

CHAPTER IV

THE TERRITORIAL MILITIA

“ACT TO ORGANIZE THE MILITIA” 1861—REPORTS OF ADJUTANT GENERAL SAYRE—THE VOLUNTEER MILITIA—TYLER’S RANGERS—INDIAN SITUATION 1864-1865—COLONEL MOONLIGHT’S DECLARATION OF MARTIAL LAW—THE FIRST COLORADO VOLUNTEER MOUNTED MILITIA—COMPANIES A, B, AND C, COLORADO VOLUNTEER MILITIA—LACK OF MILITARY PROTECTION—INDIAN WAR OF 1868—REORGANIZATION OF GOVERNOR’S GUARDS—NEW ORGANIZATIONS—END OF TERRITORIAL GOVERNMENT.

In the preceding Chapters I have attempted to re-count briefly the history of the *volunteer* organizations of the territory in the Civil War of 1861-65, and in this chapter it is intended to continue the early military history of Colorado by tracing the inception and development of the *militia* organizations down to the institution of state government in 1876.

On October 18th, 1861, the Legislative Assembly of the Territory of Colorado, at its first session, held in Denver, passed “an Act to Organize the Militia”, and this act was the first attempt made to provide an organized military force for the territory.¹ The unsettled conditions incident to the Civil War and the constant trouble with the Indians made some such action imperative, and although the act as passed later developed many deficiencies and inconsistencies, nevertheless it was step in the right direction and it did at least get the military organization of the territory started along proper lines. Its principal provisions were as follows: The Governor was the Commander-in-Chief, and appointed an Adjutant General with the rank of Brigadier General. The Territory was divided for military purposes into two division districts by a line running due east and west through the town of Bradford, over each of which a Major General was appointed, and under him there were Brigadier Generals, the number varying from time to time. All male citizens in the territory between the ages of eighteen and forty-five (except certain specified exemptions) were to be enrolled and the Brigadier Generals were instructed to arrange the persons enrolled into companies, and to letter the companies. The number of brigades, regiments and companies was usually determined by law, but at times it was left to the discretion of the Military Board. Provisions were made for the process of enrollment, but inasmuch as this section of the law was honored more in the breach than the observance it soon became very much of a dead letter, and in its stead there gradually developed the custom of organizing and enrolling what were termed *volunteer militia* companies, of which more anon.

The act of 1861 was modified by a similar act passed by the Territorial Legislature on August 14th, 1862, and again by an act for the same purpose approved February 10th, 1865. This latter act, with some minor modifications, continued in effect until it was replaced by the Act of 1879, the first militia law passed by the Legislature after the establishment of state government. The glaring defect of the acts passed by the successive Territorial Legislatures of Colorado was the inadequacy of the provisions made for the proper enroll-

¹ See Appendix A.

ment of the militia, and practically all of the governors of the Territory made some mention of the defect in their messages to the Legislature. Under date of December 3, 1867, Adjutant General Hal Sayre, in his report, to the Governor, says in part:

"Militia. Under this head, my report is unavoidably meager. There has never yet been a full and perfect organization of the militia in the Territory; the reason of which is that no provision, or at least no adequate provision is made for the payment of the different officers whose duty it is to make the enrollment and perfect the organization. * * * In our present militia law, provision is made for a military poll-tax, but so far as I can learn nothing has ever been collected under the act, or if collected, the various collectors have taken care that none of it reached the Territorial treasury".

Adjutant General Sayre was no doubt justifiably severe in his censure of existing condition, but the fact that attempts *had* been made in the past to enroll the militia let the following testify:

Headquarters 1st Brigade,
Central City,
June 25, 1864

The proper authorities (assessors) of the several counties included in the 1st Division, are solicited to complete the enrollment of the Militia in accordance with the statute of 1862, and make returns forthwith to the Adjutant General.

Officers of existing volunteer companies, and those newly organized, are directed to take immediate measures to fill up their rolls; secure and render serviceable such arms as may now be in their possession, and report to these headquarters for the purpose of organization into battalions.

E. F. Holland,
Gen. 1st Brig., 1st Div., C. M.

Whether or not the companies were ever filled up, or the battalions organized as directed, the author has no records to show, but it is on record that the *Volunteer Militia* companies organized about this time were in a flourishing condition, and in them we meet for the first time the predecessors of the National Guard of Colorado of today.

The report of Adjutant General D. H. Moffat, Jr., of March 10, 1864, to the Governor of Colorado Territory, contains for the first time a full list of the volunteer Militia organizations of the territory, and it shows that eight companies were then in existence. These were: "The Governor's Guards", "The Central City Light Guards," "The Boulder County Mounted Rifles," "The Buckskin Grays," "The Empire Guards," "The Evans Guards," "The Elbert Guards" and "The Montgomery Guards." Two of the companies were nominally designated as cavalry, the rest infantry, and the report further states that all of the companies were furnished with either Garibaldi or Mississippi rifles and accoutrements by the War Department.²

Mention has been made in the preceding chapter of the raising of the 3rd Colorado Cavalry Volunteers for service against the Indians; this regiment was organized between August 21 and September 22, 1864, and many of its members were drawn from the volunteer militia organizations listed in Adjutant General Moffat's report above.³ Due to various causes, as already mentioned, the regiment was delayed in taking the field, and, the danger being great, there was called into service a volunteer militia organization styled

² See Appendix C.

³ The "Governor's Guard", Capt. T. G. Cree, commanding, was mustered in practically intact as Company A, Third Colorado Cavalry Vol. See Appendices B and C.

"The Tyler Rangers." This company was mustered in at Blackhawk, C. T., on August 15th, 1864, and mustered out there on October 14th, 1864. The officers of the company were: C. M. Tyler, captain; Isaac Witcher, first lieutenant; Holden R. Eldred, second lieutenant; Edward B. Stillings, third lieutenant; George Bruce, ensign; and Dr. E. Garrott, surgeon. The enlisted strength of the company was eighty-four, and its appearance just prior to leaving Denver for service on the overland Route is best summarized in the following inspection report of Major General Henry M. Teller, Colorado Militia. It reads: "Discipline—Good. Instruction—Fair. Military Appearance—Good. Arms—Good, found by themselves. Clothing—Poor, found by themselves. Accoutrements—Various, found by themselves."

Among the fragmentary record of the rangers that remain, none better narrates and appraises the accomplishments of this intrepid band than an address to Tyler's men delivered by John Evans, at that time governor of the territory of Colorado, on the occasion of the Rangers' return from their brief campaign, September 29, 1864. The governor said in part:

"While a whole regiment of patriotic citizens (the 3rd Colorado Cavalry) have nobly responded to our country's call and volunteered in the United States service for 100 days to fight the hostile Indians on the plains—clothed, enlisted, mounted and equipped at government expense, with the necessary attendant delays—you have mounted and equipped yourselves, under my proclamation calling for service and were more promptly at the point of danger.

"A more noble and patriotic service than yours had not been rendered by anybody at any period in the history of our country.

"On the 15th of August, only four days after the issue of my proclamation, you had enlisted and marched from Black Hawk your full company of men. On the nineteenth, you left Denver for the scene of Indian depredations and hostilities—as well appointed and efficient a company as ever engaged in the defense of this country.

"On the march from here to the Junction, you opportunely placed yourselves in that position where your presence materially aided in preventing one of the most extensive and horrible Indian massacres ever planned by brutal malice and savage barbarity.

"On the second night, after your march from Denver, I received the most reliable information through friendly Indians coming directly from their camp near the head of Beaver Creek, of the presence there of from 800 to 1,000 warriors of the Confederate tribes of Sioux, Cheyennes, Arapahoes, Kiowa, Comanche and Apache Indians. Also, that they had agreed to divide into four parties for the purpose of a general attack upon the settlements about equidistant from their general rendezvous, extending from a point on the Platte River below the Junction, for about 100 miles to Fort Lupton, a short distance below Denver—also along Cherry Creek to its source, about fifty miles; also along the Fontaine qui Bouille and the Arkansas about 100 miles. Their plan was to divide into four parties, about 300 to go toward the Junction, 100 toward Fort Lupton, 250 to Cherry Creek and about 300 to Fontaine qui Bouille and the Arkansas River. These parties upon approaching the points designated were to divide into small bands and spread along those isolated settlements, and, at the dread hour of the night, to murder the inhabitants and plunder their houses and steal their stock. And, but for the timely warning and vigilant preparation for defense, there is no doubt but Colorado would

have been the scene of the most horrible Indian massacre that has occurred in the history of any country in the world.⁴

"At midnight I sent a telegraphic dispatch to the Junction, directing that the settlements should be alarmed, and notifying them of your presence in the neighborhood. A dispatch, by messenger, was sent to Captain S. E. Browne, then in command of his militia company on the Boulder, ordering him to move his command at once to Fort Lupton, to which he responded. From military district headquarters was dispatched a messenger up Cherry Creek, at the head of which Capt. A. J. Gill, with his volunteer militia company, sent out scouts and protected the settlements. The military express also went to the settlements on the Fontaine qui Bouille where two military companies were put on the alert, and from thence to Pueblo, where Lieut., now Colonel Shoup had a detachment; and down the Arkansas to Camp Fillmore, garrisoned with another detachment of the First Regiment of Colorado Volunteer Cavalry. And thus by being defended by militia and United States Volunteers of the First Regiment of Colorado Cavalry and by being timely placed on the alert, this extensive line of settlements was preserved from the contemplated surprise, and its horrible consequences.

"The Indians made their appearance at the appointed time at various points as foretold. * * * But, finding the people aroused, and the soldiers near and patrolling the principal points for their attack, their plan of surprise was frustrated and they retired to their safe haunts in the wilderness of the plains. Your timely presence between the Indian's general rendezvous and the Platte at the junction doubtless saved that extensive settlement from molestation.

"Nor is this all. After rendering this important service with unprecedented energy and courage, you pressed your way 300 miles down the line of our communications with the states, to the place where the greatest depredations were committed. Thence, under privations and difficulties, you courageously pursued the hostile savages to their haunts on the Republican, but to find that they had fled before your march, to regions beyond your means of subsistence to pursue them. For want of supplies, you were forced to return having thus accomplished a march that would do credit and add luster to the fame of the most valiant veterans of the army.

"You have returned. Under these circumstances, let the mean and groveling spirits that would cast obloquy upon the gallant militia of our territory, receive the righteous indignation of all good men, which they deserve—while the militia, and the particularly patriotic 'Tyler Rangers,' shall live in praise of all our good and true, loyal and just citizens."

The short period of active service of the Tyler Rangers was not spectacular, nevertheless,—“While it is clear that the company of Rangers led by Captain Tyler engaged in no battles with the Indians, it is equally clear that it added materially to the safety of the inhabitants of northern Colorado. * * * The feeling of apprehension * * * must have been considerably allayed by the presence in the district of this body of stalwart Black Hawk citizens”⁵.

On November 29th, 1864, as related in the preceding chapter, the 3rd Colorado Cavalry together with a detachment of the 1st Colorado Cavalry fought the Indians at Sand Creek, and the subsequent effects of the battle were only to add fuel to the flame of Indian hatred and hostility for the white man. By January, 1865, the Indian situation had again become menacing, and during

⁴ Governor Evans here reviews the Indian situation in the territory immediately preceding the Sand Creek expedition. See Chap. 3, ante.

⁵ J. F. Willard in Colorado Magazine, July, 1930.

the month Colonel Moonlight, then in command of the District of Colorado, addressed the following communications to the Legislature of the Territory and to acting Governor S. H. Elbert:

Headquarters District of Colorado.
Denver, January 9, 1865.

Speaker of the House of Representatives, Colorado City, Colo., Ter.

Gentlemen:

Learning that the legislative body of Colorado Territory is now in session, I respectfully suggest for your consideration the propriety of immediately reorganizing the militia law. Your country is in a manner isolated from the balance of the Federal Government, on which you depend for supplies. Your line of transportation is now inoperative, and it devolves upon you, the representatives of the people, to take a step in a direction that will insure you at least an active and efficient militia force to guard over your interests. As matters now stand, the militia must be called out sooner or later and I make these suggestions that there may be no misunderstanding between the civil and military. Gentlemen, pardon my intrusion; I mean it for good.

Very respectfully, your obedient servant,

T. Moonlight,
Colonel, Eleventh Kansas Cavalry,
Commanding.

Headquarters District of Colorado
Denver, January 17, 1865.

Hon. S. H. Elbert, Acting Governor Colorado Territory:
Sir:

By reason of the scarcity of troops in this district, our natural enemies the Indians, have possessed themselves of our lines of communication. They have burned ranches, killed innocent women and children, destroyed Government property wherever it was found, driven off the stage stock, killed the drivers and passengers traveling on the coaches; in short, they are making it a war of extermination. We may look in vain for such timely military assistance as will protect the lives and property of settlers, nor can we hope for an eastern communication this winter unless the citizens of the Territory band themselves together in a military organization and spring to arms at your call as chief executive. The blood of the innocent and suffering unoffending martyrs cries aloud for vengeance, and starvation stares in the face the living. It devolves upon the militia as matters now stand to open the Overland route and keep it open until troops can be had from the east to make war on these savages of the plains until there remains not a vestige of their hostility. You nor I cannot longer remain inactive and be considered guiltless. On behalf of the General Government (and on my own responsibility, trusting to justice of the cause for my protection) I will furnish carbines to the first mounted and accepted company and rifled weapons of improved pattern to all the balance; also rations for the same as U. S. troops, and forage for the animals, with the proper allowance of transportation, and also horse equipments. My scouts inform me that the Indian spies are now prowling around the very skirts of this place, so that in addition to your call for militia for field service the city companies

should at once be placed on a war footing, having daily drills, with appointed places of rendezvous, that we may not be caught napping.

I am very respectfully, your obedient servant,

T. Moonlight,
Colonel, Eleventh Kansas Cavalry,
Commanding

These appeals apparently had very little effect, and to again quote Colonel Moonlight (in his report to Major General Dodge, commanding the Department of the Missouri):

"After having become possessed of all these facts I looked around to see what could be done in the premises to save this country. I first made a statement to Major-General Curtis (which, by the way has never been acknowledged), and impressed upon the governor regarding the turning out of the militia, which was deemed impracticable owing to the fact that the law has so many defects. I then suggested to the legislature, which was in session, the propriety of amending the militia law, but no answer came or action taken. In consultation with the governor and other men of the Territory it was deemed most expedient and best to urge the passage of a bill issuing Territorial bonds which would be cashed at par by moneyed men, and the same used to pay volunteers a bounty for three months' service and purchase horses on which to mount them (for there are none in the quartermaster's hands, nor money to purchase them with), and these men were to be placed under my command and used in opening and keeping open the Overland Stage Route. The house and council could not agree on the bill; so after over two weeks' delay and no good resulting from their action, I was compelled to proclaim martial law, shut up all houses of business, stop all labor and traffic, and keep matters so until they furnished me 360 mounted men, which I would arm and equip. These men are now being raised and I expect by the 20th to have the most of them in the field".

The proclamation of martial law soon had the desired effect, and new volunteer militia organizations began to spring up like mushrooms. Eight additional companies were added to those mentioned in the report of March 10th, 1864, and from all of these organizations and other volunteers there was organized for active service in February, 1865, a regiment of six mounted companies designated the First Regiment Colorado Volunteer Mounted Militia. The regiment was commanded by Colonel Samuel E. Browne of Denver, with James R. Oliver as Lieutenant Colonel and Presly Talbot as Major. The companies were raised and lettered as follows: A and B from Denver, C from Central City, D from Blackhawk, E from Boulder, and F from Greeley.

The regiment was employed by detachments on the line between Denver and Julesburg and although it fought no action with the hostile Indians, nevertheless its judicious distribution afforded protection to the stages and transportation trains and the settlers along the route. On April 27th, 1865, the regiment returned to Denver and was mustered out two days later. It is of interest to note that the Federal government at first refused to pay the expenses of the regiment, but later Congress by joint resolution provided for the payment of all bills incurred as a consequence of putting the regiment in the field.

During the absence of the 1st Regiment Colorado Volunteer Mounted Militia on the plains, and in compliance with Colonel Moonlight's suggestion "that in addition to your call for militia for field service the city companies should at once be placed on a war footing, having daily drills * * *", new

companies were raised in Denver to replace those that had been mustered in with the regiment. The newspapers of the day contain many references to such organizations as "The Denver Light Guards," "Company B, Third District," and "The Moonlight Guards," and a familiar note is struck when one captain orders his company out for a drill at a certain time and place and threatens to send a squad out to gather up absentees.

Following the muster-out of the 1st Regiment Colorado Volunteer Mounted Militia and the temporary cessation of Indian hostilities interest in military affairs again subsided, and the various volunteer militia companies soon passed out of existence. However, in the summer of 1867 the perennial Indian scare bobbed up again, and under the stress of the time three companies were raised to assist the Federal troops in the defense of the territory. These were lettered Companies A, B, and C, Colorado Volunteer Militia, and were commanded by Captains Fred J. Stanton, Harry A. Packard and David J. Cook, respectively. Subsistence having been furnished by voluntary subscriptions and donations from the citizens of Denver the companies went into camp near the city, there to await the furnishing of horses and equipment. These not forthcoming the troops, after ten days in camp, were mustered out, and the territory was once again without troops amenable to the orders of the Governor.⁶ Referring once again to Adjutant-General Hal Sayre's report of December 3, 1867, we find that the militia of Colorado Territory had just about become non-existent. To quote:

"Of organized volunteer militia, there is not one company in the Territory. The report of the Adjutant-General for the year 1865, carried sixteen companies under this head, where in reality there was but one company fully organized as required by law. That company having ceased to exist, I have dropped them entirely from my reports."

Again on December 31, 1869, he reports to the Governor:

"There are no organized militia within the territory: nor do I think an organization could be perfected under our present law. This law has been in force since February 10th, 1865.

"I know not what exertions were made by my predecessors to perfect an organization under it; but with the most strenuous endeavor on my part I have utterly failed to accomplish anything. Many reasons might be adduced for its inefficiency, but the principal defect is a want of adequate compensation for service to the various officers whose duty it is to carry out its several provisions.

"In the year of 1868 I caused to be printed muster rolls, for the purpose of the enrollment of the militia, as provided in Article 2, of the act approved February 10th, 1865. These rolls were duly distributed to the various officers as provided by said act; and of all the rolls so distributed not one was properly returned. For this reason—deeming it a useless expense—I did not distribute any this year; and being without the necessary information on this subject, I have not made the returns to the general government as required by the laws of the United States.

"Of Volunteer militia there are none; at least nothing appears in my office that shows any such organization to exist."

This then, was the condition of affairs in the military department of the territory when about the middle of August, 1868, there was a general uprising of the Indians inhabiting that part of the Territory lying east of the mountains.

⁶ See Appendix D.

This uprising was doubtless preconcerted, as the attack was almost simultaneous throughout the whole country.

Dispatches flowed in upon Secretary Hall, then Acting Governor (Governor Hunt being absent), from all parts of the Territory, asking assistance and arms, and giving details of outrages committed by the Indians.

To grant assistance was almost impossible, as there was not an organized company of militia within the Territory, and by the time a force could have been organized and equipped, the Indians would have done all the damage in their power, and placed hundreds of miles of distance between themselves and the scene of their depredations.

All the arms in the Territory, consisting of a few hundred worthless Austrian rifles, and less than one hundred Warner Carbines, were distributed among the settlers at the most exposed points.

Requisitions were at once made on the general government for arms and ammunition, which requisitions were filled.

Companies of volunteers were organized at several points within the Territory, who went in pursuit of the Indians, in several cases coming upon and giving battle, and resulting in the killing of perhaps thirty or forty of the Indians.

Conditions becoming critical Acting Governor Hall notified Major General P. H. Sheridan at Fort Leavenworth, Kansas, of the state of affairs and requested assistance. This assistance was soon forthcoming and orders were issued by General Sheridan for the troops at Forts Reynolds and Lyon to co-operate with Colorado volunteers in the suppression of hostilities. The following telegram from General Sheridan to Governor Hall, shows the force of government troops put in the field:

Headquarters in the Field
Fort Hays, Kansas

To His Excellency: Frank Hall, Acting Governor, C. T.:

Your dispatch received. Gen. Bradley is now at the fords of the Republican with eight companies, two of cavalry and six of infantry, and will scour the country as far as Kiowa.

The advance of seven companies of the Fifth Cavalry has arrived at Fort Harker, and as soon as they will arrive, will march via the forks to the Republican to your frontier at Kiowa. That will make fifteen (15) companies in that section. Four companies of the Tenth Cavalry are under Marching orders from Fort Dodge to Fort Lyon, to operate against the Indians from that point.

Captain Graham's company will soon be fitted up again, and with Carpenter's company of Tenth Cavalry, will have the line of stage road to Kiowa. Capt. Carpenter's company took Graham's place and was on its march to Kiowa, when I had to direct it to the assistance of Col. Forsyth, who had a fight on the dry fork of the Republican with four hundred and fifty (450) Indians, in which he was twice wounded severely, Lieut. Beecher killed, and three men of the command killed and eighteen wounded. He killed thirty-five Indians and wounded a great many, but was unable to come in on account of his wounds, as he had no wagons, and all his horses were killed in the fight. A large number of Indian ponies were killed.⁷

⁷ The battle of Beecher's Island, Colorado Territory, See Appendix E.

General Sully's command is still south of the Arkansas. He had a fight in which he killed seventeen Indians, losing three soldiers.

I am exceedingly sorry to have been unable to relieve the distress of the people of your frontier; but the facts of the case is, I have my hands full.

I hope the movement and presence of the forces above described will bring relief.

(Signed) P. H. Sheridan
Maj. Gen., U. S. A.

Everything possible to relieve the situation, with the meager forces available, was done, and about the middle of October hostilities within the territory had ceased.

The volunteers that had been raised to help suppress the uprising were not a part of the organized militia of the territory, and they were never regularly mustered in to either the federal or territorial service. As soon as their services were no longer required they returned to their homes, and the territory was once again without an armed and organized force of any kind whatsoever. This condition of affairs continued until early in the spring of 1872 when steps were taken to reorganize the Governor's Guard of Denver. However, the story of that reorganization and of the reorganization of the cavalry arm in Colorado Territory are properly parts of the histories of the 157th. (1st Colorado) Infantry, and of the 117th Separate Squadron of Cavalry, Colorado National Guard, which are recorded in Parts II and III following.

The Governor's Guards were, at the time of the reorganization in 1872, a semi-private organization, and it is of passing interest to note that two other private organizations were carried on the Adjutant General's ordnance return of 1876 as having been furnished rifles and equipment by the territorial government; these were the "Jarvis Hall Cadets," an organization made up of students in Jarvis Hall, a boys' school at Golden, Colorado, and the "High School Squad" of Denver. Both organizations enjoyed somewhat of a semi-official status, and were in the nature of wards of the Adjutant General.

Colorado became a state of the Union on August 1st, 1876, and the regularly enrolled and *mustered* volunteer militia organizations at this time were as follows:

- Company A, 1st Infantry, (Emmett Guards), Central City.
- Company B, 1st Infantry, (Governor's Guard), Denver.
- Company A, 1st Cavalry, (Denver Scouts), Denver.
- Company B, 1st Cavalry, (Pikes Peak Rangers), Colorado Springs.
- Company C, 1st Cavalry, (Sterling Scouts), Sterling.

Interest in military affairs was again at low ebb, and very little attempt was made to enroll new organizations to complete the contemplated battalion organization of the Infantry. The passing of territorial government was accompanied by no blaze of military glory, and it was not until the second session in 1879 of the newly created state legislature that a really constructive piece of legislation was passed to place the state's military forces on a permanent basis.