emphasis on the militia as a fighting force.<sup>19</sup> It certainly did not hurt that a militia also presented a cheaper option for defense to the debt-stricken Confederacy.

Not all were in agreement with this plan, however, and opposition was certainly voiced. George Washington, having led the Continental Army, had a greater association with the problems of militias in wartime than most of his contemporaries. However, he realized that non-militaristic factions in the Congress of the Confederation would not stand for a standing army in peacetime, and thus debated the merits of militia reform in 1783 with supportive cohorts such as Alexander Hamilton, Baron Friedrich von Steuben and Henry Knox.<sup>20</sup> Washington wrote in *Sentiments on a Peace Establishment* the benefits of having a uniform militia with federal oversight.<sup>21</sup> Accelerating the issue, in May of 1783, Hamilton had finished a draft for his proposal of militia reform.<sup>22</sup> However, Hamilton's proposal did not include the suggested reforms proposed by Washington in order to make the militia an effective fighting force.<sup>23</sup> Hamilton's proposal went before Congress, but political opposition shot down his proposal due to continued fears of standing armies in peacetime.<sup>24</sup> Those that feared standing armies, most notably Patrick Henry, saw attempts by the federal government to arm and make uniform the militia a means by which to fail to do so, thus effectively disarming the populous and replacing the militia with a standing army as a means of subjugation.<sup>25</sup> The issue was at a standstill. Thus, the actions undertaken immediately following the Revolutionary War, such as the disbanding of

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<sup>19</sup> Cress, 79-80.

<sup>20</sup> Cress, 82-87.

<sup>21</sup> Don Higginbotham, "The Federalized Militia Debate: A Neglected Aspect of Second Amendment Scholarship," *The William and Mary Quarterly*, Vol. 55, No. 1 (Jan., 1998): 42.

<sup>22</sup> Cress, 87.

<sup>23</sup> Cress, 87.

<sup>24</sup> Cress, 88-89.

<sup>25</sup> Cress, 99-100.

the Continental Army and refusal by Congress to put forward Hamilton's plan, show that there were notable individuals who did take the lessons of war to heart, and sought to inflict change upon the armed forces.

The next significant proposal to redefine the nature of the militia was in 1786 by Henry Knox. Knox' proposal was one for a uniform militia with strong federal control, Knox also proposed an "advanced corps" component of the militia. Under Knox' organizational structure, the militia would take the "advanced corps" from a younger segment of the population and give them better than average training in order to serve as an on-call military response team.<sup>26</sup> In essence, the plan called for a revisit of the minuteman concept as practiced during the Revolutionary War, but with a much-increased level of federal oversight. As proposed, the cost of the Knox plan was in excess of \$400,000 for the "advanced corps" alone.<sup>27</sup> It should thus come as no surprise, that due to the excessive cost and a level of federal oversight which some called "tyrannical," Congress did not vote to adopt the Knox plan.<sup>28</sup> During the existence of the American Confederacy, states' rights triumphed over the concerns of the federal government. Congress did not pass any plans to expand control of the militia during the existence of the Articles of Confederation. However, the Articles of Confederation were short-lived and a new crisis thrust the militia issue into mainstream debate once again.

In September of 1786, Shays Rebellion once again drew federal attention to the militia issue. Daniel Shays, leading a large group of rebels in rural Massachusetts, shut down courts in order to protest the excessive taxation that they were receiving. In response to this Governor Bowdoin called out the State militia, but a significant number of men refused to muster, and of

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<sup>26</sup> Cress, 90-92.

<sup>27</sup> Richard H. Kohn, *Eagle and Sword: the Federalists and the Creation of the Military Establishment in America, 1783-1802* (New York: Free Press, 1975), 131.

<sup>28</sup> Cress, 92.

those that did, some ended up joining the Shaysites.<sup>29</sup> While the militia subsequently quelled the rebellion, it had a significant impact and was one of the contributing factors that led to the Constitutional Convention in May of 1787 and the formation of a new means of governance.<sup>30</sup> The Constitution, as ratified, gave the federal government increased powers, including the ability to declare war and raise an army, in addition to the ability to collect taxes. However, these expanded powers were insufficient, the federal government could declare war and raise an army, but no articles explained the means by which to do so. Furthermore, the ratification of the Bill of Rights, specifically the Tenth Amendment, reserves all rights to the states which the Constitution does not enumerate or prohibit. Thus, states retained the authority over their militias and the appointment of officers therein.<sup>31</sup> Such meant that if states chose not to properly arm their militias, or organized their militias in such a way that it was impossible for multiple state militias to work congruently, the federal government had no power to stop them. So in reality, while the federal government had gained more control over the activities of the states, the status of the militia remained substantially unchanged.

In response to this deficiency, Washington, addressing the 1789 Congress, called for a “nationally controlled, well-organized and thoroughly trained militia.”<sup>32</sup> Simply put, Washington wanted a revised and updated version of the 1786 Knox plan. Even after the ratification of the Bill of Rights with the Second Amendment, the issue of militia reform was still relevant. The problem was that the Constitution gave some powers to the federal government, but state control severely curtailed these; further, while the Second Amendment secured the rights of states to

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<sup>29</sup> Cress, 95.

<sup>30</sup> Cress, 97.

<sup>31</sup> Cress, 97.

<sup>32</sup> Cress, 116.

control their militias, it did not require that they do so.<sup>33</sup> Thus, the basic problem was that the system worked only if the federal and state governments achieved mutual cooperation. However, reality dictated that the states allowed their militias to lapse, and there was nothing that the federal government could do about it.

Congress continued to debate the implementation of a national militia system under federal control through 1791.<sup>34</sup> The usual reasons for political discourse forestalled its passage. Federalists sought greater involvement of the federal government in the control, supply and discipline of the armed forces, while those opposed to federal control cited a continued fear of standing armies and the budgetary problems faced by the new republic. Likely, had nothing happened, Congress would have let the updated Knox plan falter, much like Hamilton's plan a few years prior. However, the United States experienced a significant military loss in November of 1791, when native troops in the Northwest defeated General Arthur St. Clair, created a new impetus. With such a crushing military defeat, Congress was able to achieve a middle ground, resulting in the passage of the Militia Act of 1792.<sup>35</sup> The act passed by Congress did not however, give the strong federal control sought by Washington and the Federalists. It was a piece of legislation hampered by the inability to overcome political differences, the inability to create a strong, armed force among cries of tyranny. It was a piece of legislation that recognized the monetary deficiencies of the early United States and thus sought thrift in the face of invasion.

### III.

The 1792 Militia Act, as printed, is a scant piece of paper, a booklet merely four pages

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<sup>33</sup> Kerby, 108.

<sup>34</sup> Cress, 119-120

<sup>35</sup> Kohn, 135.

long. In terms of its content, there are a great many things which remain unaddressed. There are several key pieces of this act which are of key importance in relation to discussing the performance of the militia in the War of 1812. Firstly, there is the section which governs the supply and equipment of militiamen, which dictates:

That every such citizen so enrolled and notified, shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints and a knapsack, a box therein to contain twenty four cartridges, suited to the bore of his musket or firelock ... every citizen so enrolled and providing himself with the arms, ammunition and accoutrements, required as aforesaid.<sup>36</sup>

There are several key points in this section of legislation, firstly it places the burden of supply of “arms, ammunition and accoutrements” on the individual, neither the state nor federal government is required to supply the men, they are required to supply themselves. Such a measure was prudent for the cash-strapped United States but relies on the ability of men to provide for themselves. Also missing from the act is any type of penalty for failing to meet the requirements therein. The Militia Act of 1792 addressed the artillery in much the same manner, “The officers to be armed with a sword or hanger, a fusee, bayonet and belt, with a cartridge box to contain twelve cartridges; and each private or matross shall furnish himself with all the equipments of a private in the infantry.”<sup>37</sup> Except for the responsibility of furnishing cannons, the Act requires the artillery, as with the infantry, to provide for themselves. Again, not present, is any penalty for failing to do so.

On the administrative level, pertaining to training and organization, the act dictates “It shall be the duty of the commanding officer ... to cause the militia to be exercised and trained,

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<sup>36</sup> *An Act for Forming and Conducting the Military Force of This State...*, Section I.

<sup>37</sup> *Second Congress of the United States: At the First Session, Begun and Held at the City of Philadelphia, in the State of Pennsylvania, on Monday the Twenty-Fourth of October One Thousand Seven Hundred and Ninety-One. : An Act More Effectually to Provide for the National Defence by Establishing an Uniform Militia Throughout the United States* (Philadelphia: Printed by Francis Childs and John Swaine, 1792), 2.

agreeably to the said rules or discipline.”<sup>38</sup> This, again fails to enforce any penalty for the failure to do so. Additionally, while the Militia Act of 1792 states that the militia must be trained to the “said rules or discipline” it does not enumerate what said rules or discipline entail, nor does it define what agreeable training was, thus allowing a great deal of personal decision on the part of local leadership when it comes to training. Organization of the militia by the states was into “companies, battalions, regiments, brigades and divisions”, however the Militia Act regularly uses the phrase “if convenient” in the section pertaining to organization.<sup>39</sup> This, of course, led to little to no uniformity in the organization between states.

The only sections that actually deal with federal oversight of the militia, are those involving the role of the state Brigade Inspector and the Adjutant General. According to the Act, the the Brigade Inspector shall “attend the regimental and battalion meeting of the militia... to inspect their arms, ammunition and accoutrements... [and] to make returns to the Adjutant General of the state.”<sup>40</sup> The Adjutant General shall “make a return of all militia in the state, to the commander in chief of said state, and a duplicate of the same to the President of the United States.”<sup>41</sup> Thus, the combined duties of the Brigade Inspector and Adjutant General were to create a report of the quantity and condition of all the militia of a state and forward said information to the President, thus creating some ability for the federal government to enact oversight in the condition of the militia. If such a task sounds strenuous for two men to complete, some states, such as South Carolina, elected to officially combine the role of Brigade Inspector and Adjutant General into one office, making an already strenuous responsibility less feasible.<sup>42</sup>

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<sup>38</sup> *An Act for Forming and Conducting the Military Force of This State ...*, Section VII.

<sup>39</sup> Elting, 6-7.

<sup>40</sup> *An Act for Forming and Conducting the Military Force of This State ...*, Section X.

<sup>41</sup> *An Act for Forming and Conducting the Military Force of This State ...*, Section X.

<sup>42</sup> Jean Martin Flynn, “South Carolina's Compliance with the Militia Act of 1792,” *The South Carolina Historical Magazine*, Vol. 69, No. 1 (Jan., 1968): 37.

There are some other state actions which undermined the abilities of the 1792 Militia Act, most prominently were the allowance for substitute militiamen under the preview of state legislatures.<sup>43</sup> While state legislature allowed such options as an alternative for those religiously or otherwise opposed to combat, the reality was that substitutes frequently joined the ranks only because of poverty and desperation.<sup>44</sup>

The Militia Act of 1792 sought to greatly increase the powers of the federal government over the militia, but in reality failed to do so, and accordingly acted as merely a suggestion to the states as to how they should conduct their militias. There were key aspects missing from the act, which if implemented, had the potential to provide for stronger federal control. These were fines to ensure compliance, the ability for the federal government to arm the populous and notably the ability for the President to call out the militia, instead relying on state cooperation.<sup>45</sup> Though this last condition changed with subsequent legislation, the Militia Act of 1792 had clear deficiencies for governing a fighting force, and remained in effect though the War of 1812. That is not to say, however, that some did not try to correct these deficiencies in the intervening period.

#### IV.

On the 29<sup>th</sup> December of 1794, Representative William B. Giles reported to the House of Representatives that “further provision ought to be made by law... for enforcing the execution of existing militia laws, by adequate and uniform penalties.”<sup>46</sup> To some, it was apparent that the 1792 Militia Act had not achieved all desired by the Federalists in granting federal oversight of

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<sup>43</sup> Mahon, 22.

<sup>44</sup> Carl Edward Skeen, *Citizen Soldiers in the War of 1812* (Lexington, Kentucky: University Press of Kentucky, 1999), 43.

<sup>45</sup> Cress, 120-121.

<sup>46</sup> Marvin A. Kreidberg and Merton G. Henry, *The History of Military Mobilization in the United States Army: 1775-1945* (Washington, 1955), 31.

the militia. From adoption until 1812, the 1792 Militia act remained largely unchanged, furthermore, the implementation of the Act was severely lacking.

One notable exception during this period was the acknowledgement that the President needed the ability to call out the militia without simply asking the states for their cooperation. Such a realization became apparent following the 1794 Whiskey Rebellion in Pennsylvania as a response to increased federal taxes on whiskey.<sup>47</sup> During the rebellion, local governors ordered 15,000 state militia troops to muster, but they frequently refused to do so; desertion being the predominant means by which militiamen chose to show solidarity with the rebelling parties instead of suppressing them.<sup>48</sup> There were concerns after the Whiskey Rebellion that a sufficiently sized insurrection could prevent a state from calling out their militia formally. As a response to this key deficiency, Congress passed the 1795 “Calling Forth” Act, which allowed the president to call out state militias directly, in the event of “invasion or rebellion.”<sup>49</sup> The “Calling Forth” Act acknowledged and fixed one of the key deficiencies of the 1792 Militia Act, but the remaining deficiencies went unaddressed.

Between 1795 and 1796, Federalists in Congress continued to press for militia reform, going so far as to create a special house committee for the purposes of investigating the issue, but the House of Representatives disbanded the committee in 1797.<sup>50</sup> The emergence of a threat did draw attention to the militia issue again. In this instance, the threat was external, as opposed to the earlier defeat of General St. Clair. The potential for a war with France in 1798 with rumors of an invasion and fears of domestic insurrection prompted Congress to act.<sup>51</sup> However, unlike

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<sup>47</sup> Cress, 121-122.

<sup>48</sup> Upton, 86.

<sup>49</sup> Walter Millis, *Arms and Men: A Study of American Military History* (New York, 1958), 51.

<sup>50</sup> Cress, 127.

<sup>51</sup> Cress, 137.



how Congress had revised militia legislation previously, in 1798 Congress voted to enlarge the American army by threefold.<sup>52</sup> This solution is as much an acknowledgement that the Federalists placed little faith in the militia and sought a standing army. Regardless, the Quasi War quickly subsided and coinciding with the election of Thomas Jefferson in 1800, Congress ordered the military demobilized.<sup>53</sup> The Jeffersonians cut the army to a scant 3,200 men, continuing a trend seen up until the outbreak of war in 1812. By 1807, the standing army of the United States would contain less than 2,400 men.<sup>54</sup> The Jeffersonian Republicans, much like their Anti-Federalist predecessors, believed that calls for a larger professional army or for greater federal control of the militia, were means by which the Federalists could create a standing army to subjugate the citizenry.<sup>55</sup> Congress once again placed the reliance for defense on the shoulders of the militia. As opposed to the roughly 3,000 professional soldiers in the United States, a 1802 inventory (excluding Maryland, Delaware and Tennessee) placed the total number of militiamen in the country at 525,000, which sounds impressive, until one realizes that the same inventory put the total number of weapons possessed by the militia at 249,000 with some states reporting the inability to arm as much as 20% of their men.<sup>56</sup> Key deficiencies of the militia system remained apparent, but with Republican control, not much changed in the prelude to war.

This is not to say that there were not attempts to revise legislation during this period, as there were, but they remained largely unsuccessful. An 1803 piece of legislation passed by Congress required the states to keep 80,000 militiamen on hand if the President ordered such, but still failed to address the issue of equipping them.<sup>57</sup> Congress rejected in attempt to classify the

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<sup>52</sup> Cress, 137.

<sup>53</sup> Cress, 151.

<sup>54</sup> Elting, 2.

<sup>55</sup> Cress, 136.

<sup>56</sup> Elting, 7-8.

<sup>57</sup> Cress, 154.

militia by age in 1808, a proposal reminiscent of the Knox plan, and the same resulted when newly elected President James Madison proposed something similar in 1809.<sup>58</sup> While militia reform was still off the table, the imminent threat of war with Britain did allow for the passage of some legislation expanding the regular army. Congress passed a bill raising the army to 35,000 on 6<sup>th</sup> February, 1812.<sup>59</sup> At the same time, Congress rejected a bill which potentially restructured the militia and allotted \$400,000 for the purchase of arms by a vote of 58 to 55.<sup>60</sup> Thus, in the period after Congress passed the 1792 Militia Act up to the outbreak of war with Britain there were no significant changes to the structure of the militia.

Now, the question remains, just how well did the Militia Act of 1792 prepare the U.S. for the War of 1812? In order to answer this question one must examine the state of the militia prior to the outbreak of war. In 1807, a report on the status of the militia of the United States reported that the militia contained “306 General officers, 1033 regiments of infantry and a total of 647,827 soldiers.”<sup>61</sup> A report filed in December of 1811 on the potential war capacity of the United States stated that the number of “furnaces, forges and bloomeries” was 530, that “lead may be had from our mines in any amount”, that there was “ample sulphur [sic] in store”, the supply of saltpeter was “inexhaustible” and that powder mills in every state ensured a constant supply.<sup>62</sup> The same report stated that the supply of arms was sufficient due to stocks of surplus model of 1795 muskets, as well as production from the Springfield and Harper’s Ferry arsenals adding 20,000 muskets a year, with an addition 12,000 from private industry.<sup>63 64</sup> In comparison,

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<sup>58</sup> Cress, 169.

<sup>59</sup> Coles, 20.

<sup>60</sup> Stuart L. Butler, *Defending the old Dominion: Virginia and Its Militia in the War of 1812* (Lanham, MD: University Press of America, 2013), 17.

<sup>61</sup> Millis, 52.

<sup>62</sup> Millis, 66.

<sup>63</sup> Elting, 9.

<sup>64</sup> Millis, 66.

the standing army did not look as impressive. Congress had increased the formal size of the army to 35,000, however there were problems filling the ranks as the militia offered greater bounties to those who enrolled. By 18<sup>th</sup> June 1812, the regulars in the army numbered only 6,744.<sup>65</sup>

Leadership in the regular army was also greatly deficient. Established as an officer's training school, West Point had only 71 graduates by 1812, 23 of which had either died or resigned their commissions.<sup>66</sup> Thus, on paper, the Militia Act of 1792 had established a military force that was both greatly superior in number to that of the regular army and adequately equipped. However, the bleak reality was that this was an army that existed largely on paper.

As a matter of fact, there were numerous reasons that the fighting force created by the 1792 Militia Act was not as effective as presented. Looking at the numbers reported, while there may well have been 650,000+ registered militiamen in the country, they were not a fighting force capable of simultaneous use. Several states had enacted legislature dictating the terms of service of their militias, limiting the war making potential of the cumulative militia. South Carolina for example, had enacted legislation which dictated that the Governor could not send more than one third of the state militia outside of the state, for more than two months at a time.<sup>67</sup> Looking at the figures reporting on the potential capacity for war, all seems well. However, Massachusetts and Connecticut were the only states which actually required that the militia keep powder, flints and lead on hand for immediate use. Furthermore, until 1804, Massachusetts was the only state to have appointed a Quartermaster General.<sup>68</sup> On the eve of war, Virginia was reporting that their militia possessed weapons in "fair to dreadful condition," that new shipments were defective and

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<sup>65</sup> Upton, 95.

<sup>66</sup> Elting, 4-5.

<sup>67</sup> Flynn, 29.

<sup>68</sup> Mahon, 44.

that there was not enough gunpowder to train recruits.<sup>69</sup> The actuality of supply was a deficiency in the collective war making potential of the country.

Henry Levitt Ellsworth provided one of the more colorful anecdotes which characterized the status of the militia leading up to the War of 1812. Ellsworth, a Harvard graduate, was traveling through New York in June of 1811, during his trip he kept a journal and wrote in great detail about the status of the militiamen he encountered in the city of Goshen.<sup>70</sup> In his journal, Ellsworth writes on the militia he witnesses “I have seen nothing yet which bears even a resemblance of defence. [sic] Their training as they call it is a mere sham.”<sup>71</sup> He goes further to say that the dress of the militiamen that he witnesses was in “exact ununiformity.”<sup>72</sup> Going into more depth on the subject of the arms seen in the hands of the militia, Ellsworth dedicates a substantial amount of prose to the subject, stating:

I must acknowledge that there was an exact uniformity to their fire arms... A thick crust of the oxid [sic] of iron gives them a wonderful similarity. From the buff color on their locks as well as their new improvement of producing fire without flint I think they cannot place their defence [sic] upon their balls. As to their bayonets I saw but one solitary instance.<sup>73</sup>

While some of Ellsworth’s commentary is no doubt tongue in cheek, it nonetheless illustrates an example of how unprepared the militia was leading up to the outbreak of war. His comment that their muskets produce “fire without flint,” is perhaps an exaggeration, but also an acknowledgement of the failure of the 1792 Militia Act to adequately prepare the troops. Thus, despite some continued advancement of militia reform following the passage of the 1792 Militia

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<sup>69</sup> Butler, 57.

<sup>70</sup> Phillip Shriver, “Broken Locks and Rusty Barrels: A New York Militia Company on the Eve of the War of 1812,” *New York History* 67, no. 3 (July 1, 1986): 353.

<sup>71</sup> Shriver, 354.

<sup>72</sup> Shriver, 354.

<sup>73</sup> Shriver, 355.

Act, such as the 1795 “Calling Forth” Act which strengthened the power of the Executive over the militia, the period from 1792 until 1812 is characterized by the inability to provide continued reforms of the militia. Lingering Republican fears of standing armies, the false belief that the militia was already adequately strong, and temporary passage of legislation which expanded the regular army rather than revitalize the system in place for the armed forces caused the failings of continued militia reform necessary during this period. Consequently, the United States was not prepared for the war it was about to enter.

## V.

With the federal government of the United States having lulled itself into a sense of security, and Congress having imposed no real changes to the Militia Act of 1792, Congress declared war on Britain in June of 1812. From the beginning, problems were apparent. In April, Madison had called for the preparation of 80,000 militiamen for the eventuality for war, however, Massachusetts, Connecticut, Rhode Island, New Hampshire and Vermont all refused to call out their militias.<sup>74</sup> Their rationale for refusal was that the United States was not under a direct threat of invasion or domestic insurrection, and thus the powers granted to the Executive under the 1795 “Calling Forth” Act were irrelevant given the lack of conditions for their use.<sup>75</sup> The states that did respond to this request had problems raising the required number of men. Upon the declaration of war, Virginia reported that their militias were “incapable of defending themselves” let alone guarding against the threat of invasion.<sup>76</sup> Delaware, actually, had no militia to speak of, as an act of state legislation passed in 1811 abolished all fines for failing to report for

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<sup>74</sup> Elting, 8.

<sup>75</sup> Upton, 96-97.

<sup>76</sup> Elting, 8.

militia duty, thus creating no imperative for its existence.<sup>77</sup> While the militia was having problems, the regular army was not in much better shape. The regular army had still not reached the 35,000-man limit imposed by Congress, this being due to militia recruiters offering larger bounties for enlistment.<sup>78</sup> Thus, the regular army was constantly short of troops during the duration of the war. The number of militia troops serving in the U.S. armed forces during the War of 1812 was about 460,000 out of a total of 530,000; the remainder being composed of regulars or naval personnel; with regular troops not reaching their potential limits during the war.<sup>79</sup> Such numbers meant that throughout the duration of the conflict, the United States had to rely on militia troops regardless of their readiness or performance.

One can hardly express the record of accomplishment for the United States militia during the War of 1812 in a positive fashion. While the United States did not lose the war, Britain's distractions with Napoleon in Europe proved a larger factor for that outcome than did the gallant action of the militia. This is not to say that the militia did not act effectively at times, but rather to say that the average actions of the militia paint a poor portrait. In evaluating the performance of the militia, there are three campaigns of predominant importance, the Northwest Campaign in Michigan during 1812, The Niagara Campaign during 1812 under General Van Rensselaer, and the Battle of New Orleans in 1815 under General Andrew Jackson. In each case, the use of the militia created a strong opinion of their presence.

As early as the fall of 1812, problems with the militia in combat were emerging. In the Northwest Campaign into Michigan, numerous problems arose. As early as fall of 1812, desertion became a problem as Ensign William Holden and 25 Kentucky militiamen, who had

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<sup>77</sup> Skeen, 73.

<sup>78</sup> Donald R. Hickey, *The War of 1812: A Forgotten Conflict* (Baltimore: University of Illinois Press, 2012), 229.

<sup>79</sup> Huidekoper, 69.

been assigned under General William Henry Harrison, became some of the earliest deserters of the war when they decided to not pursue the campaign and return home.<sup>80</sup> Common reasons for deserting throughout the war included “poor health, substandard food, no pay, a lack of proper clothing, bad leadership and moral problems.”<sup>81</sup> However, as outward desertion carried with it a stiff penalty, other forms of noncompliance became commonplace. During the War of 1812, particularly as ambitious leaders sought to claim Canadian territory, a popular form of noncompliance was a refusal to fight on foreign soil. On 19<sup>th</sup> November 1812, General Dearborn attempted to advance on Montreal, however due to fog and discontent his militia troops refused to advance; his regulars did however, continue to fight.<sup>82</sup> The number of militia that had refused to cross into Canada under Dearborn numbered 3,300 men.<sup>83</sup> The American militia experienced desertion not only in the northwest, but also during the Niagara Campaign.

At Niagara, the regular army was under the direction of General Smyth, while the militia troops were under the command of General Stephen Van Rensselaer.<sup>84</sup> Van Rensselaer was quick to realize the limitations of the militia in his command, and acknowledging their incoherence in the winter months, sought to push ahead for immediate action.<sup>85</sup> The Battle of Queenstown Heights in October 1812 was the outcome of this decision, and it did not prove a military success. One of the contributing factors to the outcome, was the fact that the militia under Van Rensselaer refused to cross into Canada, the explanation they gave was that “they were compelled only to prevent invasion.”<sup>86</sup> Van Rensselaer, in his account of the action said that “The ardor of the unengaged troops had entirely subsided. I rode in all directions, urging

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<sup>80</sup> Skeen, 44.

<sup>81</sup> Skeen, 44.

<sup>82</sup> Elting, 53.

<sup>83</sup> Upton, 105.

<sup>84</sup> Tucker, 184.

<sup>85</sup> Tucker, 185.

<sup>86</sup> Upton, 100-101.

men by every consideration to pass, but in vain.”<sup>87</sup> Desertion and noncompliance were certainly aspects which contributed to the lack of success felt by the militia in the war, but they are not the only reason for such a poor reputation. Poor results in combat also contributed to this sentiment.

If there was a situation in the War of 1812 that should have provided some mediating factors towards the performance of the militia, it was the Battle of New Orleans in 1815. This was a battle in which the militia under the control of General Andrew Jackson earned a reputation for successfully repelling British General Pakenham’s troops. The militia under Jackson did not possess the “Constitutional scruples” for venturing outside the United States, as had been the case with militiamen earlier in the war.<sup>88</sup> While the victory may seem to rehabilitate the reputation of the militia, when one probes deeper, not everything points towards the militia being an effective fighting force. In actuality, of the 3,000 militiamen under Jackson’s control, only two-thirds were well armed.<sup>89</sup> During the course of the battle, the militia stationed on the West bank did actually retreat some one and a half miles during the course of combat when ordered to hold that position.<sup>90</sup> Most importantly, Andrew Jackson himself said “only for the purposes thus temporary, should they [the militia] be considered valuable.”<sup>91</sup> In reality, Jackson achieved the victory that was the Battle of New Orleans with trained officers, the support of regulars and artillery and key possession of the high ground.<sup>92</sup> Therefore, the Battle of New Orleans is not an action which exonerates the performance of the militia during the War of 1812, but rather an action which condemns them further. If one can draw any conclusion from that battle, it is that geographical advantage and possession of some competent troops can

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<sup>87</sup> Tucker, 191.

<sup>88</sup> Coles, 190.

<sup>89</sup> Skeen, 168-169.

<sup>90</sup> Skeen, 171.

<sup>91</sup> Skeen, 172.

<sup>92</sup> Upton, 135-136.



compensate for those less inclined.

Looking collectively at the performance of the militia during the War of 1812 it is a history of desertion, noncompliance and poor performance in battle. These are hardly characteristics which make for an effective fighting force. However, the explanation for these actions is less clear when looking at the events of war alone. A single man may desert, but when a significant portion of one's army deserts, one cannot simply blame the character of the men. Instead, an institutional factor must explain the rationale for the poor performance of the U.S. militia in the War of 1812. Inherently, the problem lies with the continued employment of the 1792 Militia Act.

## VI.

In examining the reasons for the poor performance of the militia during the War of 1812, it becomes clear that the problems were institutional and thus the 1792 Militia Act is the key piece of legislation to examine. When scrutinizing the performance of the militia during the war it becomes clear that two related factors are at play, keeping the militia supplied, and the training of the militia. As James Wilson stated at the 1787 Pennsylvania ratifying convention, "Any gentlemen, who possesses military experience, will inform you that men without a uniformity of arms, accoutrements and discipline, are no more than a mob in a camp."<sup>93</sup>

The issue of supply is an interesting one, because it is an issue which Congress proactively attempted to address both before and during the war. In 1798, realizing that some states could not effectively provide arms for their militias, Congress bought 30,000 muskets for the purposes of reselling them to the states.<sup>94</sup> In 1808, Congress appropriated \$200,000 for the

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<sup>93</sup> Kerby, 112.

<sup>94</sup> Kerby, 118.

purpose of distributing it to states for the purchase of arms and military equipment, states which submitted valid returns for their militias could receive a portion of these funds.<sup>95</sup> However, what is interesting is that by 1812, the states had purchased only 12,250 of the arms and spent only \$94,792 of the funds allotted.<sup>96</sup> The inherent problem was that the Militia Act of 1792 did not allow the federal government to arm or supply the militias directly, instead relying on the cooperation of the states, and thus had a limited hand in their preparations. This trend was the continued result of fears that a strong handed approach to administering the militia by the federal government, would permit the creating of a massive standing army and the enslavement of the population. As a result, the issue of supply carried on through the war.

Virginia in particular had a difficult time keeping its militia supplied during the war. In early 1812, Lieutenant Colonel Francis Boykin reported to Virginia Governor Barbour that the artillery in his regiment possessed no cannons.<sup>97</sup> Lieutenant Colonel William Sharp reported to Barbour that his artillery regiment possessed no cannon balls.<sup>98</sup> Major Burwell of Gloucester reported that muskets coming out of the armory had barrels bursting and possessed no touchholes.<sup>99</sup> While these actions highlight the poor state of Virginia's domestic arms industry, they also illustrate a conundrum under the Militia Act, for if the federal government could arm the militia directly, from federal arsenals, then Virginia could avoid such shortages. However, Virginia was not the only state lacking in supplies. As Henry Levitt Ellsworth's earlier account alludes to, New York also had their share of shortages. By late August of 1812, there were only 800 militiamen on the Niagara frontier, and Van Rensselaer reported that of those present "many

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<sup>95</sup> Kerby, 118.

<sup>96</sup> Kerby, 118.

<sup>97</sup> Butler, 60.

<sup>98</sup> Butler, 59

<sup>99</sup> Butler, 60-61.

[were] without shoes and otherwise illy prepared for offensive operations.”<sup>100</sup> Colonel Solomon Van Rensselaer, the General’s aide-de-camp and cousin, reported in September:

We are deficient in almost everything. Four 18-pounders, two-twelve pounders, eight sixes, and two fours are all the ordnance we have for the defense of this line; two sixes, honey combed, some of them without shot and six without harness. Fort Niagara is not tenable... It cannot be maintained fifteen minutes.<sup>101</sup>

The commanders on the front lines were not the only ones complaining of shortages either, Governor Tompkins of New York in writing to Dearborn stated that militia recruits “now and must be for weeks to come, unarmed and in every respect unequipped.”<sup>102</sup> Tompkins also reported that there were only 139 tents and 60 kettles at the militia store in Albany and that those that were present had to be “taken by a kind of stealth.”<sup>103</sup> While the 1792 Militia Act had formally placed the burden of arming oneself on the individual soldier, this situation was simply untenable in the course of war and compounded by the fact that enforcement of this part of the act was almost nonexistent. In most cases, Brigade commanders simply excused those who did not provide themselves with arms from having to take place in militia activities.<sup>104</sup> Those that did show up, did so with “ragged working clothes, native dirt and large appetites.”<sup>105</sup> Clothing the militiamen was another serious issue, particularly during the winter months. An Ohio militiaman trying to recruit in New York, John Miller wrote “I am entirely destitute of winter clothing at this place... and the recruiting service would of necessity go slow until clothing is furnished.”<sup>106</sup> It is clear that without adequate clothing or arms, even the most dedicated men could not form a

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<sup>100</sup> Franti, 59.

<sup>101</sup> Franti, 61.

<sup>102</sup> Franti, 58.

<sup>103</sup> Franti, 58.

<sup>104</sup> James T. Doyle, *The Organization and Operation Administration of the Ohio Militia in the War of 1812* (Anthony Wayne Parkway Board, Ohio State Museum, 1958), 4.

<sup>105</sup> Elting, 39.

<sup>106</sup> Doyle, 30

fighting force, hence the supply issue helps explain the poor performance of the militia during the War of 1812. However, the issue of desertion and insubordination belies an issue in training, and hence the impact had by the 1792 Militia Act on the training of the militia.

On the subject of training the militia, or more specifically the lack of training possessed by the militia, the most apt quote on the subject was stated by Colonel Samuel Finley of the Ohio militia who wrote in a report on the status of his draftees “had our men arms in their hands they might have been instructed, measures might be adopted to enforce discipline. We know not how soon we may be called upon to defend our borders. These men must take arms with them; of course, the arms are gone, the interior is defenseless.”<sup>107</sup> Therein lies the problem, without the supplies by which to train men, training was applicable only in theory. The 1792 Militia Act suggested the training of men but did not explain how or enforce any sufficient penalty to enforce that outcome. With no supplies and no impetus, training did not occur sufficiently to create effective fighters. Baron Friedrich von Steuben, perhaps the most knowledgeable person in post-revolutionary America on the issues of military training and discipline, stated in the 1794 military training book, and acknowledging some of the limitations of the 1792 Act, that “the arms and accoutrements of the officers, non-commissioned officers and soldiers should be uniform throughout.”<sup>108</sup> He then further explained the methods by which one should properly drill with a musket, foot positions, ramming, aiming and so on.<sup>109</sup> However, such drills and instructions were pointless when a soldier cannot put a musket in his hands and before his eyes. Therefore, the issue of training the militia during the War of 1812, is inherently also an issue of

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<sup>107</sup> Doyle, 29

<sup>108</sup>Friedrich Wilhelm Ludolf Gerhard Augustin Steuben, *Regulations for the Order and Discipline of the Troops of the United States, to Which Are Added the United States Militia Act Passed in Congress, May 1792, and the Militia Act of Massachusetts, Passed June 22, 1793* (Printed at Boston: [by Isaiah Thomas and E.T. Andrews] for David West, no 36, Marlborough Street, and John West, no 75, Cornhill, 1794), 5.

<sup>109</sup> Steuben, 17.

supply.

## Conclusion

In summarizing the legacy of the 1792 Militia Act, Mark Pitcavage stated “If the uniform militia law is to be viewed as a vehicle for a strong national militia, then it must indeed be seen as a great failure.”<sup>110</sup> One could not state more eloquently something so apt. The Militia Act of 1792 represents a great failure, a great failure not only in and of itself, but a failure that continued on with the performance of the militia in the War of 1812. If one were to evaluate the performance of the militia during the war, and determine who lies at fault for such an outcome, it is tempting to look at the performance of the militiamen during the war and see personal shortcomings, such as cowardice and a lack of *esprit de corps* were at fault. However, when evaluated in the context of the 1792 Militia Act, it becomes apparent that the blame must lie largely with one group, the federal government.

The responsibility must fall on a federal level, because firstly, the federal government was responsible for the creation of the 1792 Militia Act; the act being born out of political infighting between Federalists and their opponents. The Federalists sought a stronger army, well disciplined, supplied, and trained on the national level, as had been the conclusion reached during the Revolutionary War. Attempts to create such were visible in the proposal of Hamilton’s revised militia plan, Knox’ “Advanced Corps”, and the expansion of the army seen during the Federalist administration during the 1798 Quasi War with France. Conflicting this view were opponents to militia reform who saw such attempts by the Federalists as a means to achieve a standing army and thus subjugate the populous. Further hindering militia reform was

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<sup>110</sup> Pitcavage, 78-79.

the tight budget of the post-revolutionary United States.

The federal government was responsible not only for the creation of the 1792 Militia Act, but also for its lack of evolution or replacement. In the twenty years between 1792 and 1812, the federal government elected only to pass the 1795 “Calling Forth” Act which did increase federal control over the militia, by allowing the president to directly raise state militias. However, Congress did not allow any further modifications to the Militia Act, resulting in chaotic state control over their militias, resulting in frequent examples of inept unpreparedness. Had Congress elected to enforce the 1792 Militia Act by means of fines for noncompliance, by granting the federal government the ability to organize the militia or by granting the federal government the ability to directly supply troops with arms and equipment, the United States could have potentially avoided some of the pitfalls experienced in the War of 1812.

As seen, the militia did earn a poor reputation during the War of 1812, this being due to desertion, insubordination and poor battle performance on the part of U.S. militia troops. In each situation in which the militia played a predominant role as a fighting force, on the Northwest Frontier or during the Niagara Campaign, the militia earned itself a poor reputation in the eyes of their commanders. Even at the Battle of New Orleans, where the militia had a reputation for success, did Andrew Jackson consider the militia only valuable temporarily, when regulars were not available.<sup>111</sup> However, these actions conducted by militia troops were the result of poor supply and training, which were themselves direct consequences of the 1792 Militia Act. Without sufficient penalties for failing to comply with the 1792 Militia Act, ensuring adequate supply and oversight, the act was no more than a suggestion to the states on how to conduct their militias. This resulted in numerous instances where arms and accoutrements necessary in battle

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<sup>111</sup> Skeen, 172.

were unavailable to the militiamen that needed them. As such, training the men properly and ensuring discipline was near impossible.

In summary, the Militia Act of 1792 had a direct correlation to the performance of U.S. troops during the War of 1812 and the responsibility for such must fall on the federal government of the United States, for they were fundamentally to blame for the creation of the act, its poor implementation, and the resulting actions in wartime.

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