

The Martinet and the Mob

Federal Authority and Local Control of the First Iowa Volunteer Cavalry in the Civil War

DAVID CROSSON

IN 1987 several Iowa state legislators attempted to persuade Governor Terry E. Branstad to prevent state-controlled, volunteer Iowa National Guard units from serving a training mission in Nicaragua. Some governors, such as Michael Dukakis of Massachusetts, did keep their state troops home. To some degree these actions reflected public disagreements over national foreign policy in Central America. But in other ways these recent efforts by state officials to control their own volunteer troops are nothing more than a restatement of the continuing American dialogue over the nature of our federal system.¹ Not surprisingly, the parameters of the discussion were defined during the Civil War, when northern states like Iowa, as well as their southern brethren, struggled to define the nature of the proper relationship between state and federal authority.

Allan Nevins has argued forcefully that the most important single result of the American Civil War was the creation of an organized society out of an unorganized society. The fratricidal struggle centralized and systematized the national economy, culture, and governmental structure. A modicum of authority, control, and predictability for the first time replaced the autonomy, disunity, and chance of the antebellum years. The process of superimposing order over previous disorder was not complete in 1865, Nevins concluded, but it was well under way, and the outlines of the new system were evident.²

1. *Des Moines Register*, 5, 19 Feb., 23 May 1987.

2. Allan Nevins, "A Major Result of the Civil War," *Civil War History* 5

This new acceptance of a broad general authority above and beyond the individual and the most local of governmental institutions was an event of paramount significance in the evolution of the American federal system. The individualistic American people had surrendered precious little authority to the national government before the Civil War. Ultimate authority still rested with the individual, who was usually quite chary about sharing it with contrived governmental organizations. The more removed the governmental unit from the individual, the more reluctant was the individual to accept its authority. Thus, when different levels of government struggled among themselves, as they often did, the most local units usually won out.

In no area was local—and particularly state—control more real and national centralization more mandatory in 1861 than in the organization and command of the army. Decentralization reflected both the condition of the regular army in 1861 and the manner in which the necessary new volunteer troops were raised and organized. However, a national military force responsible to federal authority was absolutely essential to sustain a military effort the size of which the world had never before seen.³ Yet the method in which these troops were recruited and organized admitted the supremacy of state governments over federal authority and maximized the possibility of conflict over control of troops thus raised. Indeed, at the end of the war (and beyond) the volunteer army remained in some respects the strongest bastion of local authority against the organizing and nationalizing effects that Nevins analyzed so well.

Since it was psychologically impossible for the American people in 1861 to accept a general conscription, the only alternative for raising the necessary troops was a call for volunteers. According to procedures eventually standardized, each state was alone responsible for clothing, feeding, transporting, and (if necessary) arming all volunteers joining regiments within its borders until they were officially mustered into federal service.

(1959), 237–50; Allan Nevins, *The War for the Union*, 5 vols. (New York, 1959–71), 5: 395.

3. There were only 16,367 men in the regular army of the United States in April 1861. Many of these men soon left to join the Confederacy. See E. B. Long, *The Civil War Day by Day* (New York, 1971), 702, 707.

Because men from one state could volunteer for regiments being formed in another, there was potential for interstate contests over volunteers. And since colonels were appointed by governors, the men who commanded the regiments often owed allegiance more to state politicians than to their commanders in the field. Even promotion to the rank of general, which had to be recommended by the president and approved by the United States Senate, was to a large degree determined by state quotas. Finally, regiments, the primary fighting units of the Civil War, belonged to the states.⁴

Although Iowa is not necessarily representative of the other eighteen northern states, the prairie commonwealth can serve as a convenient tool for examining the struggle between state and national authorities over the control and care of state troops in federal service. The history of one Iowa regiment in particular, the First Iowa Volunteer Cavalry, graphically demonstrates the struggle for authority over volunteer troops. The First Iowa Volunteer Cavalry entered service amid controversy and left in controversy; and state officials stood by it all the way, as if they were in the field alongside the troops. The regiment's assignment in June 1865 to the command of one of the most colorful and controversial figures in American history, Major General (of volunteers) George Armstrong Custer, adds additional intrigue to the story.

As might be expected, evaluations of the regiment's service under Custer vary dramatically. According to the official *Roster and Record* of the First Iowa Cavalry,

General Custer was a brave and dashing cavalry officer who had been trained in a severe school of discipline and was utterly unfit for command of volunteers. . . . He lacked the essential qualifications—kindness of heart, tact, and good judgment of human nature—which would have enabled him to enforce a proper degree of discipline, and, at the same time, have secured the respect and attachment instead of the cordial hatred of the men under his command.

4. Fred A. Shannon, *The Organization and Administration of the Union Army, 1861-1865*, 2 vols. (Cleveland, 1928), esp. 1: 15-51, 295-323; Long, *Day by Day*, 716-18.

"It is altogether to the credit of the men and officers of the First Iowa Cavalry," the *Record* continues, "that they were able to submit to the cruel indignities to which they were subjected while under the command of General Custer, instead of being driven to open insubordination."⁵

A recent scholar disagrees with this virtuous view of Hawkeye manhood and supports the general, whose measures, he says, "were made necessary because of disciplinary problems." John M. Carroll argues that the boy-general responded to, but did not cause, "rebellion" in the ranks. Complaints against the commander, he insists, were "petty" and personal. Carroll is convinced that most of Custer's detractors have "confused 'cruelty' with 'necessary discipline.'" Unfortunately, while calling for an objective evaluation of the situation, Carroll immediately admits, "I am pro-Custer—very much so." This is hardly the man from whom an objective opinion can be expected.⁶

Just as unfortunate, the author is so concerned with Custer's defense that he misses the real issue in dispute, the inability of the duly appointed military representatives of the federal government to achieve a general, nonpersonal recognition and acceptance of federal authority over volunteer troops. Carroll maintains that two men, surgeon Charles Lothrop and Lieutenant Colonel Alexander McQueen, allowed "their own specious arguments to appear to be the official voice of their regiment and state." The significant point is that "they did not hesitate to involve Iowa State officials and home newspapers" in their support. This was nothing new. It was the way volunteer regiments had responded to real and imagined threats and abuses throughout the war.⁷

Thus, an examination of the service of the First Iowa Cavalry offers an opportunity to explore two separate issues. First, and most important, what was the nature of the struggle be-

5. *Roster and Record of Iowa Soldiers in the War of the Rebellion Together with Historical Sketches of Volunteer Organization 1861-66*, 6 vols. (Des Moines, 1910), 4: 15-16.

6. John M. Carroll, *Custer in Texas: An Interrupted Narrative* (New York, 1975), xi-xvi. See also John M. Carroll, *Custer's Cavalry Occupation of Hempstead and Austin, Texas* and *The History of Custer's Headquarters Building* (Glendale, CA, 1983); Steven Land Tillotson, *Remnant of an Era: The History of the Little Campus Site (1859-1977)* (Austin, TX, 1977).

7. Carroll, *Custer in Texas*, xv.

tween state and federal authorities over the control of volunteer troops mustered into federal service during the Civil War? Second, of less historical significance, but of considerable interest to students of one of the great legends of the American West, what was the nature of the relationship between General George Armstrong Custer and the troops under his command in Louisiana and Texas in 1865 and 1866?

THE FIRST IOWA VOLUNTEER CAVALRY organized under President Lincoln's call for troops of May 3, 1861. Appointment of the mercurial Fitz Henry Warren as the regiment's commanding officer and a dispute over regimental pay provided early evidence of the pattern of political meddling in military affairs that characterized volunteer units in the Civil War.

Governor Samuel J. Kirkwood appointed Fitz Henry Warren of Burlington as colonel of the First Iowa Cavalry not to reward a political friend but to isolate a dangerous competitor. An old-line Whig, former editor of the *Burlington Hawk-Eye*, and one of the founders of Iowa's Republican party, Warren was not unknown in national political circles. He had served as the first Civil War correspondent for Horace Greeley's powerful *New York Tribune*. After working diligently for Lincoln's election, the erratic politico felt slighted when he was not appointed to a cabinet position. Blaming Kirkwood and the governor's political godfather, Senator James W. Grimes, for thwarting his ambitions, Warren made it clear that he planned to challenge the first-term governor for their party's nomination in 1861. By tendering Warren a colonel's appointment, Kirkwood strategically forced his opponent to choose between accepting a military appointment, which would remove him from the gubernatorial race, and refusing the commission, which would appear unpatriotic and remove any chance of electoral success. It was a shrewd political move that graphically demonstrated the unmilitary purposes to which military commissions were put.⁸

8. Fitz Henry Warren to Hawkins Taylor, 2 Jan. 1861, Samuel J. Kirkwood to Abraham Lincoln, 7 Jan. 1861, James Harlan to Lincoln, 17 Jan. 1861, Lincoln Papers (microfilm), Library of Congress, Washington, DC; A. T. Shaw to Kirkwood, Apr. 1861, Kirkwood Papers, State Historical Society of Iowa, Des Moines; William Merritt to William Penn Clarke, 15 Sept. 1861, William

On June 19, 1861, Secretary of War Simon Cameron accepted Governor Kirkwood's offer of a regiment of mounted cavalry, "the first volunteer cavalry organization, which had enlisted for a three year term of service, to be accepted by the government." The governor ordered the regiment to rendezvous in Burlington on July 18, and it was mustered into federal service on August 17, two months after it had been officially accepted.⁹ When the regiment was paid for the first time in November, Colonel Warren claimed pay from the time the regiment was first accepted, June 19. The government first paid the regiment, then decided to withhold two months' pay from future regimental issue, and finally charged the colonel with fraud. The government ultimately maintained that the regiment should have been paid only from the date of muster, not from the date of acceptance two months earlier. The impetuous colonel, who was allowed to keep his salary for the earlier period, advanced on Washington with all the political ammunition he could muster on behalf of his troops. How, he asked, could a colonel "be paid in the Volunteer service when he has no Regiment?" "And how, when a Col. has been adjudged as entitled to his pay, [can] the subordinate officers and enlisted men . . . be denied theirs?" A sixteen-page judge advocate general's report delivered directly to President Lincoln in April 1863 concluded that the regulations were uncertain when the First Iowa Cavalry was recruited, and the confusion of conflicting regulations allowed different interpretations of the date at which federal responsibility began. The report completely exonerated the colonel, but the regiment was never paid. The Iowa General Assembly petitioned Congress annually for redress with no effect. When Warren returned to Washington in 1867, he still could not acquire the pay that he

Penn Clarke Papers, State Historical Society of Iowa, Des Moines; James W. Grimes to Kirkwood, 9 Jan. 1861, "Letters of James W. Grimes," *Annals of Iowa* 22 (1941), 567; Henry W. Lathrop, *The Life and Times of Samuel J. Kirkwood* (Iowa City, 1893), 142. For Warren's career with the *New York Tribune*, see Louis M. Starr, *Bohemian Brigade: Civil War Newsmen in Action* (New York, 1954), 33-37, 53-55.

9. Simon Cameron to Kirkwood, 19 June 1861, in *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, ser. 3, vol. 1, p. 279; *Roster and Record*, 3; Charles W. Lothrop, *History of the 1st Regiment, Iowa Cavalry* (Lyons, IA, 1890), 18-30.

believed had been inappropriately expropriated from his regiment six years earlier.¹⁰

FINALLY, the First Iowa Cavalry went to war. In October 1861, the regiment removed to Benton Barracks, St. Louis, and it stumbled through its first engagement at Blackwater on December 19. Most of 1861 and 1862 were spent chasing small, mobile bands of independent Confederates in central and southern Missouri. The regiment joined the expedition into Arkansas in 1862 and participated in engagements at Van Buren, Bayou Meto, and Little Rock. It also claimed Princeton, Elkin's Ferry, Camden Crossroads, and Saline River on its battle flag. More military activity occurred in Missouri during the Civil War than in any other state, except Virginia and Tennessee. Arkansas ranks fifth. In four years of marching across Missouri and Arkansas, the First Iowa Cavalry gathered more dust than glory; but it was certainly busy, and it remained proud, ably commanded, and defensive of its record and honor.¹¹

Ultimately, the Iowans left Arkansas on February 12, 1865, for Tennessee, where the troops anticipated operations against Nathan Bedford Forrest's mounted guerrillas. Just as they found themselves in a position to acquire the national reputation that they knew they deserved, the war ended. Unfortunately, the end of the war did not mean the end of service for the First Iowa Cavalry. Instead of being mustered home, the Hawkeye horsemen were ordered to join the Twelfth and Fifth Illinois, Second Wisconsin, and Seventh Indiana cavalries at Alexandria, Louisiana, to create the Second Cavalry Division, Department of Texas, Division of the Gulf. The weary regiment was not finally mustered out of service until February 1866.¹²

10. Report by Fitz Henry Warren, 20 Nov. 1867, and Report of J. Holt, Judge Advocate General to Lincoln, 28 Apr. 1863, both in Governor's Office, ser. 8, vol. 39, State Archives, State Historical Society of Iowa, Des Moines; Lincoln to Edwin M. Stanton, 14 Feb. 1863, in Roy P. Basler, ed., *The Collected Works of Abraham Lincoln*, 9 vols. (New Brunswick, 1953), 6: 106.

11. *The Union Army*, 8 vols. (Madison, WI, 1908), 177-79; Long, *Day by Day*, 719; *Adjutant General's Report, 1863*, 2 vols. (Des Moines, 1863), 2: 845-50; *Adjutant General's Report, 1867*, 2 vols. (Des Moines, 1867), 2: 507-13; Lothrop, *History*.

12. *Adjutant General's Report, 1867*, 2: 513-14; Raphael P. Thain, comp., *Notes Illustrating the Military Geography of the United States* (Washington, DC, 1881), 13, 20.

There were three reasons for maintaining a military presence in the South after the Civil War. Only two related directly to the conflict itself. Military vigilance over the conquered nation was required to prevent isolated instances of continued intransigence from swelling into renewed armed resistance. There was also a very real need to enforce order where all civil authority had been destroyed. Perhaps as important and certainly as immediate, the federal government was profoundly concerned over the unstable situation in Mexico. There was a general expectation that the United States might sooner or later employ military force to prevent a European country from reestablishing a colonial stronghold in the New World. The Second Cavalry Division, which included the Iowa unit, was to outfit and organize in Alexandria and move into Texas to quell any local disturbances, maintain general order in the absence of civil authority, and be prepared for intervention across the Rio Grande.¹³

Conflict emerged from an unexpected source, however, not from Mexico or from Confederate diehards. After four years of military activity during the Civil War, the First Iowa Cavalry experienced its most bitter and humiliating reverse during nine months of service in Louisiana and Texas. And the humiliation was inflicted not by the enemy but by the division commander—flaxen-haired, twenty-six-year-old Major General George Armstrong Custer.

IN THE SUMMER OF 1865 the First Iowa Cavalry and several other regiments were assigned to the command of General Custer at Alexandria, Louisiana, "a confused mass of ruins" created by the war. With him they marched to Hempstead, Texas, and then to Austin, where they were finally mustered out. In Texas, small "detachments of troops were stationed for a few weeks at a time at different county seats" from the Indian Nation to the Gulf.¹⁴

13. General Sheridan to Edwin M. Stanton, 14 Nov. 1866, quoted in Carroll, *Custer's Cavalry*, 5-12.

14. "Autobiography of Col. William Thompson," 1, State Historical Society of Iowa, Des Moines; Carroll, *Custer in Texas*. Supporting Carroll's contention are Elizabeth B. Custer, *Tenting on the Plains* (New York, 1887); Marguerite Merington, ed., *The Custer Story: The Life and Intimate Letters of General*

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During these nine months a few individuals complained repeatedly to anyone who would listen about marching conditions, the lack of adequate food and medical supplies, and the ruthless manner in which the commanding general administered discipline. Although much of this was no more than usual volunteer complaints against the normal conditions of military life, accentuated by the understandable desire to return home, unrest focused on Special Order No. 2. Issued the day after Iowa troops arrived in Alexandria, the order demanded summary punishment by the lash and/or head shaving, *without access to trial by court-martial*, of anyone accused of foraging without permission. Specifically, Custer's order commanded:

No foraging parties will be sent out from this command without written permission from the headquarters, and then only to obtain fresh beef and grain, for which payment will be made. . . .

Every violation of this order will receive prompt and severe punishment. Owing to the delays of Courts Martial and their impracticality when the command is unsettled, it is hereby ordered that any enlisted man violating the above order or committing deprivations upon the persons or property of citizens, will have his head shaved, and in addition, will receive twenty-five lashes upon his back, well laid on.¹⁵

The order was signed on June 24, 1865. The general did not bother to appoint a court-martial until July, although the order was enforced in the interim. When the court was finally appointed, Iowa's Lieutenant Colonel Alexander McQueen presided.¹⁶

George A. Custer and His Wife Elizabeth (New York, 1950), 172-74; and Jay Monaghan, *Custer: The Life of General George Armstrong Custer* (Toronto, 1959), 256-65. The volunteer's point of view is reflected in Lothrop, *History*, 216-99; Thomas S. Cogley, *History of the Seventh Indiana Cavalry Volunteers* (La Porte, IN, 1876); and Emmett C. West, *History and Reminiscences of the Second Cavalry Regiment* (Portage, WI, 1904).

15. The many general complaints are recorded in the Governor's Office, ser. 2, vol. 17, State Archives; Adjutant General's Office, ser. 3, vol. 27, State Archives. Special Order No. 2, 24 June 1865, can be found in the Charles Lothrop Papers, State Historical Society of Iowa, Iowa City, reprinted in *Adjutant General's Report, 1867*, 2: 514.

16. A. G. McQueen to Kirkwood, 19 Jan. 1867, Kirkwood Papers.

On September 14, General Custer ordered the arrest and punishment of two men for violating Special Order No. 2. One of the men was Private Horace M. Cure of the First Iowa's "A" Company. Cure was the only Iowa soldier to suffer the humiliation of head shaving and the pain of flogging under Custer. It is significant that on the very same day that Cure was punished, General Custer officially exonerated the First Iowa Cavalry and the Second Brigade, of which it was part, of any responsibility for or participation in the incident for which Private Cure suffered. The general even congratulated the First Iowa's "Officers and men" for being "so strictly honest and upright."¹⁷

Cure's punishment did not remain long unnoticed back home. Iowa Governor William Milo Stone had already sent a curt letter to Secretary of War Edwin Stanton demanding that the regiment's "brutal, degrading, and unmilitary treatment from Gen. Custer . . . be searchingly investigated immediately, and the regiment mustered out."¹⁸ After the flogging incident, home pressure mounted. Adjutant General Nathaniel Baker wired Stanton, "Has Genl Custer now in Texas under the articles of war and the acts of Congress any right with or without court martial of offender to order or inflict punishment of a number of the 1 Iowa Cav by shaving of head & infliction of lashes? If he has such right or authority, from what source does he derive it?"¹⁹ The implication was clear. The Iowa adjutant general was not about to allow the federal government the right or authority to punish Iowa troops, the fact that they were mustered into federal service notwithstanding. Baker's telegram received no reply, perhaps because federal officials had, by late 1865, become weary of receiving such hyperbole from the western prairie. On October 18 Governor Stone again demanded Stanton's attention and justified his interference in the matter. "In the conduct of the General named, the violations of law and regulations have been so palpable, and his treatment of these

17. General Order No. 5, 14 Sept. 1865, Regimental Order Book, 1st Iowa Cavalry, RG94, 2d sec., p. 57, National Archives, Washington, DC; Henry L. Morrill to Kirkwood, 23 Jan. 1867, and McQueen to Kirkwood, 17 Jan. 1867, Kirkwood Papers.

18. William Milo Stone to Stanton, 2 Oct. 1865, Governor's Office, ser. 2, vol. 17, p. 315, State Archives.

19. N. B. Baker to Stanton, 7 Oct. 1865, Adjutant General's Office, ser. 3, vol. 27, p. 126, State Archives.

men so brutal, that forbearance on my part would amount to criminal neglect of duty."²⁰

Iowa troops were not the only ones to suffer and chafe under the enforcement of Special Order No. 2. According to the official historian of the Seventh Indiana Cavalry, "The regiment, on its arrival at Hempstead, was almost destitute of clothing, and was nearly starving." When word reached camp that some other soldiers had killed a beef, "some men from the 7th Indiana . . . went out to get the refuse meat," only to find the carcass already well-gleaned. "Greatly disappointed" and "nearly starved," three men from Company I "killed a runty calf worth about one dollar and brought some of the meat into camp." "Anxious for the opportunity to exercise cruelty," Custer ordered his provost marshal, "a brute perfectly willing to do his dirty work, to go through the farce" of examining the accused. Two men confessed and were sentenced to head shaving and *forty* lashes. According to the Indiana regiment's historian, Thomas S. Cogley, "This outrage won for Custer the lasting hatred of every decent man in his command."²¹

The strict administration of Special Order No. 2 may have been the most extreme complaint, but it by no means stood alone as the only source of discontent in the Second Cavalry Division. Most of the volunteers were not prepared for the general degree of rigid discipline demanded by "this martinet of the Regular Army." The citizen soldiers especially did not appreciate such draconian measures when the military conflict was over. Custer's concern that "regimental and stable guards have been slovenly doing duty," for instance, appeared rather minor when there was no danger of armed attack. The requirement that "Regimental Officers of the Day will specify the Company and Commander whose camp & horse exhibit most care," was punctilious. And "allowing" men to "bathe in river before 8 AM and after 5 PM" seemed just plain silly. Who was going to bathe in a river where the favorite pastime was "catching alligators?"²²

20. Stone to Stanton, 18 Oct. 1865, Governor's Office, ser. 2, vol. 17, pp. 346-48, State Archives.

21. Cogley, *Indiana*, 176-77.

22. *Roster and Record*, 4: 15; Circular #34, 7 Sept. 1865, Order Book, 1st Iowa Cavalry, RG94, 3d sec., p. 25, National Archives; General Order No. 2,

In some cases, the complaints themselves were indeed petty or personal. "Everything about him indicated the fop and dandy," wrote Cogley. "Everything in the regulations that was gaudy, and tended only to excite vanity, he caused to be scrupulously observed." Iowa's Henry L. Morrill noted that Custer brought with him to Alexandria ten staff officers, "a squadron acting as Provost Guard—a small Brigade of orderlies—and only *five* aide-de-camps." The presence of Custer's wife Elizabeth was also bothersome, and the men grumbled about performing "menial services for her." They also objected to "detached duty" as trainers and stablemen for Custer's race horses in Austin.²³

Most persistent, however, were the complaints about the quantity and quality of food, clothing, and medical supplies. "We never suffered so much for want of proper and sufficient rations," wrote one former soldier to Senator Kirkwood in 1867, "as while under General Custer's command." When Iowa Private James Fodge finally received his pay in Hempstead, he wrote to his mother that he would keep twenty dollars "to buy grub with" because "we live so hard." Later, the same soldier wrote from Austin that he would have gone to a Sunday night "meeting," but "I am the raggedest boy you ever saw in your life and as there is several texas Ladys comes to meeting I cannot go." "We have not drawn any clothing in four months," he complained, "and there is no signs of drawing soon."²⁴

Some men were wise enough to understand that the responsibility for problems in supply belonged to the quartermaster and commissary departments, not to the general in command. But even they could not understand why, if the commissary could not meet their needs, they were not allowed to forage on their own. After all, Texas had been *very* Confederate, and psychologically still was. In some places, one soldier com-

22 July 1865, Lothrop Papers; Circular, 23 June 1865, Order Book, 1st Iowa Cavalry, RG94, 2d sec., p. 16, National Archives; Cogley, *Indiana*, 168.

23. Cogley, *Indiana*, 176; Morrill to Kirkwood, 23 Jan. 1867, Kirkwood Papers.

24. Cogley, *Indiana*, 176; Morrill to Kirkwood, 23 Jan. 1867, Kirkwood Papers; James M. Lodge to Mother, 27 Aug., 6 Oct., 10 Dec. 1865, Lodge Collection, Western History Research Center, University of Wyoming.

plained, the women "won't let us get water without a fuss."²⁵

Iowa's Lieutenant Colonel McQueen spent a good deal of his time locating food and medical supplies. He finally bypassed the quartermaster's office and traveled to Matagorda, Mexico, to negotiate directly the purchase of two hundred head of "fresh beef" for the men at 7½ cents per pound, or about fifteen dollars per head. McQueen also ordered his staff medical director to "see if the 3 months supply of medicines have been sent & try & have him get 25 or 30 oz. of quinine additive to the requisition." The requisition apparently left Galveston but did not arrive in Hempstead. "Have not heard from it since," recorded McQueen, "and we are out of almost every thing and quinine especially." This was particularly significant when, as one soldier later wrote home from Austin, "We have a good deal of sickness here."²⁶

Custer, too, in fairness, did identify the problem, and made an effort to remedy it. On September 10 he convened a board of investigation "to inquire into the frauds perpetrated upon the enlisted men of the Command . . . by issuing them rations deficient in quantity and worthless in quality at a time when no apparent reason existed unless it be the incompetency of officers of the Commissary Depart." Apparently no action resulted from the investigation, however, for the problem still prevailed at least as late as December.²⁷

In sum, the accusations against General Custer included (1) illegal, inappropriate, and inflammatory discipline brutally enforced; (2) failure to secure adequate food, clothing, and medical supplies; and (3) a haughty manner and imperial way of living that did not become a military man, at least not one commanding volunteer troops. To these a fourth might be added—a general accusation that Custer did not understand the citizen soldier. Cogley concluded that the West Point general "had no sympathy in common with the private soldiers, but regarded them simply as machines." Iowa's Colonel William Thompson,

25. Thompson, "Autobiography," 65–66; Lodge to Mother, 27 Aug. 1865, Lodge Collection.

26. Alexander McQueen diary, 28 Dec. 1865, in private possession of Ms. Kris Smith, formerly of Conroe, Texas; Lodge to Mother, 6 Nov. 1865, n.d. 1865, Lodge Collection.

27. Special Order No. 48, 10 Sept. 1865, Order Book, 1st Iowa Cavalry, RG94, 3d sec., p. 64, National Archives.

on the other hand, thought that "General Custer was an educated soldier . . . , but he let this Provost Marshall of his, hinder and obscure all of his native kindness and benevolence."²⁸

ASSESSING FAIRLY the treatment of troops under Custer in Louisiana and Texas is no easy task. Custer himself, of course, eludes dispassionate evaluation no less today than while he was alive. Already by 1865, few people who knew George Armstrong Custer were neutral about him. In addition, the reports from soldiers in the field and the memories of veterans at home were obviously self-serving, intended to defend the performance of noble citizen soldiers who had been unjustly wronged. The situation is further complicated by a lack of important documentary evidence. Documents are missing or, perhaps, as Carroll suggests, were never really there. With all of the pitfalls, however, it is still possible to make a historical judgment. In the end that judgment favors the volunteer troops over their commanding general.

On October 25, 1865, in apparent response to a telegram from Iowa Governor William Milo Stone to Secretary of War Stanton, George Armstrong Custer issued a formal and official defense of his disciplinary measures in Louisiana and Texas. In his letter to Divisional Acting Adjutant General Major George Lee, Custer declared flatly "that something beyond the ordinary course of procedure was absolutely necessary if I desired to insure order and good conduct in my command." The conduct of the troops at Alexandria "was infamous, and rendered them a terror to the inhabitants of that locality, and a disgrace to this or any other service." Custer referred to "bands of soldiers," looting the countryside and terrifying the population, and he accused the adjutant of the First Iowa Cavalry of leading one of those raids. The volunteer officers not only condoned, but participated in, these unlawful activities, he said, and they also supported their men's determination never, under any circumstances, to go to Mexico or even to occupy Texas.²⁹

28. Cogley, *Indiana*, 164; Thompson, "Autobiography," 63.

29. George Armstrong Custer to Major George Lee, Assistant Adjutant General, Military Division of the Gulf, 25 Oct. 1865, in *Adjutant General's Report*, 1867, 2: 527-30.

Under these circumstances, the young general felt he had no alternative but to take stringent disciplinary measures and to eliminate volunteers as much as possible from their enforcement, since a court-martial consisting of volunteer officers, he insisted, would have been a "mere mockery." Separated from his nearest superior by seven hundred miles of uncertain communication, Custer had to act on his own. Act he did, by issuing Special Order No. 2. Upon Governor Stone's request and Major Lee's command, he had withdrawn the order. Custer insisted nevertheless that his action had served its purpose; it had improved discipline in the troops under his command. "I have been in almost continuous command of troops since the commencement of the war," he said, and "I have never been in command of troops whose conduct . . . so nearly resembled that of a *mob*." But, he concluded, "I am happy to say that to-day no better behaved regiments are included in the volunteer force than those now composing my command."³⁰

At first glance, Custer's defense is convincing. There were indeed difficulties in maintaining control over approximately four thousand western individualists who did not understand why they were needed in an army when there was no war. As Colonel William Thompson noted, the Iowa soldiers were "volunteers for a special purpose, not regular soldiers by profession," and they could not understand why they should "not have been rewarded by the boon of having been released from further service and sent home as a reward for previous good service." Thompson observed that "a feeling arose and by diffusion became quite common, that as good soldiering had produced such disastrous results, good policy demanded that they adopt the plan of acting as bad soldiers."³¹ Independent men undoubtedly pillaged livestock and grain from the fields of those who had been mortal enemies a month or two earlier.

This sort of independent action obviously had to be controlled. Unfortunately, the methods employed were so extreme that they only compounded the difficulties. The strictures of Special Order No. 2 were simply too severe for postwar foraging. Head-shaving and lashes may or may not have been appropriate

30. Ibid.

31. Thompson, "Autobiography," 59.

during war, but they were certainly unacceptable in peace. A sensitive officer would have known that.

The issue of desertions, however, may be another matter. According to Hoosier historian Cogley, "growing discontent among the soldiers . . . led to numerous desertions, in fact, the men deserted in squads and platoons." An Iowa soldier reported, on the other hand, that "no desertions occurred in our Regiment . . . until several days after the appearance of 'Special Order number Two.'" Even in the Iowa regiment, however, there were certainly instances of temporary absences without leave. One soldier frankly wrote home from Austin that "I tried to get permission" to go to town, "but could not. guess I shall go in the morning without it."³²

Even Thomas Cogley, a severe critic of Custer's treatment of the Second Cavalry Division, admitted that desertion "cannot be excused, and, in time of active war, [deserters] should have suffered death," but he contended that "there is a vast difference in desertion in the face of an enemy, and desertion after a war is over." It is dangerous to argue that military regulations should be enforced in war and ignored in peace. On the other hand, General Custer himself apparently violated an important procedural regulation when he ordered the execution of at least one deserter in Louisiana without securing the president's approval.³³ Regardless of the seriousness of the crime, a commander has no right to ignore one regulation to enforce another.

Other troubling questions about Custer's assessments of the condition of his troops remain. Adjutant Morrill of the First Iowa Cavalry noted, "it is quite remarkable how a Regt so highly praised in Inspection Reports from March to September (by officers over whom Gen. Custer had no control) should be so sadly demoralized 'the day after joining Custer's command.'" He also asserted that all "special inspectors of Cavalry" disagreed with the commanding general's evaluation of the condition of his troops. Finally, Lieutenant Colonel McQueen insisted that the court-martial over which he presided after July 1865 was not a "mere mockery," as Custer had charged. In fact, according to both the regimental commander and his adjutant, Custer had

32. Cogley, *Indiana*, 164; Morrill to Kirkwood, 23 Jan. 1867, Kirkwood Papers; Lodge to Mother, 6 Nov. 1865, Lodge Collection.

33. Cogley, *Indiana*, 166-67.

complimented the court for both the quality and quantity of its work before leaving Alexandria for Texas.³⁴

Unfortunately for historians, none of the inspections or special orders can be located today in the military records of the National Archives. Perhaps, as John Carroll argues, they never existed, and the embittered officers were fabricating support for their vicious charges. In two specific instances, however, the documents support the Iowans to the discredit of their divisional commander.

First, in Custer's letter he charged Major Morrill with undertaking an unauthorized "robbing" expedition. There is, however, no record anywhere of any such charge against Morrill, nor is there any order for his arrest. General Custer had, in fact, appointed Morrill to the court-martial on October 13, 1865, almost two weeks before he mailed his self-defense to Major Lee. Why would he appoint a man to such a position who was guilty of a serious breach of conduct? The evidence suggests instead that Custer made the charge against Morrill in desperation.³⁵

General Order No. 5, issued on September 14 in Hempstead, is just as damaging to Custer's defense, and even more confusing. In that order the general congratulated the Second Brigade, of which the First Iowa was a part, as a unit that was "so strictly honest and upright as to afford a Shining Example to other portions of this Command." Yet on the same day he ordered two men from that same brigade, one from the First Iowa, arrested, their heads shaved, and lashes inflicted. Apparently on September 14 Custer did not think that one incident involving relatively few men reflected on an entire regiment—or on his total command. By the time he wrote his October defense, however, he had changed his mind. In the absence of documentation to the contrary, one must conclude that Custer misrepresented conditions and ignored his own actions in order to defend himself against the attacks of aroused state officials.³⁶

However one resolves the accusations related to these particular incidents, though, there is one point that stands alone as

34. Morrill to Kirkwood, 23 Jan. 1867, McQueen to Kirkwood, 19 Jan. 1867, Kirkwood Papers.

35. *Ibid.*

36. General Order No. 5, 14 Sept. 1865, Order Book, 1st Iowa Cavalry, RG94, 2d sec., p. 57, National Archives.

incontrovertible, inexcusable, and illegal. That is Special Order No. 2 itself. Neither Adjutant General Baker nor Governor Stone ever received a direct reply from the War Department on the legality of the order. Finally, however, on January 7, 1867, nearly fifteen months after Hawkeye Governor Stone had first written to the War Department, E. D. Townsend, assistant adjutant general in Washington, did respond to an inquiry from Senator Samuel Jordan Kirkwood. According to Townsend, "no official copy of the order referred to has been received by this Department." Townsend did report, however, that "Section 3, of an 'Act making appropriations for fortifications and for other purposes,' approved August 5, 1861, enacts 'that flogging as punishment in the army is hereby abolished.'" On the other hand, he stated, there was "no regulation or law prohibiting the shaving of the head . . . , and for many years past it has sometimes in aggravated cases been a part of sentences awarded by Courts Martial."³⁷

In this, then, the facts are clear. Custer ordered lashes and inflicted punishment without allowing the accused access to a court-martial; and if lashing did not violate the letter of the law against flogging, it certainly violated the spirit. Therefore, in issuing and enforcing Special Order No. 2, a major general in the United States Army violated federal law, just as he ignored the Articles of War when he put a deserter to death without presidential review. Even if all the other charges made by the volunteer soldiers were to be put aside as personal, vindictive, and petty—which some, but not all, of them were—General Custer must still stand guilty of enforcing unwarranted, unauthorized, and *illegal* disciplinary measures. This would have been bad enough during war. In peace it was nothing short of criminal.

QUITE ASIDE FROM THE ACCURACY OF THE CHARGES, however, it is highly significant that an army officer, a major general of volunteers, should have to answer to the charges of a state official. Nor did Custer's defense have any effect in quelling the storm gathering over the prairie. Instead, it was used as the starting point of new attacks and an eventual wave of resent-

37. E. D. Townsend to Kirkwood, 7 Jan. 1867, Kirkwood Papers.

ment that resulted in official action by the state legislature against a federal military officer.

When faced with "unnecessary suffering," unacceptable discipline, and what was believed to be an unnecessary extension of service, the troops of the First Iowa Cavalry did what they had done throughout the war. They wrote home. Iowa officials responded with vigor and influence to protect their Hawkeye heroes from the vagaries of federal authority. At first the governor and state adjutant general demanded that the troops be mustered out and returned to the state. When that could not be accomplished, they sought retribution against the man who had humiliated the native sons. Returning veterans marshalled a concerted effort among home-state politicians to remove George Armstrong Custer from command.³⁸

It is not clear who first complained to Governor Stone, and Kirkwood apparently became involved only after Stone's efforts to intercede failed. But there is no question that, once informed, these two public officials requested written testimony from their soldier constituents. The letters sent to public officials like Kirkwood and Stone reflected a consistency that should not be surprising. These soldiers had served together. Often they had grown up together. One should expect them to corroborate each others' stories.

Yet the effort to hold General Custer responsible for the conditions under which his troops served was not organized in the sense of a modern political cause or issue campaign. It did not need to be. The anti-Custer movement in Iowa was led by a few officers from the regiment involved. Since it was nearly impossible to become an officer of Iowa volunteers without being an active member of the state's Republican party, many officers maintained important political connections that they were not hesitant to use directly and vigorously. The efforts of men like Morrill, Lothrop, and McQueen were assisted by exuberant state chauvinism. Politics played another role when Iowa's overwhelmingly Republican legislature inevitably became involved and ultimately decided to pillory one of the nation's most popular Democratic generals.

38. Morrill to Kirkwood, 23 Jan. 1867, Kirkwood Papers; Stone to

On April 2, 1866, only two months after the First Iowa Cavalry was mustered out of the service and two weeks after it had returned to Davenport, the Iowa State House of Representatives passed a resolution officially condemning General George Armstrong Custer, a federal military officer, "to condign punishment, that future tyrants may take warning from the example." A special committee had been created to review the evidence, although the objectivity of its members might be questioned. Unfortunately, the records of that committee have not survived, but it apparently reviewed special inspection reports and federal laws and regulations. Perhaps most important, the troops were home, and their testimony was vigorous on their own behalf. After reviewing the (naturally) proud history of the regiment, its general suffering under Custer, and previous official state efforts to rectify the unacceptable situation, the committee concluded that the First Iowa Cavalry had "received from the hands of Major-General Custer . . . such ill treatment as no other Iowa soldiers have ever been called upon to endure; that such treatment or punishment was dishonorable to the General inflicting it, degrading to the name of American soldier, unworthy of the cause in which they were engaged, and in direct and flagrant violation of the laws of Congress and the rules and articles of war."³⁹

The committee report appropriately concentrated on the illegality of Special Order No. 2 and its enforcement. The final resolution referred to the congressional ban on "the barbarous and inhuman punishment of flogging," cited Special Order No. 2 and its administration in direct contradiction to that law, and concluded

That, while we recognize the necessity of strict enforcement of military discipline, and the propriety of punishing every violation thereof in such a manner as the laws of Congress and Articles of War may direct, we also consider that the infliction of the cruel and barbarous punishment referred to could only have a tendency to render soldiers discontented and insubordinate, and

Stanton, 18 Oct. 1865, Baker to Stanton, 7 Oct. 1865, Adjutant General's Office.

39. *Journal of the House of Representatives of the Eleventh General Assembly of the State of Iowa* (Des Moines, 1866), 752-56; Lothrop, *History*, 233-37.

that by this wanton and atrocious outrage, the majesty of the law has been condemned, the honor of the State has been insulted, and the rights of American soldiers trampled under foot, and we demand that the author thereof be held to strict accountability.⁴⁰

This was the ultimate action the state could take—a direct, official legislative demand for federal intervention for the welfare of what, after four years of war, were still perceived as *state* troops. But it was too late. Custer had already been mustered out of the army in February with his command. The War Department apparently was not anxious to retain the services of such a controversial and headstrong young game cock.

Custer was not to be denied, however. He immediately set his political benefactors to work to secure him another appointment, and not just any appointment. He wanted nothing less than a major general's stripes in the regular army, which would have constituted a considerable promotion over his Civil War position, especially at his tender age. The impetuous hero had earned too many enemies to achieve his goal, however. His enemies included both senators from Iowa, who possessed two votes and the right to participate in debate on the appointment of any general officer. In January and February 1867 Senator Kirkwood fought hard to prevent the Hawkeye nemesis from returning to the service. Custer's new appointment in 1867 was both a victory and a defeat for each side. On one hand, Custer returned to command; on the other, the position (and pay) of lieutenant colonel of the newly created Seventh Cavalry was far below what Custer had requested and felt he deserved.⁴¹

For decades afterwards, the collective memory of the former regiment remained embittered by the nightmare of service under Custer in Texas, and the veterans toiled diligently to expunge their record of this particularly unpleasant episode.⁴² But the importance of the history of the First Iowa Cavalry is in the struggle between state and federal authorities for the control of volunteer troops. From stormy initiation under Fitz Henry War-

40. *House Journal*, 1866, 752–56.

41. Monaghan, *Custer*, 267–79.

42. *Proceedings of the First Reunion of the First Iowa Cavalry* (Davenport, 1884), 31–32; *Proceedings of the Second Reunion of the First Iowa Veteran Volunteer Cavalry* (Cedar Rapids, 1886), 83–84.

ren to unsatisfactory valedictory under George Armstrong Custer, the history of the First Iowa Cavalry provides a case study in the evolution of federalism, that uniquely American form of governing that allows different levels of government to overlap and compete with each other for legal authority, institutional legitimacy, and personal loyalty.

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