

THE ORGANIZATION AND USE OF THE
MARYLAND MILITIA IN THE WHISKEY REBELLION, 1794

by
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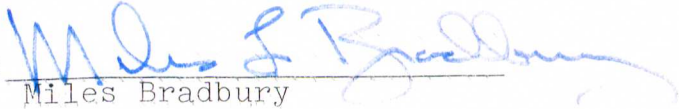
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ABSTRACT

This thesis is directed at the use of the Maryland militia during the Whiskey Rebellion of 1794 in western Pennsylvania. The call for militia, made by President Washington, was not well received in the state. The quota was not filled, and attempts to fill it touched off riots in western Maryland. These riots made another call necessary, this time made by Maryland Governor Thomas Sim Lee. Only Maryland troops were requested, and the quota was filled completely and quickly. The difference in the militia's response is an important part of this thesis because it affords an examination of the condition of federal state relations in the first few years after the ratification of the Constitution.

Evidence discussed in this thesis provides material from which several conclusions may be drawn. The examination of the federal and state militia laws shows that the federal government was uncertain of its position in attempting to dictate legislation to the states. The state government was uncertain too, about how much it should be dictated to. The result of these uncertainties was a set of weak militia laws that left the responsibility of obedience to them up to the individual militia men. Indeed, the two governments were not only unsure of their positions with each other, but also unsure of their position with the citizens. They were not certain that the citizens would support militia laws, or militia calls.

The difference in the militia's response to the two calls also shows that the militia was not certain of its responsibility to answer a requisition. Troops from Maryland were much more concerned with protecting their own state, and possibly homes and families, than they

were with protecting the federal government's whiskey excise. Aside from the natural desire for self preservation, the difference indicates that the militia and its leaders were willing to inconvenience themselves for the state, but not for the Union.

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INTRODUCTION

In September, 1794, a part of the Maryland militia was called up by President Washington to help suppress the Whiskey Rebellion in western Pennsylvania. The state government, represented by Governor Thomas Sim Lee, responded by issuing orders to raise enough militia to fill the President's request. The state could not supply more than half of the 2350 men requested. The failure to fill the requisition was caused by a noticeable lack of positive action by the state government to help raise the quota, by a reluctance of the militia to volunteer, and by the fact that the militia was not fully organized by the time the call was made.

The state government's attempts to raise the quota by means of a draft in western Maryland touched off riots in the area almost immediately. The riots were at first isolated and deemed not much of a threat to the government, but as they increased and spread, they created a crisis. The state, in mid-September, 1794, responded to this crisis with its own call for militia to be used only in the western parts of Maryland. Unlike the federal requisition, the state call was completely filled.

This thesis examines the two militia calls and explores the reasons why the first was less successful than the second. The important issue in these efforts to raise the troops is that the state militia was willing to and did support the state government when called upon, but not so willing to support the federal government. This issue must be qualified to include the support that the state government gave to the federal call. More precisely, the state government was prepared to ask more of the militia to support state laws than to support federal laws.

The state's use of the militia to support its own laws raises another important point: the militia, regardless of the Constitutional provisions for division of responsibility, was a state organization, at least in Maryland. The state controlled the militia as much as any government was capable of controlling an untrained mass of citizen soldiers.

The issue of state versus federal control is central to this thesis because it was a major problem in the process that created the militia, and affected the governor's efforts to raise the national quota. The problem of control surfaced during debates on the ratification of the Constitution, and continued through the Congressional debates on a national militia law in the early 1790s. It appeared in Maryland in the efforts of the legislature to enact a state militia law. That the issue still persisted in 1794 was shown by the Maryland government's reaction to President Washington's call. The governor did not lend full support to the effort to raise troops for federal service. Nowhere was this lack of support more evident than in his decision not to pursue a draft of cavalry. He decided that a draft might endanger the further existence of the state's cavalry, and rather than lose the horse soldiers, he chose to leave the Presidential requisition unfilled.

Another important issue brought out in this study is the extent to which the state controlled the militia. The state government was unsure of the support that the militia might give to a call for federal duty, and so was cautious in pressing for service. The caution was of no avail in parts of western Maryland, however, because some of the militia rioted and caused the state to call for its own quota of troops. When the state made a separate call, the same type of caution was not a

major consideration, primarily because the state was perceived to be in danger.

A final significant issue is the legislation that created the state militia. Congressional and state legislative action is directly connected to both of the issues mentioned above: the question of state versus federal control of the militia, and the extent of support the state could expect from the militia. Congress initiated militia legislation that gave the state a great deal of authority over all aspects of the militia. The federal government also did not impose fines for non-compliance, which indicated that the national government was not sure it had the power or possibly the right to fine a state for failure to obey a national law. Maryland then enacted a militia law that was not demanding on the men who would form the militia. The state act imposed light fines for non-compliance, which in part indicated that the state was also not sure that the citizens would support a more demanding militia system.

The problems of enacting and enforcing the militia laws, federal and state, form an introduction to the discussion of the two calls for the Maryland militia. The national militia law of 1792 was the catalyst for the Maryland act of 1793. This national act, together with the events leading to its formulation and passage, forms the background of the state law. Therefore, the national law will be discussed in the introduction rather than in a separate chapter.

The national experience of the late 1780s forms a background for discussion of federal attempts to enact militia legislation. Delegates to the Constitutional Convention were well aware of the problems of raising a militia force under the Articles of Confederation. One of

the factors leading to the downfall of these articles had been a revolt lead by Daniel Shays in 1786-1787.¹ It had posed a very real threat to the government, and even managed to disrupt several district courts.² The Massachusetts state militia was used to turn back the rebels, who were preparing to attack the arsenal at Springfield, Massachusetts. An extra force of militia was rushed to the arsenal when it appeared that the 1340 men of the regular army, raised by Congress in October, 1786,³ could not arrive in time.⁴ The rebels were effectively dispersed by the militia in February of the next year, and the tension in Massachusetts was relieved, at least temporarily.

There were no provisions in the Articles of Confederation for the enforcement of laws, and so the states were left to fend for themselves. The states, as in Massachusetts, used their militias as law enforcement agencies, and as forces to suppress riots or rebellion. The Articles did state that "every state shall always keep up a well-regulated and disciplined militia."⁵ That statement was the full extent of Confederation control of the state militias, however, except that Congress was to select all officers of the rank of Colonel and above. No system for calling out the militia in case of emergency was outlined, nor was it clear who would command the several militias should they ever be called out together. State control of the militia was almost supreme.

Even though the delegates were aware of the deficiencies of the Articles with regard to common defense, a solution at the Convention was not easily achieved. Many delegates feared the implied powers of a standing army. This fear had origins in the British dislike of standing armies.⁶ There were also more immediate objections. Very

little threat of attack from a foreign power existed in 1787. The national treasury contained little money, and the expense incurred by a new standing army would be considerable. The confederated government could not afford to pay the bills of the last army, much less any new one.

The arguments for a standing army were many, however, even if not always expressed at the Convention, Alexander Hamilton, John Jay and James Madison included several pro-army essays in The Federalist. One of these, written by Hamilton, reminded the reader of the troubles caused by Shays rebellion.⁸ He argued:

Cases are likely to occur under our governments, as well as under those of other nations, which will sometimes render a military force in time of peace essential to the security of the society; and that it is therefore improper, in this respect, to control the legislative discretion. It [Shays Rebellion] also teaches us, in its application to the United States, how little the rights of a feeble government are likely to be respected, even by its own constituents.⁹

The arguments for and against a standing army were debated at great length by the delegates to the Convention. The resolution of these debates was a compromise. There was to be a standing army, its size limited in peace time by Congress. Further, "no appropriation of money to that use [maintenance of the army] shall be for a longer term than two years."¹⁰ The need for an army was acknowledged, and at the same time controls were set, for fear of this necessary evil.

The militia fared better than the army in the Constitution, because the majority of the delegates approved of some type of militia. No less a man than George Washington considered it the "Great Bulwark of our Liberties in independence."¹¹ Delegates could not agree on the

proper place for control of the militia, even though they agreed that a militia should exist. A pro-national control delegate, Charles Pinkney of South Carolina argued that a "uniformity in Discipline and Regulation should pervade the whole [militia], otherwise, when the militia of the several states are required to act together, it will be difficult to combine their operations from the confusion a difference of Discipline and Military Habit will produce." He added that the militia was "in fact the only adequate force the Union possesses, if any should be required to coerce a refractory or negligent Member, and carry out the Ordinances and Decrees of Congress into execution."¹²

Delegates opposed to a strong national government feared just such a coercion if a national militia were instituted. Luther Martin, the adamant states rights delegate from Maryland, wrote that "the militia, the only defense which the States can have for the security of their rights against arbitrary encroachments of the general government,"¹³ would be taken from the states by a uniform national militia. Objection to the national plan was a part of the larger conflict between proponents of a central government and those of a confederation.

Just as the Constitutional provisions for a standing army were a compromise, so too, were the militia clauses. The President was to command the militia when it was in federal service.¹⁴ Organization and discipline of the militia were to be the responsibilities of Congress, according to section eight of Article I. The states were to govern the militia at all other times. Selection and commissioning of officers and the training of the troops were left to the states in this Article. It also included the stipulation that Congress was "to provide for calling forth the militia to execute the laws of the Union, suppress

insurrection and repel invasions."¹⁵

Not a few of the men at the Convention believed that the militia might some day be used to suppress an insurrection fomented by the regular army. Apparently altering his views to fit the occasion, Hamilton wrote:

A well regulated body of militia . . . will not only lessen the call for military establishments; but if circumstances should at any time oblige the government to form an army of any magnitude, that army can never be formidable to the liberties of the people, while there is a large body of citizens little if any inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow citizens.¹⁶

An added protection against the despotism of a standing army was later added by the Second Amendment to the Constitution. This amendment assumed "A well-regulated militia being necessary for the security of a free state, the right of the people to keep and bear arms shall not be infringed." Theoretically, then, an armed insurrection would have to contend with an armed, loyal citizenry. As a last resort, if neither the army nor the militia could be counted upon, the citizens could defend their own rights. This theory became practice during the defense of the arsenal at Frederick, Maryland, during the Whiskey Rebellion, when an armed citizen group was prepared to help defend the city against the threat of an attack by rebellious militia from western Maryland.

The Constitution included general provisions of a national military establishment in the army, a state system in the militia to supplement and guard against the army, and an armed populace to check both the army and the militia. Before the states could begin legislation

dealing with their militia responsibilities, Congress had to set guidelines for them. These guidelines were in the national militia law of 1792.

Henry Knox, Secretary of War under the new government, submitted a plan to Congress for the formation of the militia in 1790. It was based on Washington's "Sentiments of a Peace Establishment."¹⁷ Knox outlined the need for an elite corps of militia made up of the ablest young men from ages eighteen to twenty. These men, strong and most apt to accept the martial spirit of the militia, would be the main line of defense in the militia. They were to be trained thirty days each year, and armed and fed at public expense. The main corps and the reserve, made up of the middle-aged and older men respectively, were to be subjected to less rigorous training. It was estimated that the three corps would constitute 325,000 men, and cost \$346,340 in the first two years.¹⁸

The cost of implementing this proposal was a major objection, but the introduction that Knox added to his outline seemed to create the strongest protest. Reminding Congress of the recent revolution in France, 1789, Knox commented that "the strength of the Government . . . will depend upon a due adjustment of its several parts," the most important of which was "its system of defense."¹⁹

The combination of these remarks, the general tone of the entire introduction, and the idea of an elite corps, was too much for some of the Congressmen. It all sounded like the militia would be under strict national control. Revision of the proposal, including the sections that might have allowed a uniform militia, began almost immediately. The resulting Militia Act of 1792, was vague and generally

repudiated the concept of a national militia. The act called for all able-bodied white male citizens between the ages of eighteen and forty-five to enlist in the militia. A long list of those exempted from service, including almost all federal employees, except the President, of course, followed. When called to actual federal service, the militiamen could not be forced to serve more than three months in any one year.

Supporting the right for men to bear arms guaranteed in the Second Amendment, Congress required all men enrolled in the militia to provide their own arms and accoutrements. The Militia Act specified the amount of extra ammunition to be supplied by each man, and even the spare flints--two. By permitting each man to provide his own weapon, Congress saved money, but the hodge-podge of weapons allowed, both in calibre and quality, would create havoc for supply on any extended duty.

The act suggested a militia organization consisting of units ranging from companies to divisions with exact requirements for the rank of officers for each, and the number of non-commissioned officers and privates per company. Battalions were to have five companies, consisting of sixty-four privates per company. One of these companies was to be either grenadiers, light infantry or riflemen.²⁰ Each division was to have one company of artillery and one troop of horses. This organization was specific but the Act allowed a loophole for the states. The states need comply with the plan only "if the same be convenient." With the clause, a uniform federal militia could not be organized unless the various states found the guidelines "convenient."²¹

There were parts of the Act that might have permitted a true uniform militia. The rules of war and discipline established by

Congress in 1779, for the army were to be used by the new militia. Each state was to have an Adjutant General, to serve as liaison between the governor and the Secretary of War. Pay for the troops was to be on the same scale for each rank as that of the regular army, and any men wounded while in actual federal service were to receive medical aid at public expense. The families of those killed in action were to be pensioned.

This Act permitted the states great flexibility. There were no penalties for non-compliance with even the more specific sections. Indeed, the states were not to comply unless they found compliance convenient. The states could, and did, exempt from service men other than those listed in the federal law. Most importantly, there was no mention of how or when the militia was to be used. The Militia Act of 1792, would have little effect, unless the states chose to comply with it.

Congress sought immediately to rectify the lack of a method for calling out the militia. Six days before the Militia Act became law, an "Act to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion"²² was passed. This act permitted the President to utilize the militia from surrounding states to repel invasions in any one state or states. Once called, the militia could receive direct orders from the President, without the necessity of going through the offices of the respective governors.

Guidelines for using the militia to suppress insurrection were more limiting. Before the militia could be called out, a federal judge had to advise the President that all judicial methods of suppression had been used and had failed. Even then, the chief executive was to

issue a formal command to the insurgents to disperse, and give them sufficient time to do so. Only if, or when, the insurgents refused to obey the Presidential command, could the militia be called. Unlike the Militia Act, this Act provided penalties for any person, either civilian or military, who did not comply with the orders of the President.

The Calling Forth Act compensated for some, but not all, of the weaknesses of the Militia Act. As the various states passed their own militia laws, the deficiencies of the federal militia law became more pronounced. The legislatures of the fifteen states viewed their roles in conforming to the national law in very different ways.

As the national militia act of 1792 was passed, a subtle reversal of authority was taking place. Congress chose to turn much of its responsibility over to the militia, and allowed the states a great deal of latitude in forming the citizen armies. They could accept or reject as much of the Congressional act as they wanted. The 1792 militia law eroded some Constitutional authority from Congress, rather than enhanced the authority of the national government with a strong national militia.

Perhaps because Congress appeared unwilling or incapable of strengthening the military establishment of the national government, some political leaders, such as Alexander Hamilton and Henry Knox, began their own attempts to extend the control of the United States. Hamilton firmly believed in strong central government, and frequently expressed his views on just how such a system could be created. He stated that military strength was a necessary foundation for an effective federal government, or any government, for that matter. Government could never be "said to be established until some signal display has manifested its power of military coercion."²³ The first opportunity

that Hamilton and his followers had to exert military coercion over a civilian population was during the Whiskey Rebellion.

The Whiskey Rebellion was indeed an insurrection. The Constitution permitted only the militia to be used to suppress insurrections, and so the militia was used as the tool of military coercion. The rebels in western Pennsylvania had disrupted government, threatened the lives of civilians and government employees, and even gathered a force as large as 5000 men to oppose the execution of the whiskey excise law. The incidents of rebellion posed a threat to the existence of the federal government. The political leaders, such as Washington, Hamilton, and Knox, could not let citizens disrupt federal laws, especially in the manner used by the whiskey rebels. The Constitution, after all, guaranteed a place for dissent at the polls, and open rebellion could not be condoned. Clearly, the time had come for the government to use military coercion to protect and assert itself. The only legal means of accomplishing this protection was through the use of the militia, thus it was called to support the government and suppress the insurrection. Federalist leaders, again including Hamilton and Knox, impressed upon President Washington the need for a large number of militia to quell the rebellion and to display to skeptics that the United States was powerful.

Maryland's reaction to the national call was important because of the federalist attempt to show the strength of the central government. Maryland displayed an indifference to the urgency of the call, and the state militia turned out in less than half the number requested. The reaction by both the state government and the militia indicated that the federal government was not as strong as Hamilton and his followers

might have hoped. Reasons for the failure to respond were many, but one of the most important was the legislation that created the militia. The Maryland law reflected the indecision of the national legislature, especially on just how far the citizens could be pushed before they openly opposed duties, fines, or penalties that might be part of a militia duty. Congress set a deadline for the states to enact their own militia laws, but Maryland did not meet the deadline because of indecision in the state legislature. Thus the militia was not fully organized before the national requisition was made. The state legislature reflected the national atmosphere; the states rights advocates were concerned about allowing the federal government too much power, and so the national law left much to the states. Each state devised a different militia law because the states differed on ideas of the construction and possible use of the militia. The Maryland legislature could not agree on an interpretation of the national law, and so the state militia act was a hybrid of extreme states rights concepts, and a parroting of the national law.

CHAPTER I

The Maryland legislature began consideration of a state militia law in its November, 1792, meeting. The state representatives faced a difficult task in trying to write an effective law that would lay the foundation for a workable militia system. Many factors caused problems in the creation and enactment of the law: the debate on state versus federal control of the militia; the amount of citizen support that a militia law would receive in Maryland; the existence of independent militia companies throughout the state; the patronage that would go with the selection of officers; and the cost of arming and maintaining a citizen army. Opinion on the possible use of the militia between the two houses of the legislature differed and caused delay in passing the act. Even the national law, which should have provided guidelines to the state, was of little use.

The issue of state versus federal control of the militia was probably the most important factor in the creation of the state law. Disagreement centered on the extent to which the national law should be followed, even though the national law did not provide sufficient guidelines. The state Senate proposed to use little of the national law except those clauses that allowed the state a great deal of freedom in exempting citizens from duty and those organizing the troops. The house supported national guidelines such as they were, and opposed the idea of exempting a large portion of the citizens. This controversy was due in part to the newness of the national government, and the existence of uncertainty on how much the state should allow the federal government to influence state legislation.

The uncertainty of citizen support for a militia law was also a consideration for the state legislature. A militia law needed the

support of a large section of the population to be effective, and the Maryland legislature was not sure of the support such a law would receive. The state representatives experienced difficulty in setting a system of fines to be used as an inducement to obey the militia law. Because the legislature was not sure how much of an inducement was necessary, or rather how much was too much for the citizens to bear, a system of fines was designed that proved to be ineffective. This system proved to be too small an inducement to cause a great deal of support for the law.

The existence of independent militia companies further complicated the efforts of the legislature to enact a militia law. These companies were not necessarily in compliance with the national law; many drew their members from large geographic areas. The state legislature did not write these militia companies out of the law, but rather chose to write around them. The independent companies were allowed to continue, but they were forced to comply with the majority of the provisions of the state law, the notable exceptions being that they were allowed to keep officers they had previously elected, and they were permitted to maintain men from outside what would have been their local militia areas. These exceptions applied only to the independent companies, those that were privately formed before the state militia act of 1793.

The problems of selecting and commissioning officers were ones that the legislature evaded rather than faced. This process contained great potential for patronage. Patronage meant power and influence to the person or group that had it, and the legislature was cautious in giving such a tool to any one. However, the problems of administration

and organization were such that the selection of officers was postponed, and left to the governor. The governor therefore had a great base for patronage, although Thomas Sim Lee, Maryland governor in 1793, apparently did not use the opportunity to further his political career. At least he did not serve in a major political office after his term as governor ended.

Economic considerations also influenced the state legislature in creating a militia law. The national law provided that the militia was to arm itself and thus placed an economic burden directly on the citizens rather than indirectly by having the government supply the militia with arms. The state legislature was faced with the decision to include provisions for the militia's armament also, and eventually chose to require the troops to arm themselves. The state did not have enough public arms to supply the entire militia, nor did it have enough money to purchase more weapons had they been readily available.

Differing ideas in the legislature about the possible use of the militia added to the delay in the final passage of this act. The Senate, in proposing mass exemptions seemed to support the idea that the militia would be used primarily as a defense against outside invasion. However, the Senate did acknowledge that the militia might be needed for other uses, but emphasized that a small force could accomplish these other needs. The House opposed the Senate on the exemptions, an indication that the House might have wanted to maintain a militia to be used for suppressing insurrections as well as repelling invasions.

The state legislature began work on a militia law with inexperience and indecision. There was no state militia organization in 1792 from which to rebuild because the last state militia law had expired in the

late 1780s.¹ The legislature was forced to begin anew and could not even set an organization of the troops in the law because it had no real estimate of the number of men to be organized. The final organization was left to the governor, who was to divide the troops into appropriate groups before a date specified in the law.

The Maryland legislature was at a disadvantage in attempting to enact a militia law in 1792. A militia law was a very important piece of legislation; it could affect the lives of virtually all citizens in the state, and would greatly effect the lives of a majority of men eligible to vote, an important political point for men who were elected to office. The legislature had to make a decision which affected these citizens, and had to make the decision with a very few guidelines. There was no militia to rebuild, the few companies that existed were more of a problem than a help. There were too few weapons and too little money to buy weapons and so the militia was forced to purchase their own. The most important aspects, however, were the uncertainties of federal influence and the acceptance of the citizens, and even the projected use of the militia. With these issues facing the Maryland legislature, there should be little wonder that the militia law they created was ineffective.

As passed in November, 1793, the Maryland militia was ineffective. It was ineffective because it did not provide any real inducement to obey the provisions of the law. There were very light fines for non-attendance of muster, failure to provide either a substitute or to serve in person, and failure to maintain proper arms. The penalties that were included in the law were minimal and certainly not strong enough to induce men to obey rather than face the penalties. It did

not provide an organization for the militia, but it left that task to the governor and his advisors. It also evaded the problems of supply and administration for the citizen army. Should the militia actually be called, it provided for individual supply of regiments, a system which would duplicate purchasing, necessitate more accounting, and possibly cost more because provisions could not be purchased in bulk. Most of the administration for the militia was to be handled by the governor, who might have little experience in military affairs. Another example of the law's ineffectiveness was the lack of any system for mobilizing the troops that the act attempted to create. The Maryland law may be considered ineffective because it did not provide a real method to induce men to serve, nor did it provide details for what to do with the men once they were enrolled. The act passed the responsibility of obedience onto the conscience of the individual militia men, and the task of organization and administration to the governor. It set goals and expectations, but provided no means to achieve them.

A full examination of the 1793 militia law itself will show in more detail that the act was ineffective, and will show how the legislature managed to deal with the problems mentioned earlier. Some problems were faced and overcome, such as the method for enrolling men as specified in the national law. Other problems, like organization and administration, were passed on to the governor; still others were passed to the militia itself, as was the responsibility of providing arms. The legislature faced other problems and could not overcome them, or even pass them on: the fine system was one such stumbling block.

The first section of the state law simply echoed much of the federal one. The first unique sections dealt with the method the state would

use to enroll all free white males from eighteen to forty-five years of age.

Quakers, Menonites, Tunkers and other conscientious objectors were exempted from practice and mustering, but were liable for service when the militia was called for actual service. Thus when called to active duty, these objectors were expected to perform militia duty equally with those men who had attended the various musters during the year and who had supposedly learned the manual of arms, chain of command and some of the other trappings of military life. In addition, the conscientious objectors were to pay an annual fine of two dollars for the privilege of following their beliefs. In a separate section,² all ministers of the Gospel were exempted from mustering.

The governor was to appoint men whose responsibility it would be to make lists of the citizens eligible for service. These men were to be paid per 100 names listed, except in areas of sparse population, such as Allegany county, or heavy population, such as Baltimore town. Fines were provided for those who did not submit their names for the militia lists, as were fines for falsification of lists by the compilers. The liability for either offense was ten dollars for each occurrence. Naturally, these fines applied only to those men who were caught. It probably would have been easy to evade submitting to the lists, at least in some of the western areas of the state. The fine of ten dollars per offense would probably have served more as a deterrent for the compiler, who would have lost payment for enlisting almost 400 men for just one failure to include a name.

The law also showed both the laxity of the state toward possible militia effectiveness, and the state's lack of knowledge of the number

of men eligible for militia duty. The lists of those eligible were to be returned to the Governor by April 20, 1794, under penalty of a forty dollar fine for neglect to turn in the lists. From these lists the governor was to appoint officers to command and organize the militia. After the April date, company commanders were responsible for enlisting men who came of age and who lived within the company boundaries. This provision did place the responsibility of enlistment where it would be most effective--on the men in the local districts who had a better chance of knowing the ages and whereabouts of men in their own districts than some person at large for the entire county.

Actual organization into all sized units was to take place by June 20, 1794. By that time, the governor was to have appointed all officers, from Major General down to ensign. Ultimately, this would involve appointment of approximately 1700 officers,³ but the legislature did not know this at the time the act was passed. Given the system of communication in the late eighteenth century, the governor's task would be tremendous, and virtually impossible to accomplish. Further, as various officers were appointed, some companies refused to serve under officers they had not elected.⁴ More than once disputes surfaced over the geographic divisions for companies and even regiments.⁵ Even if these issues had not arisen, however, the governor had a great deal to accomplish in just two months. He had to organize a militia that approached 44,000 enlisted men, plus the 1700 officers.⁶

Admittedly, the law was quite specific in assigning responsibilities to certain of the militia--the officers. These men, upon receipt of their commissions, had to swear or affirm that they "would be true and faithful to the state of Maryland."⁷ There was no similar requirement

to support the United States. The officers were also to provide their own arms and accoutrements, as were the enlisted men. Field grade officers, Major and above, were to supply the state and regimental colors, and musical instruments for their respective commands. This section was also borrowed from the federal law, and would put a financial strain on these officers over and above that for providing their own arms, uniforms, etc. No reason for this requirement has been found, but possible explanations might be that the state did not want the expense, or the state thought that the instruments would be better maintained and the flags not captured as frequently if they were the personal property of the officers.

The number and schedule of times for mustering and training the militia were outlines in the law also. Companies were to muster twice a year, once in April and once in November, months which will become important later. After 1794, regiments were to muster in October. That the regiments were not to muster in 1794 was important because these regiments would not have an opportunity to meet before the militia was called for the Whiskey Rebellion.

These various musters were to be one day each, and so the entire state militia would meet only four days a year. One may assume that very little actual training was possible during the regimental meeting, if for no other reason than that it would take more than half the day to get the men together in one place, if they attended at all. Even battalions, half the size of regiments, would still present problems in training for anything other than parades and inspections. This schedule of training left only two days per year during which actual training might have occurred. Marksmanship probably was not

stressed, because of the theory of war in the eighteenth century, the cost of ammunition, and the great diversity of weapons, if and when the men brought weapons to muster. Artillery practice was probably not held either, because of the cost of ammunition and the lack of cannon. Company musters were most probably social events combined with little actual military training, but with much sabre rattling and martial spirit, along with liquid ones.⁸

One of the most glaring indications of the ineffectiveness of the law was the setting of fines for failure to attend muster and/or a call to actual service. Officers were to be fined not more than six dollars per day for not attending muster with the proper arms or accoutrements. Non-commissioned officers of the artillery or dragoons, were to pay not more than two-thirds of a dollar for the same offense. All other non-commissioned officers and privates were to be fined one cent per day for failure to attend with the proper equipment. The fine for missing a muster entirely was set at fifty cents per day. Finally, these fines were to be collected by the company commander.

Imposing the stiffest fines on officers for failure to properly equip themselves is understandable, because theoretically the officer corps would be the most affluent and would need a stronger incentive to obey the law, and could afford the arms and other equipment necessary. The fine of one cent, however was a joke. Even though these lower ranking men were probably less affluent than the officers, almost any one could afford to disobey the law if the fine was just one cent. The fine for missing a muster altogether does not seem particularly stiff either. If the Maryland Senate estimate of the average pay of men of militia age, set at half a pound a day,⁹ was correct, a man could earn more

than enough to pay for the fine. This circumstance was all the more true because the militia was not paid for mustering, and any worker attending a muster would lose that day's wages anyway.

Another section of the law allowed to serve in person or to provide substitutes--a practice that was common from the Revolution through much of the nineteenth century. The effectiveness of such a practice is questionable at best, but the Maryland militia law of 1793 provided for even more ineffective use of substitution. Men were allowed ten days to provide a substitute if they did not want to serve in person. Even in 1793, when rapid mobilization was totally unknown on anything but a local level, a delay meant that any substitute provided might not be available until the rest of the militia had marched. This provision in turn would mean that substitutes could be left behind to catch up with the main body of troops. Alternately the main body of troops would have to wait until all substitutes were provided before it could march. Such a delay might prove vital in case the militia faced an actual engagement with an enemy, or was to quell a rebellion before it became a revolution.

If a man did not attend in person or send a substitute, he was to be fined. In either instance, the battalion or regimental commander was to hire a substitute for any man neglecting to do so on his own. The costs of finding a substitute, plus the cost of paying the same, were to be charged to the negligent militia man. If followed, this procedure would have caused much extra work for the commanding officers, while not providing adequate prevention for neglect. The most effective action allowed was directed at men who were judged unable to pay for the cost of finding a substitute. Such men were to be jailed for not

more than twenty days.

Throughout the entire law itself, there was no provision for calling the men out or for drafting men should volunteers prove too reluctant. There was no provision to divide the militia into classes, as had been done by the state during the Revolution.¹⁰ It can only be assumed that such provisions were left to the Governor. An Act passed during the Revolution had allowed the Governor to call the militia, but it had been allowed to expire.¹¹ Actions taken by the governor in the call for part of the militia for the Whiskey Rebellion prove that the executive still had authority to request troops.¹² The law could not have assumed that the state Constitution of 1776 provided for such power, because that document permitted the governor to "embody the militia" and nothing more.¹³

The final sections of the Maryland militia law dealt with a variety of subjects. Claims from fines could be appealed, in case any fines were ever imposed in virtue of the law. Another prohibited men from switching companies once they were enrolled, unless they moved from one company area to another. Finally, the independent or volunteer companies already existing, especially those in Baltimore town were permitted to continue, subject to the rules laid down for the rest of the militia.

The Maryland militia law had many sections that might tend to make the militia created thereby less than effective. The substitute clause not only created delay, but allowed men to evade the service as well. Often, as will be discussed in the next chapter, those substitutes provided were less than desirable. Although this practice was common, it tended to reduce the effectiveness of the militia.

The system of fines would not have served as a deterrent to absenteeism, or not arming oneself. A system for mobilizing the militia for more active service was omitted, and left to the Governor and Council. Exemptions for conscientious objectors involved a double standard. The training system of only four musters per year, and only two possibly effective ones almost guaranteed a militia that would be ill-prepared for any real military action. Finally, organization was left until more than six months after the law passed.

* * * * *

That the Maryland militia law copied much of the federal law should not be misunderstood. Effective or not, this federal law set the organization for the various state militias, thus making a "uniform militia." This, at least, was the concept expressed in the United States Constitution. The Second Congress, however, had its own ideas about the method of organizing the militia and the division of responsibility over the militia between the state and federal governments. The federal law that resulted from this Congress served to confuse the issue of organization of the militia. The militia to be created by this federal law was anything but uniform, and could not hope to be effective.

Congress was responsible for establishing the age limits and various federal exemptions from militia duty. Such were carried out by the decision that all free white males between the ages of eighteen and forty-five were liable for militia duty. Federal exemptions extended from the Vice-President down to the various federal mail carriers. The federal judiciary and legislature were also exempted. The

number of men exempted under the federal provisions was small, and limited to men whose jobs might today be classified as essential. However, Congress provided the states with almost unlimited powers of exemption. The federal law gave the states the power to exempt whom-ever they desired. This power allowed the states to negate the idea of universal conscription, if not a uniform militia. Had the Maryland State Senate prevailed in 1792, all men between the ages of eighteen and twenty-one would have been exempt from mustering, and liable only for active duty.¹⁴

The actual organization of the various units of militia, under the federal law, was even more ambiguous. The emphasis of the national law was for state control, and as each state began organization, unique situations were found. Without direct national control of organization the states could not have created militia uniform in organization with other states. Within each state, units were not always uniform in size because of the disperse population and geographic location of the men who would form the militia.

The basic unit for the militia was to be the company, and the other units, battalions, regiments, and brigades, were composed of varying numbers of companies. The law stated that these units were to be organized as outlined "if the same be convenient."¹⁵ This gave the states a great deal of latitude. Some flexibility was necessary because the varying number of eligible men in any given area would make it difficult to create companies of the exact proportions outlined. But such latitude also allowed the states to have battalions of more or fewer companies, regiments of varying size, and so on, so that if a regiment was called to duty it might differ in size by hundreds of men, when compared to

other regiments. With varying size, administration, supply and even mobility might well be confused, if not impossible. Any hope of uniform organization for the militia was destroyed by this clause.

Two offices created by the federal act were to help solve the problems of organization. The states were to have Adjutants General, who would act as administrators and intermediaries for the state militias. This office, ideally, would take much of the day-to-day operation of the militia from the Governors and would give it to a person more suited for the job. Communication between the state militias and the Secretary of War would also be regulated and uniform. The other office created was Brigade Inspector. Persons appointed to this office were to see to the actual condition of the militia--their weapons, training, discipline, and readiness. Reports on the condition of the militia were to be sent to the Adjutant General, who, in turn, reported directly to the Governor. Such an organization probably would have aided the organization and functioning of the state militias. In Maryland, however, neither were appointed in the state militia law. When the Maryland state militia was finally organized, Brigade Inspectors were appointed by the Governor, but it was not until October 6, 1794, in the midst of the militia action in the Whiskey Rebellion, that Maryland had an Adjutant General.¹⁶

In accordance with the second Amendment to the Constitution, which assumed that "A well regulated militia being necessary for the security of a free state, the right of the people to keep and bear arms shall not be infringed."¹⁷ All men were to provide their own weapons. Regardless of what else it assumed, the federal law's reliance on this amendment took for granted that the eligible men would exercise

this right. Also, this section of the law left the states, and ultimately the federal government, with the necessity of supplying an untold variety of ammunition and munitions. However, in an effort to anticipate such a problem, the law required each man to bring his own ammunition, in limited quantities, to active duty with him. The quantity was enough for only one extended skirmish, if the ammunition brought was any good at all.¹⁸

The problems of supply were not covered in the federal militia law, and were consequently not covered in the Maryland state law. Regimental quartermasters were listed, but there was no indication of any higher level of responsibility. The states were left to fend for themselves, and Maryland did not fend very well. There was no state Quartermaster General for the state until October 9, 1794, and the only reason that Maryland had one then was that Governor Lee of Virginia ordered one appointed for the Maryland Whiskey Rebellion troops.¹⁹

The federal law outlined the schedule of pay for the militia while in active service for the United States, and stated that the federal government would pay for such service. The pay scale would be the same as for regular army for each rank, but would take effect only after the state militia had arrived at a general rendezvous. The federal law also provided benefits for men injured while on active duty, and for the families of men killed. Even though training was supposed to be mandatory, there was no provision in either the federal or state laws to pay the militia for training.

Noticeably lacking in the federal law was a method to call the militia to active duty, or a maximum time for the militia in federal service. These were provided in a separate Act of May 2, 1792. It

outlined how the militia was to be called, by requisition from the President to the Governors; the length of time for service, three months per year maximum; and the limitations for its use, the President could call only the militia from neighboring states in case of rebellion or invasion in any one state. Because the states were not directly involved, no state version of this law was passed in Maryland.

One other omission in the federal law was the lack of fines for noncompliance. Neither the states nor individuals could be fined or punished for not following the federal law. A governor could not be held in contempt for failure to act as commander-in-chief of the state's forces. There was no provision to punish a state legislature that failed to pass a militia law within the one year limit. Failure by militia men to provide their own weapons was not punishable. Indeed, the federal law had no recourse against failure to provide for the establishment in a state of a uniform militia, even if the federal law had created one. Without incentive or coercion, the states had no need to follow any more or less of the federal law than they desired.

The many problems created by the federal militia law could not have been mere oversights. Some ambiguities were created or ignored for a reason. That reason seems to lay in the controversy over state's rights versus the power of the federal government. When the second Congress first reported a militia bill, it included much that would have created a truly national and uniform militia. The federal government would have organized the militia in such a way that a viable force would have been created. Provisions of the Wadsworth bill, first considered by the House on February 21, 1792, would have allowed federal inspection of the state militias. It would also have provided

an "elite" corps of militia in each state. Such a corps would have consisted of men between the ages of eighteen and twenty-five, and would have been trained more frequently than the main body of militia. At one point in the Congressional consideration, fines for non-compliance with the clause for providing personal arms was discussed.²¹

Although this proposed bill did not seek to set up the type of militia that the Secretary of War Henry Knox had proposed in 1790,²² it clearly gave the national government control over the militia. This concept did not survive Congress. The House so altered the bill that its sponsor, Representative Jeremiah Wadsworth of Connecticut, voted against it when it came up for final approval.²³ The Senate proposed a few amendments for this final version, one of which evolved into the act to call out the militia. The other Senate amendments were not listed in the journals, but they were rejected. The bill passed into law without further comment from the Senate.²⁴

The result of this concern for state's rights was the federal militia law of May 8, 1792. In an attempt to negate national control over both the regular army and the militia, Congress altered the militia bill to the point where it became ineffective in creating a national force. Any real substance was left to the state, with only guidelines offered by the federal law. It seemed that, as far as the militia was concerned, Congress reverted to the traditions of the Articles of Confederation where the central government only suggested legislation to the state. The one exception to this was that now the President was the commander-in-chief of the militia when in federal service. Thus the most important factor in determining the Maryland Militia law

of 1793--the federal militia law--had a negative effect. It remained for the state legislature to develop a militia, using the federal law as a guide if they desired.

The Maryland legislature began its consideration of a state militia bill in early December, 1792, when an overwhelming majority voted to impose a fine, in lieu of militia duty, on conscientious objectors.²⁵ The next important action on the bill was to strike a clause that would have imposed separate fines, determined by personal wealth, on persons neglecting to comply with the provision for providing personal weapons. Further discussion on the bill at this stage involved exemption of county court justices and the legislature. Both exemptions were approved, but the legislature was exempted only while in session. Two different roll call votes were needed to end attempts to exempt apprentices from duty.²⁶

Before sending the bill to the Senate for consideration, the House also approved sections that would place a fine of two-thirds of a dollar on any non-commissioned officer or private who failed to attend a muster, and a section giving regimental commanders authority to spend any fines collected on training and discipline. Finally, the House voted to strike a clause that would have made the master of an apprentice liable for fines incurred by that apprentice.

The Senate was not long in expressing objections to the House bill. These included opinions that the proposed number of training days was too high, stating that "A few weeks of actual service against an enemy [was] equivalent to several years of ordinary military duty."²⁷ The Senate also objected that certain of the fines were too high, and would tend to oppress some citizens, especially since these

same men were expected to provide their own weapons. Without returning the bill, the Senate suggested a conference. No record of the conference exists, but it must not have been successful, because two days after it was formed, the Senate presented formal amendments to the bill.²⁸

These Senate amendments would have completely negated the spirit, if not the substance of the federal law. The Senate proposed to alter the bill so that only one division, consisting of approximately 6000 men plus officers, would have been liable for the militia duty during the first three years after the act passed. When this liability ended, a second division of the same size but different men, would be liable for three years, and so on until all eligible men had served. At that time, the first division would again be liable for service.²⁹ The Senate later estimated that there would be 30,000 men of militia age³⁰ in the state, and so figured that only twenty percent of all eligible men would be liable for training or duty at any time. Because all the men would eventually serve, the Senate considered its plan only a temporary exemption. To this they added permanent exemptions for the various civil officers, students and teachers, physicians and ferrymen.³¹ Taken together, these proposals were staggering because they exempted so many men from duty.

The Senate also proposed an amendment that would have allowed the Governor authority to have the militia to train at extra times in case of invasion or rebellion. Time of service in such case was two months maximum, after which time service would be rotated to other men. In case the militia was called out of the state, service would be no longer than six months before rotation.³²

In a later message,³³ the Senate defended these amendments, especially the "temporary exemptions," by stating that the federal law allowed the states to exempt whomever they desired. Regardless of whether the Senate actually believed what it said, that the federal law would be used to defend such an outlandish amendment was important. The federal law could indeed be interpreted in such a manner; and even if the "temporary exemptions" were at variance with the federal law, there was nothing the federal government could do to coerce the state to correct the variation.

After reading the Senate amendments only once, the House rejected out of hand the Senate amendments proposed.³⁴ The "temporary exemptions" and the entire scheme for calling out an extra militia in emergencies were refused without so much as a voice vote, much less a roll call. The House did accept the exemption for civil officers and others. Having rejected the Senate's major amendments, the House decided by a vote of 38 to 25, not to send a message explaining the rejection.³⁵ The Senate regretted the omission, and refused to recede from the amendments.³⁶

A message from the Senate, explaining its reasons for the amendments, displayed that group's position very well.³⁷ Again the Senate claimed that the amendments were in compliance with the federal law. The use of only 6000 men was justified, said the Senate, because there could be no emergency that would cause the President to call more than that number out of the state. Besides, the state had weapons enough for only about 7000 men. (This reference to available arms implies that the Senate, at least, planned on arming the militia with state weapons-- something for which the final law did not provide.) The savings of time

and money to the militia men, and effort for the state were also used to defend the Senate position.

The strongest argument made by the Senate was constitutional. Quoting the militia clauses of the Constitution,³⁸ the Senate reminded the House that officering and training the militia was left to the states. This reminder could mean, to the Senate at least, that the states could exercise as little or as much of the militia as seldom or as often as the state desired. Such a broad interpretation of the Constitution fit very well with the spirit of the federal law. Congress had defined the age requirement for the militia, had suggested an organization, had provided for arming the militia by requiring the militia to arm themselves, and had provided discipline as the Articles of War of 1779. These were within the responsibilities of Congress as outlined in the Constitution. Congress had interpreted these duties in a broad manner, and had left the states to do much the same with their duties. That the states took advantage of this precluded a uniform national militia. Apparently, the House was not swayed by these arguments, because it refused to reconsider, and the bill died at the end of the session.

Deliberation on the bill continued in the November, 1793, session. The House proceeded to drop the exemptions for all civil officers, and every one else except ministers of the Gospel, and upon paying a two dollar fine, conscientious objectors.³⁹ Also during these deliberations, the fines for noncompliance with various sections of the law were set. The fine of one cent for not appearing at muster properly armed and accoutred was voted by a majority of 49 to 12.⁴⁰ Of the twelve who dissented, half had just objected to imposing any fine at all.⁴¹ This

would seem to indicate that the House knew that such a fine was a joke, but felt compelled to comply with the federal provision that all militia men must arm themselves. A further indication of this was the decision to further limit liability by empowering company commanders to exempt men from coming to company musters with the proper equipment.⁴²

The House struck two other important issues from the proposed bill. The first would have allowed the various companies to elect their own officers (Captains and below).⁴³ This would have taken quite a load off the governor, and also might have damaged his patronage. The second issue was a tax of two dollars per year to support armament of the militia.⁴⁴ This tax would have been imposed on all free white males older than forty-five, whose personal tax assessment was 200 dollars or more. This would have provided a ready source of money to purchase arms, and would have involved men past the age of militia duty in providing for the public defense. However, direct taxes for military support were very objectionable.

When the above two issues were omitted, the bill was passed and sent to the Senate. This time the Senate did not propose such sweeping amendments. Most of its proposed alterations were minor, but the Senate still tried to have apprentices exempted from duty. Another attempted to guarantee the continuation of the various volunteer companies that had been formed in the state. There were no surprises in these, but they pointed to the concern about loss of wages militia duty would have on merchants and working men, and the possible political importance of the volunteer companies already established. When the House refused both, the Senate agreed to recede from the exemptions if the House would pass the volunteer companies in Baltimore town.⁴⁵

These differences of opinion between the two houses of the state legislature came to naught in the actual law. But the opinions expressed in the various Senate messages indicated just how broadly the federal law could be interpreted. The House, by interpreting the federal law more strictly, however, did not increase the chances for an effective militia, much less one uniform with other state militias. Again the decision to impose a one cent fine for not attending muster properly armed negated the idea of an armed citizenry, even if it did follow the letter of the law.

Precedent could not have prevented the state legislature from enacting an effective militia law. The militia laws passed by Maryland during the Revolution certainly were not like the 1793 law. These earlier laws, passed at a time of immediate danger, formed the basis for an effective militia.⁴⁶ Whether or not the militia in fact was effective cannot be discussed here, but the laws can. These laws were meant to construct a viable military force, capable of defending the homeland. The motivating factor for these laws was obvious--the threat of the British in the Chesapeake and later in the western parts of Maryland.

Although these laws were passed under the threat of attack by an enemy force, they were thorough--at least when compared to the 1793 law. Organized by counties, the militia would be under the direct control of a county lieutenant. This person would act in much the same role as the later Adjutant General was supposed to, plus he would have direct military control (and therefore considerable political influence) in his own county. These men were also to act as armorers; they were to provide enough arms and accoutrements to supply twenty-five percent

of the militia in their counties.⁴⁷

Fines were much more harsh under the Revolutionary laws. The need to deter neglect of the law was great and immediate. Failure to attend a company muster could cost an officer forty shillings, and an enlisted man as much as twenty shillings. If an officer of field grade (Major or above) missed a battalion muster, the fine could be as high as five pounds; company officers could be fined three pounds and enlisted men thirty shillings.⁴⁸ There were to be no fines for not attending properly armed at the muster, because the state would provide at least one-fourth of the arms for the militia.

One of the major provisions in the Revolutionary militia laws was that of training. The companies were to train eight times per year, and the battalions another four separate times a year. If no other difference existed between the Revolutionary and the 1793 militia laws, more training would indicate the effectiveness of the earlier laws. Immediacy may explain the difference again. The Revolutionary militia needed to be ready and effective, and so was trained more often.

Substitutes were permitted in the Revolutionary laws. This tradition was carried on into the 1793 law, but some earlier limitations were omitted. A supplement to the 1777 militia law further explained the use of substitutes.⁴⁹ No person drafted was to pay a bounty to a substitute, nor was a substitute to accept any offer of bounty. In case any person was caught doing either, the penalty was a court-martial with the guilty party serving in the militia for double the original time. The fine for not providing a substitute could be as high as 200 pounds, but could be no lower than twenty pounds. The 1793 militia law did not prohibit paying a bounty for a substitute, and the

result was that men served in the militia only because they were offered a bounty.⁵⁰

The most startling differences between the 1793 and the Revolutionary militia laws dealt with calling the militia out for service. The militia, under the earlier laws, was divided into eight classes; as men were enrolled into the militia, they were assigned to a class. When the need arose, the governor would call all or part of a class to service. The governor was also given power to call out an entire battalion or whatever unit he desired. Thus the militia could be called in numerical order, and those who served one term would know that they would not serve until all other classes had served. The 1793 law completely omitted any type of draft system to replace this one used during the Revolution.

Perhaps the lack of immediacy was the largest difference between the two militia systems. The need for the militia during the Revolution has already been discussed. The Maryland militia of almost two decades later may not have seemed vital to the security of the state. The threat of foreign invasion was slight in the 1790s. Granted, Baltimore town was periodically invaded by foreign merchant marine sailors. However, these were civil disturbances and they hardly threatened the security of the state. The state may also have felt more secure, and thus would not have felt pressed to provide that security. This lack of foreseeable need for the militia may have aided in causing the ineffectiveness inherent in the 1793 militia law.

The Revolutionary militia laws were used as a basis for some part of the later law. Unfortunately, these parts did not aid in creating an effective militia. Substitutes were still allowed, while

the fines were lessened and training greatly reduced. Even the provision for armament that was carried over did not follow the Revolutionary tradition. It seemed that the Maryland militia law of 1793 drew much more heavily on the federal law than from the state's own militia tradition.

Thus far the discussion of the militia law has followed the long-term ineffectiveness inherent in that law, and the factors creating that ineffectiveness on a much shorter term. These problems were with the actual organization of the militia. The law stated that the militia was to be enrolled by the middle of 1794. This lax schedule prevented the state from complying with a Presidential call for some 5418 militia from Maryland to be held in readiness to march at a moment's notice.⁵¹ The President sent a request for a total of 80,000 men to Congress late in March, 1794, and it was finally approved by an Act of Congress on May 9, 1794.⁵² This call prompted Governor Thomas Sim Lee of Maryland to reply to Secretary of War Henry Knox that the militia was not yet organized properly, even though it should have been by May 1, 1794. Expressing his opinion on the militia turning out armed, if they turned out at all, Lee wrote that under the state militia law citizens were fined only four cents per year for not providing arms, and the "imbecility in the laws" greatly increased the probability that the citizens would not arm themselves.⁵³ Governor Lee also descried the fact that the national law did not have the power to enforce compliance with the arms provisions.

The problems of having the citizens arm themselves have been discussed, but the provisions for organizing the militia have not. One of the major reasons why such a long time was provided for organizing

the militia in Maryland was that since 1785, the state had not had a militia law.⁵⁴ This lack of an existing law left the state with no idea of the number of men to be organized in 1793. It also left Maryland no basis upon which to build the militia into battalions, regiments or larger units. The delays in organization were caused by an earlier neglect to maintain the state's militia, even though the Articles of Confederation provided that "every state shall
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always keep up a well regulated and disciplined militia.

There were other reasons that the Maryland militia was not organized in time to meet the May, 1794, call, and was just barely organized when the Whiskey Rebellion call was made. The delay caused by the disagreement over the 1793 militia bill did not delay the organization per se, but it did push the law and the organization back a year. Also, even with the problems of every day communication that existed in the last decade of the eighteenth century, five or six months to enroll the militia and report the returns was a great deal of time. This delay allowed in the militia was not really necessary. A lack of immediacy could be the reason for this, but there was no legislative indication that this was the intent of the law.

There can be little doubt that the Maryland militia law of 1793 did not provide for an effective militia. Drawing so heavily and strictly from the federal militia law prevented almost any hope of an effective militia. Because the federal militia law gave so much freedom of interpretation to the states, the state laws varied widely. The federal law was ineffective in another way: there was no way to enforce this law, which was rather ironic because one of the functions of the militia was to enforce the laws of the Union. Yet military

coercion, either from a regular army or even a militia, was a very sensitive subject to Americans in the last quarter of the eighteenth century. After all had not Americans broken from England, arguing that the King and Parliament had no right to use military coercion against them? How, then, could the federal government hope to coerce a state government into compliance with a law, even a militia law? It could not, or at least not in this early militia law. The federal government could only hope that the states, in their infinite wisdom, would follow the outline.

A feeling of uncertainty was expressed in the Maryland state militia law as well. The state saw fit to abide by most of the federal law, but was uncertain on how far beyond that law it could go. Fines and other types of coercion were included in the state law, but none were oppressive, or even stiff enough to be effective. It seemed that the state legislature realized that a fine for not arming oneself, if heavy enough to cause compliance, would be unacceptable to the citizens.

Perhaps this idea of acceptance was the key. Because the federal government was so new, and formed on consent, the federal militia law was meant to be more acceptable than effective. Since the state law was based on the federal law, some of this desire for acceptance was carried over. In 1793 there was no need to call a great number of militia, as there had been during the Revolution. Unfortunately, there would be a need to call on the militia in 1794, and the sacrifice of effectiveness for acceptability was to hamper this call.

CHAPTER II

The Maryland militia that had been created by the state act of November, 1793, was first tested against the "Whiskey Rebels" of western Pennsylvania. This test began in mid-August 1794, and lasted through mid-November of that same year. Maryland was called upon to provide a total of 2350 non-commissioned officers and privates for the march against the rebels.¹ The President also requested quotas of Pennsylvania, Virginia, and New Jersey; the total from all four states was to be 12,950 men, excluding officers. The men were not ordered to march immediately, but were to be held in readiness to march westward at a moment's warning.

Reaction to the requisition, dated 7 August 1794, varied between the four states involved. The manner in which the Maryland state government, and the men who were the militia answered the call is the focus of this chapter. Why each reacted as it did will also be treated, but such consideration must be limited to documented evidence and cannot give a full explanation, especially where junior officers and enlisted men were concerned. Comments and opinions from these men, as is often the case, are not available and probably have not survived. If diaries were kept, they still are kept privately; communication between most junior officers and their superiors was probably verbal, in the mode of the day, and few records of written communication may be found. Fortunately, the official government correspondence for most of the attempt to raise the quota and march them to the general rendezvous has survived, and affords quite good material.

Study of the reaction by Maryland to the federal requisition is important for two reasons. The call was the first time that the state

governments were asked directly to support the new general government since the Constitution was ratified. Power to enforce federal laws was also tested by the issue, not only the excise laws in western Pennsylvania, but the uniform militia act as well. This later law as not opposed in the same manner as the excise law, but it was challenged by implication. Because the state militia laws were passed in response to and by order of the federal law, any time the state militia laws were resisted, the federal law, by extension, was also opposed.

The second reason involved this resistance. Attempts to enforce parts of the militia law, especially those parts dealing with a draft, were opposed by segments of the militia. Antagonism toward the draft in Maryland was such that in some areas in the state, riots occurred, and whole regiments refused to respond to the requisition. When combined with rumors that the "Whiskey Rebels" were planning to march into western Maryland, draft resistance was seen by political and military leaders as a threat to the state government. The Maryland government acted in a much more positive manner to this threat than it did to the problems in western Pennsylvania. An investigation into the reasons for such a positive course must also be made, but will be attempted in the following chapter. The present discussion will relate the less positive actions taken by the state government for the western Pennsylvania expedition.

A recounting of events just prior to the 7 August request offers some explanation of the methods used by the state to raise the quota the President wanted. The militia was not organized by the legislation that had provided for regulating the citizen army. This law left actual organization of the militia to the governor and council, who

were to complete this task by June, 1794. The legislature allowed six months for determination of the number of men eligible for the militia and for division of these men into the various units. Despite difficulty in obtaining accurate reports, the governor and council did divide the militia into fifty regiments and four extra battalions. These were combined to form larger units, brigades, which were to form three divisions. Each regiment was to consist of men from only one county in the state, and where there were not enough men to form a full regiment, extra battalions were created or the existing regiments were made larger than the requisite ten companies. Because of these geographical or political limits, some of the regiments not only had ten or more companies, but some were smaller. Extra battalions, which should have consisted of five companies, had as few as four or as many as seven.²

After a general formation was made, the next step was to create a command structure. Twelve brigades were included in this structure. Individual brigades were to consist of an approximately equal number of regiments. Again geographical and political limits influenced the size of the brigades. They ranged in size from three regiments (one from Allegany and two from Washington county) to the six regiments of the Baltimore county militia. In breaking with these limitations, the regiments of Frederick and upper Montgomery counties were combined to form one brigade, and those of Prince George's and lower Montgomery counties formed another. Brigadier generals were selected by the governor and council to command the brigades; lieutenant colonels were chosen for the regiments, and majors were to command the battalions. Until the state appointed an adjutant general in October, 1794, the

regimental and brigade commanders reported directly to the governor, and even some of the majors did the same instead of reporting directly to their respective regimental commanders.

Creating the companies was more difficult and proved to be more time consuming than the organization of the larger commands. Although the state had no law to organize or regulate the militia between 1786 and 1793, many groups of men created their own volunteer companies during those seven years. A volunteer company of artillery from Fell's Point was organized in March, 1790.³ Before that date at least one company, "The First Baltimore Town Light Company of Volunteers" was established in 1789. Other companies, including some on the Eastern Shore, were formed between 1792 and the enactment of the 1793 militia law.⁴ Whatever else formation of these companies may indicate, they meant a multitude of problems for the governor in his attempts to divide the militia into companies. The volunteer companies existed and their officers were elected before the 1793 law took effect. Indeed they were guaranteed continued existence under the twenty-sixth section of that act. Because the older companies were volunteer, they could be and were selective in whom they allowed to join. Thus, some of the men eligible for duty from a small area might be included in the volunteer or older companies. Further, men from two or more counties might belong to these companies. The new companies formed under the 1793 act, were formed of men from small locales, and were supposed to be strictly limited to these areas. It was left to the governor and council to fill the gaps created when the new companies were formed around the volunteer companies.

There may have been several reasons why the new companies were formed by areas. The simplest of these probably was convenience. Local men could attend company musters with less hardship than men from outside the immediate area. Company commanders might personally know the men they were responsible for, if those men came from the nearby area. Such was the case in many companies, for the officers were elected. Further, legal jurisdiction would be more easily defined when an entire company was from one locale. In companies that were situated close to county lines, legal jurisdiction might be very important in deciding who was responsible for jailing men who broke the militia laws.

Because of these problems and a general tardiness in the return of company enrollments, the governor did not have an exact idea of the total militia under his command. When Secretary Knox issued the President's request on 7 August, Governor Thomas Sim Lee had not received all of the company lists, and therefore had not selected officers for some of the companies. Even though some of the new companies and all of the volunteer companies elected their officers, Governor Lee had final approval and could accept or reject any such election.

With many companies not completely formed and many officers not selected or approved, a good part of the militia could not have held even one company muster before 7 August. If a company muster could not have been held, then a battalion or regimental meeting would have been impossible, because regiments, which by the June organization plan were supposed to consist of ten companies, by early August might have only three or four complete companies, and these might not have met except to elect officers. The condition of the Maryland militia was at

best confused and incomplete by the first weeks of August, 1794, at worst it was total chaos.

The first official reaction to Secretary Knox's request did not come until 14 August then Governor Lee issued orders for the militia to be held in readiness to march.⁵ These orders acknowledged the fact that the state's forces were incompletely organized, and called for the officers to make every effort to comply with the call regardless. This call specified that each regiment should provide a total of forty-five enlisted men--two sergeants, two corporals and forty-one privates. Had all of the regiments been equal in size, this total would have taken about one-tenth of the men from each, or the equivalent of one company. But the regiments were of varying size, as were the companies in each regiment, and the call would have taken fewer than one man in fifteen from some, or more than one in seven from others. Extra battalions were required to send twenty-two men, one sergeant, one corporal, and twenty privates. Cavalry and artillery were not necessarily attached to each regiment, and so the governor asked that the brigade commanders send him lists of the men available from each of these two branches of the militia. Commanders from all units were to take volunteers first, and if necessary, use the draft to fill their quotas. Lists of draftees and volunteers were to be sent to the governor by 6 September.

The governor's order raised two important points. The first was the date by which returns were to be sent to him. A time span of almost a month separated Secretary Knox's order from the President and the date by which the lists of the militia to be used were to be sent to the governor. Such a difference could hardly be considered

organizing and holding the militia ready to march at a moment's warning. Indeed, Governor Lee did not even issue his order until a full week after Knox sent him the President's request. By delaying just this much, a week of organization for the quota was lost; but by giving regimental commanders until the sixth of September to make returns, the governor lost all hope of having the militia held in readiness until some time after that date. In giving the commanders three weeks to make their returns Lee forfeited any sense of immediacy that he may have wished to convey, even though his orders were for immediate action in raising the quota of troops from Maryland.

The request for men issued by Secretary Knox was meant to accompany a Presidential proclamation ordering the insurgents in western Pennsylvania to disperse before the first of September. Before the militia could be called upon for actual service, a proclamation such as the one Washington issued was required by law. Knox sent a copy of the proclamation to Lee with the request for militia. Therefore, the governor knew that the troops would not be called to march until after the first of September, yet his requirement for returns to be made was five days after the earliest opportunity for the militia to be used. This deadline was not even for the troops to muster but rather simply when the lists of those chosen to serve were to be sent to Lee. More time would be consumed in gathering the men into large groups, finding provisions for them, and planning the march.

No evidence has been found that might help explain this delay, other than the fact that the militia was incompletely organized. The governor sent a letter to Knox explaining that the state council had determined that state arms could not be given to the troops unless

the legislature gave authorization to do so.⁶ However, any delay that this decision might have caused was alleviated when four days later Lee sent another letter to Knox stating that the council had overturned its previous decision, and would agree to supply the militia with state weapons and ammunition.⁷ These letters may have indicated that the governor was not sure of his legal control of the militia, and was concerned about the condition of the corps, not only in organization, but in provision and equipment as well.

The second important point in the governor's order was the method of enrolling troops. By drawing an equal number of men from each regiment, the demand on any one area should have been more acceptable to the citizens. Several disadvantages were created by this method, however. By taking men from various companies, any esprit-de-corps within a single company would be destroyed, and men would serve under officers they did not know, or for that matter might not respect. In an era of expanding and developing democracy, election of officers was important--especially among men who were citizens first and soldiers only by necessity. Militia could not be treated like regular military troops as they are now. Consent to serve, and to serve under specific officers was needed in the militia, but was overlooked by Lee. Drawing equally from each regiment would also limit the number of volunteers from any one regiment. A great outpouring of volunteers did not occur often, the draft was needed in almost every county for this expedition, but in at least one regiment, from Baltimore City, there were more volunteers than Lee's orders allowed. Had these men been used, some men from other areas might not have had to be drafted. Conjecture such as this is nothing more than hindsight however, and Governor Lee

did not suffer from this affliction. His orders stood as they were, and started the first mobilization of the newly created Maryland militia.

Progress in enrolling men for the expedition was slow, and in many places handicapped by the lack of volunteers. Problems faced by the field officers in Cecil county, while not being typical, show the confused state of organization in the militia. Lieutenant Colonel Edward Oldham, commander of the forty-ninth regiment, Cecil county, reported to the governor that he had not learned of one volunteer as of 4 September.⁸ The other Cecil county regiment, commanded by Lieutenant Colonel Henry Hollingsworth, experienced much the same difficulty. Hollingsworth offered an explanation for the disinclination of the men to volunteer by stating that the county militia was so disorganized that many men did not know to which company or regiment they belonged. These men could not, or would not, offer their services until some order was created.⁹

Chaos resulted from the early formation of volunteer companies in Cecil county, which left gaps between each other where men could not be admitted to one company or the other because the companies were full. The men in these gaps were usually not numerous enough to form their own company, and because of the size limits and geographical division of the companies, they were without companies. In addition, Lieutenant Colonel Hollingsworth claimed that boundary disputes between companies caused delay, with companies attempting to claim larger areas and therefore more men. A complete reorganization of the county militia was proposed, but it would take time. The result of all of this confusion in Cecil county was that no troops from either of the two

regiments marched with the main body of Maryland militia toward western Pennsylvania.¹⁰

Another complication that slowed enrollment was the lack of company grade officers. In some counties, officers had not been appointed until the first of September; this was the cause for one regiment in Washington county¹¹ and one in Kent county.¹² A deficiency of officers existed not only because of poor organization, but also because many of the officers resigned their commissions, possibly to avoid service on the western expedition. Regiments in Caroline,¹³ Montgomery¹⁴ and Talbot,¹⁵ lost officers through resignations at this crucial time. Although no direct connection between the resignations and the difficulty in raising troops was made, each report of resignations mentioned that troops were reluctant to volunteer, and a draft was needed. Also, in many cases these officers received commissions some time prior to the call, and could have resigned earlier. Even if no further connection can be made, the resignation, and the lack of officers created more work for the governor and council. In the midst of assembling a detachment for the westward march, they had to concern themselves with selecting and commissioning new officers.

For at least some men on the Eastern Shore, the knowledge that a long march faced them had a detrimental effect on efforts to raise the quota.¹⁶ The men from the Eastern Shore would not only have to march with the troops from the western shore to Pennsylvania, they would have a considerable march to reach the starting point of these western shore troops, plus a hazardous crossing of the Chesapeake by boat. A draft was necessary in almost all of the Eastern Shore counties for just this basic reason.¹⁷

A draft of men was necessary in the western shore counties as well. Even Baltimore city and county were forced to draft men, much to the disgust of Brigadier General Samuel Smith, the commander of the Baltimore city brigade, and commander of the Maryland detachment that marched into western Pennsylvania.¹⁸ In fact, every county on the western shore, except Prince George's, reported needing a draft of men. Troops of the third regiment, Montgomery county, demanded a bounty before they would march. The regiment raised this bounty, by unreported means, but still had to draft men; it was also reported that some of the volunteers who agreed to march after receiving the bounty, were under age, and could not legally march with the corps.¹⁹ Unfortunately, most of the other counties did not report the reasons for their deficiency of volunteers.

Commanders of the two counties farthest west, Allegany and Washington, did report their reasons for using a draft, and why that draft was less than successful. Allegany county encompassed that part of Maryland closest to the area where the "Whiskey Rebels" were operating, and was somewhat influenced by their actions. Direct access between the citizens of Allegany county and the insurgents in western Pennsylvania was hampered by the Appalachian and Allegheny mountains, however. Nonetheless, the militia in the one regiment in the county were reported to be waivering and several officers refused to serve.²⁰ Troops were eventually raised in the county, and the state government sent them arms to protect themselves and to quiet any unrest that might continue. These same troops were used to protect Cumberland, in Washington county, from threatened attack.²¹

Washington county had much more difficulty in raising its quota than did Allegany county. The mountains that kept Allegany and the western counties of Pennsylvania apart, did not extend so much into Washington county, so there was less of a natural barrier to keep the insurgents out of Washington. Sympathy for the rebels reportedly ran high in parts of Washington county, and a part of one of the regiments there, the twenty-fourth, threatened to take the state arsenal at Frederick in support of the rebellion.²² Men in this county rioted against the draft,²³ and even beat their officers when a draft was attempted.²⁴

Concern over the effect of a draft, even though no draft was used, was expressed by Lieutenant Colonel Benjamin Brooks of the fourteenth regiment, Prince George's county. By extending the time limit allowed by the governor, Brooks avoided the necessity of a draft. Perhaps actions such as this, by the commanding officers in Prince George's county explain why that county was the only one not to need a draft, and almost the only one that supplied its full quota.

None of the reports mentioned above were received by Governor Lee before the first of September, the deadline set by the President for the western Pennsylvania insurgents to disperse. The only evidence found that would indicate Lee knew of the problems in raising the quotas was a letter from John Carlile, commander of one of the Harford county regiments, the forty-second. Carlile requested instructions for holding the men drafted from his regiment, because he feared that "many who are adverse to the service may be some hundred miles off before the general rendezvous."²⁶ Quakers had also been drafted to fill his regiment's quota. Because they refused to serve or pay for a substitute,

Carlile asked for directions for handling them.

The governor's reply to the requests made by Carlile was to allow the regimental commander discretion in finding solutions to the problems. Actually there was little else that Lee could recommend. He concurred with Carlile's suggestion to gather the draftees into an encampment where they could receive training and be kept from deserting. Lee stated that the militia law gave specific instructions for action toward men who neglected their duty; but he also mentioned that Carlile's own judgment "assisted by a view of the circumstances attending each particular case" would enable the commander to determine appropriate action for the Quakers who refused to serve.²⁷

By the first week of September, Governor Lee knew of sundry problems that were inhibiting the efforts to raise the quota. Many such reports have been mentioned so far, yet the governor was aware of other problems. There was at least one case of troops refusing both to serve and to provide substitutes, as the law allowed.²⁸ The law required that field officers be held responsible for finding substitutes if the men themselves did not do so. Apparently some of the men drafted from Calvert county did not furnish substitutes, and the regimental commander asked the governor for an opinion on whether the field officers were really to be held liable for finding and funding substitutes that the enlisted men failed to provide. The governor replied that "altho [sic] the act makes it his [the field officer's] duty to procure substitutes" it would be "unreasonable and oppressive" to expect the officer to pay for the substitute out of his own money.²⁹ Lee gave the further opinion that the law was at fault, and should not necessarily be obeyed to the letter. Again, the governor left the final decision to

the officers in the field, and used the militia law as a guideline for action.

Progress on raising the quota from Maryland was slowed by many factors. The governor delayed issuing his order to begin enrolling troops, and then gave the commanders until the first week in September to complete this task. The regimental commanders faced poor organization, resignations of some of the junior officers, and boundary disputes. Some of these problems would be solved through the efforts of field officers before the troops marched west; some would not, and would keep significant numbers of men from ever making the march.

Yet, even though Lee knew of these difficulties, he remained optimistic, at least officially. In a public proclamation printed in the newspapers throughout the state, the governor, acting as commander-in-chief of the state militia, felt "particular satisfaction in affording his testimony to the merit of the militia of this state." Such praise was caused by the great numbers of men who "have manifested their Patriotism . . . by making a voluntary tender of their services" for the present expedition.³⁰ This message, issued 29 August, but not printed on the Eastern Shore until 9 September, must have been an effort to assure the population that the western insurrection would be controlled. It was not grounded in fact, for neither great numbers of men were preparing to serve, nor were the men that were going as volunteers. It should be remembered that there was no evidence found that Lee received reports on the status of the militia on the Eastern Shore until after 29 August. Thus, while he could honestly claim that he had "heard of no place on this shore [Eastern] where volunteers have not rendered a draft unnecessary" there is no proof that he had heard

from any place on the Eastern Shore.

Lee was a little more realistic in his progress report to Secretary of the Treasury Hamilton.³¹ Still promising that the infantry would be mustered on time, the governor expressed doubts about the cavalry and artillery. Because of the very recent organization of the state militia, Lee wrote, a few men from either branch of the service had trained, and even fewer had been equipped. Here the governor was on shaky ground--cavalry was the glamour branch of the service, and several troops had been formed before the 1793 law was enacted. The artillery was much the same, a case in point being the Fell's Point Artillery company, founded in 1790, which was the only artillery that accompanied the Maryland corps on its march into western Pennsylvania. By admitting that the call had "produced effects very unequal at different places and at different points in time since the requisition was made," Lee at least approached the truth in this letter to Hamilton. What he did not say was that a favorable response seemed to be the exception rather than the rule.

* * * * *

The next orders issued by the President were for the assembly of troops to begin, and were sent to Lee by Secretary of the Treasury Alexander Hamilton on 29 August 1794.³² Secretary of War Henry Knox had been called away on personal business, and after clearing his departure with the President, was absent from his office for the period of mid-August to mid-November, 1794. Hamilton took over Knox's military duties while he was gone. The men from the Eastern Shore of Maryland

were to travel to Baltimore and assemble there with the troops already in the city. Those troops that formed the rest of the state detachment were to await further orders, but all would eventually rendezvous at Williamsport, and then march to Fort Cumberland to meet the Virginia militia before entering Pennsylvania.

Hamilton's letter also requested that Lee not issue orders for the militia to begin assembling until the first of September. Without stating as much, Hamilton knew that the insurgents were given until that date to disperse. Anticipating that negotiations would fail and that the insurgents would not comply with the order to disperse, the President ordered the militia assembled. Hamilton's letter also implied that the general government would supply artillery for the Maryland corps, because Hamilton stated that the same, with camp equipment already requested, would be sent ahead of the detachment to Williamsport.

Lee issued orders in accordance with the President's request, and commanded the Eastern Shore militia to begin their journey to Baltimore.³³ Under the governor's previous order of 14 August, a total of 741 men were expected from the eight counties that made up the Eastern Shore. According to one of the few reports of their arrival, less than 400 men arrived in Baltimore.³⁴ Not until 16 September did these troops begin to arrive in large numbers at their initial rendezvous. An earlier report, made on 12 September, stated that a part of the Queen Anne's and Talbot county quotas had arrived, but this group was commanded by an ensign, and probably numbered less than thirty men. If the first mentioned report was to be believed, few of these men were physically fit to continue the march to Pennsylvania. Many suffered from sore legs, and others were afflicted with "augues & dropsies;" their condition was

so bad that the commander of the entire Maryland detachment, Samuel Smith, added in this report, that "instead of men for service we are burthened with sick, without physicians, nurses or hospitals."³⁶ Smith feared that more men would become sick and some might die, and that the healthy would be disgusted with the treatment that the sick received and desert.

In the same report, the general mentioned that the Eastern Shore militia were without field officers, thus rendering the group without a leader. Eventually Lieutenant Colonel Perry Benson, from Talbot county, would take command of these men, but not until the militia was ready to leave Baltimore. Another problem with the Eastern Shore militia was that many of them were substitutes. Smith had a generally dim view of both the substitute and the man who sent one, and the general gave vent to this opinion in his report to Lee. The substitutes did not even have shoes, in many cases, and were very poorly outfitted otherwise, also from the looks of them, Smith doubted their fighting ability. Such wretched men were sent, the commander said, because the substitute cared for little but the money he would receive for serving, and the man who sent a substitute cared not whether the man he sent was in good physical condition, but only that this substitute went. Since only about 400 men arrived from the Eastern Shore out of the 741 expected, it was apparent that more than a few men neglected even to send substitutes.

Before the Eastern Shore militia arrived in Baltimore, the governor received orders for the entire corps to march to the rendezvous at Williamsport.³⁷ In sending these orders Hamilton stressed that speed was of great importance as the winter season was rapidly approaching.

He also commented that the riots in western Maryland were causing some concern in the federal government. It was hoped that by moving the corps rapidly toward Williamsport, only a few miles from Hagerstown, the site of many of the riots, the spirit of "rebellion in Washington and Allegany counties" would be dampened. From approximately 12 September until 25 September, very little communication concerning the troops for the western Pennsylvania expedition was issued from the governor's office. The time period was filled with issuing orders for raising an additional number of militia to put down the riots in the two western Maryland counties and to defend Frederick town against threatened attack. An account of these efforts, and the riots that caused them, will be the focus of the next chapter.

While the governor was devoting most of his time to the threats in Maryland--he was even ordered by the council to go to Washington county to lend moral support to the friends of government³⁸--both Secretary Hamilton and General Samuel Smith were busy with the quotas for the Pennsylvania march. Hamilton began sending letters directly to Smith on 15 September, with requests that the general take the field as soon as possible, and that he begin a correspondence with Governor Henry Lee of Virginia, who was appointed to command the entire militia army.³⁹ The next letter from Hamilton to Smith involved plans for the move to Fort Cumberland, including sending regular army troops to escort the promised artillery that was on its way to that rendezvous. Another letter approved drafts for \$37,000 that Smith earlier requested to pay for the expenses of the Maryland corps for the march. This last letter, dated 29 September, was sent to Smith at Frederick, and indicated that the general was still in Frederick at that late date.⁴¹

Reports from Smith were at time confusing, probably because they were incomplete and included comments on the progress of the state requisition as well as the federal request. The general reported to Governor Lee of Maryland that 300 Eastern Shore troops marched from Baltimore toward Frederick on 17 September, and that another 430 men were supposed to leave three days later.⁴² Yet on 21 September, Smith wrote from Baltimore that only 470 men from the Eastern Shore had marched--a deficiency of 330 men, which caused Smith no small amount of concern.⁴³ The next intelligence, this time from Frederick, stated that there were only 825 militia at that place, and many of those were unfit for duty.⁴⁴ The militia counted in this report were those from the Eastern Shore, Baltimore, Harford, and Anne Arundel counties. Included also was one company of artillery--fifty men--that was without field pieces. The commander stated that he expected 150 men from Allegany and Washington counties; if that number did reach the rendezvous, these two counties over filled their quotas in spite of the draft riots and alleged direct influence from the Pennsylvania insurgents. There were also some 200 men at Hagerstown, but these may or may not have been a party of the state requisition used to put down the riots in that area. As of 27 September, then, Smith counted a field force of from 900 to 1100 men, depending on whether or not the militia in Hagerstown were under his command for the federal quota.

As the corps began to take shape at the Frederick rendezvous, Smith faced new problems. He had been continually concerned about obtaining the full quota from Maryland, but now at Frederick he began to worry about losing those few men he had. Supplies were of constant concern to Smith--especially blankets and shoes for the men, but the

situation at this rendezvous brought the general almost to despair. On October the first he wrote to the governor that the "situation was distressing" at least 63 men from the Eastern Shore group were sick because of the great temperature variations, and the men had not enough blankets to keep themselves warm.⁴⁶ On top of that, the corps had no medicine to treat the sick, and doctors were very few, if there were any at all. Emergency procedures such as using the Frederick county court house as an infirmary caused unrest among some of the citizens, a situation that Smith wished to avoid, but could not help. The general summarized his feelings at this juncture by writing to Lee that "it would be an act of cruel barbarity to attempt to force men who have willingly offered their services to march further in the situation they are now." He added that he could not fault the officers because they had done "everything that men can do" in commanding troops that were trained only "as well as time would admit."

Smith also had to deal with desertion from the ranks. On the third of October he reported that seven had run off during the previous night.⁴⁷ In a later report, he claimed that a total of 63 men deserted during the entire march--all of them substitutes. The lack of cavalry was also mentioned in the 3 October report. The general guessed that the governor's orders had not been understood, for if they had, at least 100 cavalry would have been with the detachment. He added that the cavalry officers were possibly at fault because they could have taken it upon themselves to volunteer, and apparently they did not.

Even if it was an act of cruel barbarity, Smith marched the detachment on to Williamsport. His first report from that place, dated 9 October, again confused the real size of his force.⁴⁸ The

general claimed that a corps of 1559 was with him on that date. Both previous and subsequent reports indicate that he did not have that many men when he left Baltimore, and considering the men he discharged or left sick along the route, his command at Williamsport could not have been much more than 1100 men, plus officers. The actual total was hinted at when Smith reported that the corps would form only two regiments and one extra battalion--probably a total of twenty-five companies if there were 45 men in each company, which was rarely the case.

Smith's report brought out another interesting point. When the troops from Allegany and Washington counties joined the corps at Williamsport, they were accompanied by one lieutenant colonel and one major, for a force of about 150 men. The general was forced to decline the services of these two officers because the size of his command could not warrant three lieutenant colonels and six majors. A surplus of field grade officers was one of the few problems Smith faced that he probably did not much mind.

Virtually every report Smith made to the governor mentioned the lack of supplies that plagued the detachment. As early as 23 August the general began requesting supplies, and transportation for those supplies. He estimated that eight wagons would be needed to carry supplies for each regiment.⁴⁹ Shoes and blankets were in short supply, especially for the Eastern Shore troops, and Smith had to remind the governor that if these necessities were not furnished, the men would desert or die of exposure. Even munitions were scarce, but not so much from a deficiency of powder as from the age of that powder that had been stored in the state arsenal at Frederick since the Revolution. Smith suggested that all the powder in the arsenal be taken out and remade.⁵⁰

The artillery promised Maryland by the federal government was not supplied by the first of October, nor were shoes and warm clothing the state promised, reported Smith. The commander specified that 1000 pairs of shoes were needed. In addition, Smith commented that the beef supply in Frederick was "abominably bad."⁵¹

The supply situation should have improved after 9 October--or rather the administration of the few supplies available should have improved after that date. By authorization of Governor Henry Lee of Virginia, Smith appointed a brigade quartermaster.⁵² He also appointed a foragemaster, but judging from the reported number of cavalry, and Smith's many requests for wagons, there was probably very little forage to be mastered. Prior to these appointments, the Maryland detachment had been without central control of either distribution or procurement of supplies. Governor Thomas Sim Lee directed the field officers to fend for themselves and their men, and pass notes to pay for any supplies purchased.⁵³ Obviously, under this previous method of supply, confusion reigned. Because there were no reports on supplies dated after the appointment of supply officers, it is impossible to determine if these men helped ease procurement of supplies.

Indeed, very few reports of any kind have been found for the period from 9 October to 3 November, when Smith sent a detailed list of the militia then at Uniontown, Pennsylvania to the governor. General Smith's final report from Maryland came from Williamsport, and was dated 9 October. In this report he stated that his corps would rendezvous with the Virginia corps at Fort Cumberland, Maryland, on 14 October. No further intelligence from Smith has been found except from the above mentioned 3 November statement. Local newspaper articles and personal

letters indicate that the two state militia forces were at Fort Cumberland by 16 October at the latest. In a letter to Edmund Randolph, President Washington mentioned that he reviewed the Maryland and Virginia troops on that date.⁵⁴

Finally, then, the militia brigade from Maryland was poised and ready to march against the "Whiskey Rebels." Orders for the Virginia and Maryland militias to march toward Uniontown, Pennsylvania were issued by Governor Henry Lee on 21 October.⁵⁵ Hamilton reported learning that these men were about twenty miles from Uniontown on 31 October.⁵⁶ The combined corps reached their destination on about 2 November, after marching much of the way through rain and consequently muddy roads. From this location, orders were issued on 4 November for the move toward the Pittsburgh area.⁵⁷ Once there, various leaders of the insurgents and other suspects were captured. By 25 November, The Washington Spy reported that the militia was back in the state, and would soon be discharged.⁵⁸

Smith's final report, as mentioned, was made from Uniontown and dated 3 November.⁵⁹ This report contained the most detailed account of the state militia found, and the account was not favorable. The deficiency in total number of troops was so great that the commander could not adjust it to seem larger than it was, although he did include troops left sick at various places on the route of the march, beginning in Baltimore. President Washington requested 2350 militia men from Maryland; Smith could count only 1115 ready for duty at Uniontown--much less than half of the request.

Even counting all of the troops under his command at one point or another, Smith commanded only a few more than 1700 men, plus 100 officers.

In outlining how this number dwindled, Smith pointed out that 129 men were left sick at Baltimore, Frederick and Thomlinson's. There were also the sixty-three men that deserted during the march, all substitutes as Smith said. These numbers, totaling less than 200 men, may not be important or disturbing. Disease and desertion were not unusual for eighteenth century armies, especially citizen armies. But Smith reported that he detached almost 150 men at Frederick and Fort Cumberland. They were needed to protect the parts of Maryland that had earlier been threatened by riots.

Within the total strength at Uniontown, the commander included a full company of artillery. These men were the previously mentioned volunteer group from Fell's Point and Baltimore. (Smith did not report on the weapons available to his troops, and it is not known if the artillery company had any field pieces.) Less than one troop of horse, only eighteen privates and three officers, were listed. Such a small number was significant when compared to the 200 cavalry Washington requested from Maryland.

Excuses for the deficiency in the total number of cavalry varied. Smith thought it was due to a misunderstanding of the governor's original order for the militia to muster. The governor reported to Hamilton that the poor attendance was due to the recent organization of the militia, and the fact that the cavalry had not enough time to train before the call was made. Roger Nelson, a cavalry commander from Frederick county, said that orders for the cavalry to muster had arrived so late that many men in his troop had made other plans and could not disrupt their personal affairs. Besides, wrote Nelson to the governor, he personally would not go with the troops unless it was at the command of the entire

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Maryland cavalry.

There seemed, at times, to be more validity in Nelson's last comment than the excuses of either Smith or Lee. Arrogance may have kept some of the cavalry troops away from the detachment. The excuse Lee gave Hamilton notwithstanding, the governor hinted at something very close to arrogance in a letter to Roger Nelson when he stated that many cavalry would not volunteer unless other cavalry from the state were also called.⁶¹ This letter contained an important account of the problems Lee faced in raising the cavalry, and seemed to be supported by reports from other sources.

The governor pointed to one major difficulty that kept the cavalry from responding to the call: the impracticability of drafting men from this branch for service. If a draft had been used in this instance, Lee feared, the cavalry would in future dissolve because few people would choose to serve in a branch that caused greater personal expense than service in any of the other branches caused. Lee's reasoning was that a man, when drafted for cavalry service would have to serve in person (with horse) or procure a substitute man and horse, thus the greater expense. So fearing the ultimate result a draft of the cavalry would occasion, Lee rejected the idea.

An explanation for refusal to volunteer was also a part of the governor's letter to Nelson. Lee admitted that his general orders were probably misunderstood, and the result was only vague offers of service from the various troops. In fact, only two offers were made to Lee: one from Nelson's troop, and one from an Annapolis troop. This latter troop said that it would serve only under its own officers; the commander of this troop, Lee mentioned, found that he did not have enough

volunteers to form a command, and so went no farther than to offer his services if called. The Baltimore cavalry troops did not even offer their services but awaited orders, which Lee did not wish to give. It appeared that the cavalry did not go because it was not called. The troops kept waiting for orders, and Lee, thinking that he had issued sufficient orders, kept waiting for volunteers, and refused to draft men into the cavalry for fear that such a move would cause the eventual dissolution of part of the militia system.

As with the cavalry, there were many opinions given for why the infantry turned out in such small numbers. Hamilton, with some slight justification, thought that Smith was to blame for the delays in procuring and advancing the Maryland quota. In a short letter to Henry Lee, Hamilton intimated that "there is something about our friend Smith that perplexes and distresses me."⁶² Confessing that Smith did nothing wrong, the Secretary of the Treasury added "it is certain that he has done nothing but paint black from the beginning." In closing, Hamilton told the Virginia governor that it might be necessary to send Smith back to Maryland.

Aside from whatever differences Smith and Hamilton might have had, there was evidence that the Maryland general was rather pessimistic, both about the need for troops in the first place, and the progress his state was making in procuring those troops. As early as 23 August Smith wrote that in his opinion the insurgents would be reconciled before troops would really be needed.⁶³ Most of his reports to the governor concerning the quota were gloomy, if not disparaging. The comment that it would be a "cruel barbarity" to have the militia march west from Frederick has already been cited, and it could be construed as mere concern for the health and safety for his men, or an attempt to slow or

stop the movement west. Hamilton, of course, probably had no way of knowing these details, as Smith's letter was addressed to the governor, but the Secretary had access to other indications of the same feelings in Smith. Maryland's Governor Lee, on 30 September, wrote to Hamilton enclosing a list of complaints Smith had concerning supplies, the quantity of men, etc.⁶⁴ Further, there was at least one earlier hint of the Maryland general's sentiments which may have reached Hamilton, and certainly did reach Washington. Secretary of State Edmund Randolph addressed a letter to the President on 26 August that stated in part that Smith had expressed a strong desire that no blood be shed.⁶⁵ Smith was also, according to the letter, reported to have considered the state militia law inadequate for the task of raising and regulating the force requested. All of this was combined by Hamilton and used as one excuse for the poor response of the Maryland militia.

Criticism of the state militia law should not have been the sole factor in Hamilton's decision that Smith was slowing down progress. If it was, Governor Lee could also have been suspected, and there is no indication that Hamilton suspected Lee of delaying the quota. There were many instances where Thomas Lee did in fact criticise the law, and even used it to explain the deficiency in raising the corps for the expedition. The governor had to inform the Secretary of War that the council decided not to allow the militia to use state arms. When asked for directions for action to keep draftees from deserting before the corps marched, Lee suggested that the field officer involved use his own discretion, as the militia law did not provide for this contingency. Even when the law provided clear guidance, as with what to do with Quakers who refused to serve, the governor suggested that the field

commander again take matters into his own hands, and follow the law only if that commander thought it proper. The governor's neglect of his option to draft cavalry was another indication that discretion was used in deciding to obey or neglect the militia law.

The use of discretion was, however, limited to whether or not to enforce the law, or to situations not anticipated by the law. In cases where the militia act was specific, as in the fines for not mustering or failing to provide a substitute, the governor could not suggest the use of more harsh fines in an effort to coerce the men into obeying the law. Regardless of whether or not he wanted to, Lee could not legally have supported men like Lieutenant Colonel John Wilkinson, who wanted to alter the law so that he could threaten longer jail terms for any man who refused his civic duty.⁶⁶ The law could be ignored but could not be over-enforced. The difference may have been subtle, but Lee apparently thought it important.

Perhaps therein lay the major benefit of a vague militia legislation such as Maryland adopted. The law set up a guide for organization, more-or-less, that was to serve as a basis for the citizen army. The governor had discretionary powers in extending the size of any of the units, which he apparently used on more than one occasion.⁶⁷ This certainly ended all hope of having a uniform organization, one of the major premises of the federal militia law. Such power did allow the male citizens to freely associate themselves into military company, just as long as each man did indeed associate themselves. The governor, with the aid of the council, had the responsibility of selecting and commissioning officers, but most of the companies elected their own officers. The governor occasionally disagreed and substituted other

men, but he apparently did so in a way that caused the least amount of dissent.

How the troops were to be called out was left entirely to the governor's discretion by the Maryland militia act. Lee may have been too discrete in calling up the militia for the whiskey rebellion when he did not use a draft for the cavalry. Nothing, after all, forced the governor to use every means available to him for raising the militia. Likewise, Lee's orders for mustering the main body of the detachment were for the use of volunteers first, and a draft only when necessary. Again to avoid creating an unfair burden on some men, he called for troops from every regiment, and created the problems already outlined.

Another aspect of the law that was neglected, probably more out of reality than any other reason, was the requirement that each man provide his own weapon. The militia act clearly outlined what each individual was expected to supply, but the governor and finally the council decided that the state would supply arms. This released the men from concern over fines, if they ever were concerned about them, and the government from the task of collecting any fines that might be levied for this infraction. Additional benefits from this decision included the assurance the army would be armed at least to some extent, and the troops could be kept unarmed until there was a need for them to be so equipped; this may have been intentional so that the citizen army would not shoot up the country side or their officers.

Fines for men failing to provide substitutes were apparently also not enforced, no matter how much General Smith protested the poor quality and small quantity of these soldiers by proxy. No evidence has been found, either in the Adjutant General's papers or the various state

paper collections, that would indicate that men were prosecuted for failure to provide a substitute. There was the opinion from the governor, already cited, that field officers would not be held responsible for paying for the substitutes from their own funds. A lack of evidence in this instance does not indicate that no fines were levied, only that no record of any exists.

Attempts to raise the quota requested may have been hampered by the state's militia law, but that was not the only inhibiting factor that kept men from volunteering. The governor, although he had the authority to do so, was not willing to interpret the law strictly, and enforce a draft. Lee may have bent the law as much as possible in trying to avoid disrupting the population and to entice volunteers, but he could not make the men volunteer. The law was constructed to give men alternatives: serve, find a substitute, or pay a fine. At his own discretion, the governor eased the penalty for not providing substitutes, and hoped that enough men would choose to serve voluntarily. That the citizens did not so choose was the reason why the Maryland corps was far below its quota. The question still remains why the men did not take this option.

At the risk of being hopelessly ensnarled in a circular argument, it is necessary to point out that the citizens may not have served because they were not forced to. The two troops of cavalry from Baltimore did not serve because they were not drafted. Even though the Annapolis troop offered to serve, it was a conditional offer, and it finally did not serve because it was not called. Had the fines for non-attendance, evasion of the draft or failure to provide a substitute been more harsh under the law, or even enforced by the governor as they stood, perhaps

more men would have served, either as volunteers or as draftees. Conversely, had this mode been adopted, there might have been more and worse draft riots. As it was passed, the law authorized relatively light fines, and the governor did not choose to enforce even these strictly.

The law was also detrimental in raising the quota simply because of the date on which it passed. Had the militia law been passed within the time limits set by the congressional militia act (within one year of 9 May 1792) the Maryland militia might have been fully organized by September, 1794. Another advantage would have been that the legislature could have revised a law passed in the 1792 assembly, had any revision been necessary, in the 1793 assembly. But the act was not passed until the end of the 1793 assembly, and the militia was not organized--even on paper--until the middle of June, 1794. Actual organization or in some cases reorganization was not complete until after the detachment marched west and returned home. The Cecil county militia has been used as an example of the condition of some of the regiments when the call was made. Disorganization was a major factor in keeping men for the two regiments in this county from marching. Lack of company grade officers also caused problems that detained men from several counties.

There were several other factors which could be used to explain why the militia failed to fill its quota. Two of these, the season and the distance some men would have to travel, were valid but not unique problems for the militia in this instance. The call was made in August during the beginning of the harvest season for many rural militia men, and meant that should they be gone long, some men would miss their harvests. These men could either march with the corps and

face a very real and immediate threat of financial problems if not starvation, or not volunteer and stay home to tend the crops. This later choice seemed to have been the more popular with many men in the rural regions of the state. This reasoning does not explain the lack of men from the urban areas, however.

Distance was another factor that determined the militia's response. The Eastern Shore militia faced a long march and a ship passage to reach even the initial rendezvous. That many men from the Eastern Shore were reluctant to leave their families and property and march all the way to Pennsylvania has already been mentioned. Mention has also been made of the fact that many did not provide substitutes either; this may also have been decided by the distance a substitute would have to travel. Any additional sum of money a substitute received would have to be large enough to make him march from the Eastern Shore. The ill-preparedness and ill-health of many of the substitutes may be explained by this reasoning. Probably only the lower elements of society--those easily and cheaply bought--would be willing to make the trek from the Eastern Shore. Of course, this explanation does not preclude those men who would want to protect the federal government from the riotous spirit across the mountains. It does provide a possible and somewhat plausible reason why so few men of any sort marched from the Eastern Shore with the corps.

The nature of the insurrection itself may also have kept men from volunteering or serving. Aside from the fact that the rebellion was in another state, many men may have had mixed feelings about supporting the governments, federal or state. The militia in both Allegany and Washington counties had to choose between the rebels and the governments,

and did not side fully with the governments until after Governor Lee sent additional militia into their counties. After that, these two counties supplied more than their quota.

Ambivalence toward the rebellion and the militia call may explain why the Washington and Allegany county militias were so slow to respond, but it does not help in understanding why the militia in other counties failed to volunteer or go when drafted. Feelings similar to those in the two western counties may have existed in other western shore counties, but no evidence of these exists.

Apathy may have been the best explanation for the poor response in the other counties. The counties of southern Maryland: Charles, Calvert, and Saint Mary's, were probably not much effected by the excise on whiskey and so the inhabitants of these counties would not particularly care about protesting this tax. These people were also probably not very concerned about any threat the rebels may have posed to the security of the federal government, and so did not go out of their way to try to defend that government. This may have been an additional explanation for the apathetic response from the Eastern Shore.

The apathy of the middle counties of Maryland: Montgomery, Frederick, Prince George's, Baltimore, Harford, and Anne Arundel, is not easily explained. Frederick county was threatened by attack from some riotous groups, and responded to that threat in addition to the federal requisition. From what little evidence was found concerning the response that the Frederick county militia made to the federal request, it is impossible to discern how much of the militia marched with the corps, and how much stayed behind to guard the arsenal at Frederick. The threat was more immediate in Frederick county than

any of the other middle counties, but direct influence from the insurgents in Pennsylvania was less than that experienced in the two western counties.

Prince George's, Montgomery and Anne Arundel county militias also seemed to respond to the federal requisition. Some regiments in Prince George's county did not need a draft. While the draft was necessary in the other two counties, those drafted seem to have gone with the corps. The militia from the Georgetown and Bladensburg areas responded in exceptionally large numbers; they filled their quotas, and marched as soon as they received orders. No evidence has been found to show that any other group of militia responded as quickly and as fully to the call.

Quotas from Baltimore city and county and Harford county were partially filled, but they numbered about half of those requested. No easy explanation exists for why the militia from these counties failed to fill their quotas. One might easily suppose that Baltimore city had many idle men within its boundaries and that these idle men would be willing to march with the detachment. However, only one regiment from the city filled its quota; the other three fell short. No definite account of the Baltimore county troops was found, but on the basis of the final count Smith made, these regiments probably filled only half of their individual quotas. The Harford county militia supplied sixty men as opposed to the 112 men requested.

This reluctance to march on the part of the militia probably was not caused by support of the rebellion or protest against the federal government. The primary factor that kept the men from marching was probably apathy. The rebellion did not threaten men east of

Frederick county, and so many in the militia did not choose to get involved. These men probably decided against fighting someone else's fight, even though the federal government asked some of them to muster. The only evidence of this will be found in the next chapter, where a discussion of the quick and vigorous response to the governor's request for 1000 men to put down riots in Maryland will be made. By contrasting this response to that for the federal call, it is possible to see that the militia was willing to march when there was a clear and possibly immediate threat, but only lukewarm when the threat was several hundred miles away and quite possibly no threat to them at all.

CHAPTER III

The federal requisition to Maryland made by President Washington in August, 1794, was met not only by few volunteers and much apathy, but by riots as well. The riots occurred most frequently in Washington county, although Allegany and Frederick counties were involved to some extent. Combined with the fear that the Pennsylvania insurgents were gathering to march into Maryland, the reports of these riots caused a very strong and definite reaction from the Maryland government. Extra militia were ordered out and told to march into the western part of the state. This time the orders were clear and direct and demanded immediate action. And, unlike the response to the federal requisition, the state militia turned out in great numbers--perhaps double those requested in one place. Even the governor was involved directly in the militia call. While he did not march at the head of this state requisition, he was at least more intimately involved with it than he was with the federal request.

This discussion examines the various aspects of the western Maryland riots, and the government's response to these riots. The government acted in a greatly different manner under the threat of the state riots than it did to the threats to the United States. These two reactions must be compared because they were in part responsible for the variation of the militia's response to the two calls. The government might have reacted in any way it desired, but it could hardly expect positive results unless the citizens of the state, especially the militia, supported that government actions. The militia did support the government, and support it strongly, in the state requisition. Again because of the militia reaction to the state and federal requisitions, these reactions must be compared so that the importance of both may be

understood. Finally, the riots in Pennsylvania and in Maryland must be connected to help facilitate a further understanding of the importance of the state reaction to the threat in western Maryland.

In seeking an explanation for the quick and decisive action taken by Governor Thomas Sim Lee to quell the western Maryland riots, one must first look to the whiskey riots in western Pennsylvania. The two main grievances expressed by the whiskey rebels were to 1791 whiskey excise tax, and the remoteness of the federal courts from the southwestern counties of Pennsylvania.¹ The reasons for objecting to the excise were many: the tax was to be paid in cash, a rare item in frontier western Pennsylvania; it placed a heavier burden on a western purchaser than on a buyer in the east, where even though the tax was the same, it formed a smaller percentage of the total price of a gallon of whiskey; the tax and its collectors created a new bureaucracy which cost more money to maintain; and it was just one more encroachment by the federal government into the lives of western citizens.

Objections to the distance of federal courts were directly connected to the excise tax. Persons charged with violating the excise were forced to stand trial in the federal court in Philadelphia, thus necessitating a long trek east and neglect of his farm for any man who refused or forgot to obey the law.²

Protest and rebellion are not synonymous, and protests in western Pennsylvania did not necessarily involve rebellion. Men had protested the excise and lack of federal courts without risking insurrection, but when these protests gained nothing, the protests turned into rebellion. The rebellion part of the whiskey rebellion began when some citizens attempted to disrupt collection of the excise tax. Physical violence

against the excise tax collector was the most common method of disrupting collection. While some collectors had been tarred and feathered as early as 1792,³ the greatest amount of violence occurred during the summer months of 1794, and lasted only a very short time, probably only two months. Direct military style actions first occurred on July 16, 1794, when a groups of men fired shots at the home of General John Neville, of Bower Hill.⁴ These men were at a militia meeting when word arrived that a federal sheriff was gathering excise offenders for a trip to the Philadelphia federal court. Believing that the sheriff had gone to Neville's house, they surrounded the general's home and demanded the sheriff. Perhaps misunderstanding their intent, Neville fired into the crowd and killed one of the men. A gun battle of short duration ensued, with the militia men, now whiskey rebels, retreating.

This action elevated the excise protests to a different level. There is quite a difference between isolated instances of tarring and feathering a collector and firing upon the house of a local citizen. The militia men realized this, and decided that they would be safe if they gathered into a large group. The small group involved in the July 16, fight, immediately recruited more militia until their total force numbered more than 500 men, many of whom were armed with rifles or muskets. The larger force again marched to Neville's house later on the sixteenth of July. The general was not at home this time, but there was a detachment of regular army troops from the garrison at Pittsburgh. The militia at first demanded Neville and his resignation as surveyor for the local excise district. When refused, they demanded to search through Neville's papers apparently seeking to destroy any written evidence against them. This command too, was

refused, and after some confusion, an attack on the house began. Another of the rebellious militia was killed before the outbuildings around Neville's home were set afire. At this point, the regular army troops surrendered, and left the house before it caught fire. Proceeding into the house, the rebels destroyed all of Neville's personal effects before setting the house on fire.⁵ The protest had grown into an insurrection with armed militia fighting regular army troops.

Various actions were taken as a result of this fight, the most dramatic being the march of 5000 militia through Pittsburgh toward Fort Fayette, the regular army garrison.⁶ The regional militia was called out by the rebels to participate in this march, and apparently response was not always favorable to the rebel cause. However, out of sympathy for the insurrection, or perhaps fear of reprisals if the call was not answered, a large body of militia did meet at Braddock's field on August 1, 1794. This group marched through Pittsburgh in a more-or-less peaceful show of force. No major injuries occurred, but a barn was set on fire that evening.

The march through Pittsburgh was the last major action by the insurgents in Pennsylvania. Indeed, many of the marchers debated whether or not the gathering was controlled and supported by the insurgents, or whether the group consisted mostly of loyal militia who wanted to keep watch on the insurgents. In any case, this incident, and the ones leading up to it, including at least one case of robbing the federal mail, constituted the insurrection. The riots in Maryland may have been connected to the Pennsylvania riots, but the Maryland disturbances did not approach their level of destruction of personal property or killing.

The first reports of riots in western Maryland were dated September 1, 1794, and were sent to General John Davidson, one of the members of the council to the governor.⁷ This letter reported a disturbance in Cumberland, Allegany county, which was the most western county in the state. Rather than a riot, it was more of a civil disturbance that involved a very limited number of men who erected a liberty pole as a protest to the militia draft necessary to fill the federal requisition. A volunteer company of militia confronted those who were creating the disturbances and told them to disperse or the troops would "certainly give them a shot."⁸ Apparently the order was obeyed, for the crowd dispersed and the pole was chopped down.

A further incident mentioned in this report involved a group of female patriots. During another militia meeting, some men vocally resisted the draft, and had another liberty pole ready to be erected. The patriotic women took the opportunity afforded them by a fistfight among the men to throw the pole into the Potomac, and raise a "huzza for General Washington." Such a patriotic display worked, for the fighting stopped, and the meeting continued without further incident.

One aspect of this letter could not be taken so lightly. Major John Lynn, the author of the report, was becoming more and more alarmed by the spread of refractory spirit. He feared an invasion from the Pennsylvanians, a fear that would be repeated in many other reports from different men. Ultimately, this fear was one of the most important factors in the decision to call out an additional quota of militia. In Lynn's case, he simply requested 400 stand of arms, so that the pro-government militia in Allegany county would be armed and ready to face the Pennsylvania hordes if they attacked.

The next reported riots occurred on September first, and involved citizens of Hagerstown, in Washington county.⁹ From available reports, this was a real riot, instead of a mere civil disturbance. Again, the immediate cause was the militia draft, but the underlaying cause was sympathy for the Pennsylvania rebels and their cause. The Washington Spy, the local newspaper for Hagerstown, reported rumors that some Pennsylvanians were in the area attempting to purchase or steal guns and powder, and to spread the insurrection.¹⁰ Even the Baltimore Daily Intelligencer warned that some of the Pennsylvanians were in western Maryland to purchase weapons.¹¹

From these rumors, it is possible to see that when the riots in Hagerstown did occur, a great deal of alarm was created. Using the draft as a pretext, a rebellious part of the militia reportedly beat their officers in protest,¹² and threatened to march to Frederick to capture the state arsenal there.¹³ The rioters erected a liberty pole in the center of Hagerstown. Again, judging from newspaper reports, this pole was chopped down by a group of "friends of government" in the town. Incensed, the rioters left the site only to return with reinforcements. This larger crowd, estimated at 300 to 400 men, erected another liberty pole and threatened to kill any one who might try to cut it down.¹⁴

In a letter to Governor Lee, Lieutenant Colonel Thomas Sprigg, commander of one of the Washington county militia regiments, corroborated the newspaper accounts, and added a few details of his own.¹⁵ Sprigg apparently was an eyewitness to the riots, and in probability would have known what was taking place in the surrounding area.¹⁶ He reported that men in many areas refused the draft and liberty poles were

being erected throughout the countryside. By mentioning that the loyal militia refused to meet at Hagerstown, Sprigg implied that the town was still not safe at the time of his writing, September 11, 1794, and that the militia feared to march into a hostile area. This fear was reasonable if the loyal militia numbered as few and the rioters as many as Sprigg believed. The situation in Hagerstown had not eased by September 16. The Washington Spy, in an issue of the seventeenth, contained an advertisement offering one hundred dollars reward to any person who knew the "evil disposed" persons responsible for printing a handbill demanding that the liberty pole be set up again in the town. The handbill, printed in German, apparently threatened seven men specifically, including the sheriff of the county and at least three high-ranking militia officers.¹⁷ Unfortunately, neither the outcome of these threats nor the offer of a reward were reported in the paper.

These disturbances were protests of the militia draft. It is difficult to establish a firm connection between the Pennsylvania and Maryland riots. Although intent is always hard to prove, a tie between the two did exist, as did the possibility of other ties.

The connection between the draft and the excise riots was perhaps easiest explained as cause and effect; the excise riots created a need, real or imagined, for the militia to be called to control them; the draft riots occurred when the militia was forced to draft men for service against excise rioters. Beyond that, any connection becomes tenuous because of intent. Only one of the riot reports quoted men who expressed opposition to the excise tax.¹⁸ These reports mentioned that the spirit of dissent had spread through the western counties of Maryland. One supposed emissary of the Pennsylvanians was

even rumored to be operating on the Eastern Shore.¹⁹

Naturally, men who were threatened by the riots assumed that there was a connection between events in Pennsylvania and Maryland. Geographical location might be enough to support this assumption because some of the rebellious counties in Pennsylvania bordered the western Maryland counties. Contact between the two areas was somewhat hampered by the mountains, but a valley led from the eastern part of the Pennsylvania counties to the eastern part of Washington county, Maryland, and communication was not completely cut off. Further, the citizens of the western Maryland counties, including Frederick, were in similar financial circumstances and shared the same type of farming with citizens in western Pennsylvania.²⁰ Corn was a major crop in western Maryland, and was distilled into whiskey for the same reasons as it was in western Pennsylvania: easier storage and transportation. Therefore, the people of western Maryland might protest the excise as much as the Pennsylvania rebels.

Although caution in connecting the Maryland and Pennsylvania riots is necessary today, the men involved with quelling the Maryland riots had no time for caution. They took the riots at face value--as a threat to the security of the local citizens, if not of the state and federal governments. These men, from George Washington down to Major John Lynn, perceived a real and immediate danger, and acted to end the threat of danger. Admittedly, Washington took no direct action on the Maryland riots, but he urged Governor Lee not to allow the dissent to spread and envelope the whole western area.

Immediate reaction to the threats was on an individual basis, and understandably so. The militia officers who took action could not

comfortably await orders from the governor before they acted. If they had done so, the situation of each might have become more perilous. Major Lynn's actions were probably the most direct--he ordered an immediate call for loyal troops, and a confrontation with the rioters. This apparently ended the threat to Cumberland, but to insure continued peace Lynn requested reinforcements and extra arms. By establishing a patrol to guard the streets, Lynn also put the town under a mild form of martial law.²¹ The major was fortunate also in the aid he received from local citizens, such as the "female patriots."

Colonel Sprigg faced a much stronger and apparently more violent opposition. A liberty pole was erected at Hagerstown, and after it had been cut down, it was re-erected and placed under an armed guard. Reportedly 300 to 400 men were in or around the town, causing trouble, threatening the citizens and planning an attack on the arsenal at Frederick. Fearing he was out-numbered, Sprigg counselled caution in confronting the insurgents in Hagerstown. He continued to counsel caution until troops from Frederick county, and eventually Governor Lee himself, arrived to put an end to the riots. The result was that the central part of Washington county was in chaos for more than two weeks. The arms that Major Lynn requested for Allegany county had to pass through Washington county to get to Cumberland, and an extra guard was needed to insure that they arrived safely.

In Frederick town General Bayly faced no immediate threat, just the rumored attack on the arsenal. When he received word of it, he placed a guard over the arsenal, and informed the governor of his actions.²² The guard was steadily increased as fear of an attack grew. The general's next move was to send the arms Major Lynn had

requested for Cumberland. Governor Lee authorized the transfer from the arsenal on September 6,²³ and the arms were on their way by September 10, under heavy guard.

The governor took a cautious attitude toward the early reports of riots. Even before he received word of the Cumberland and Hagerstown riots, Lee suggested to Bayly that some precautions should be taken to guard the arsenal at Frederick.²⁴ Governor Lee ordered Bayly to investigate the situation further, as the information received in Annapolis might not be reliable. More specifically, Bayly was instructed to cause as little alarm as possible, so that the citizens of Frederick would not panic. In essence, the governor and council gave Bayly freedom to take whatever action was necessary, so long as it did not excite the population, and as long as he kept the governor informed of his actions. This letter did stress, however, that the government wished to maintain a defensive position, at least for the time being, and did not want to force or initiate a confrontation. Perhaps the governor thought that the precautions already taken would suffice to settle the matter without risking a call for additional militia, a call that might not be answered.

Lee and the council issued no further orders to Bayly until they approved the sending of arms to Cumberland. Another week passed before other orders were issued. These were in response to three letters from western Maryland: one each from General Bayly and Major Daniel Cresap, dated September 10, 1794,²⁵ and a most disturbing one from Lieutenant Colonel Sprigg dated the following day.²⁶ All of these informed the governor that western Maryland was still not secure, but Sprigg's letter seemed to trigger action from the state

government, probably because it contained reports of the most apparently real threats to the government. An even earlier letter dated September 6, also influenced the governor's decision to act. This letter, written by Hamilton for the President, stated that Washington was anxious about the situation in western Maryland, and wished the governor to put an end to the trouble before it spread further.²⁷

Perhaps impressed by the President's feelings of urgency,²⁸ but also shaken by Lieutenant Colonel Sprigg's assessment of the situation in Hagerstown, Lee initiated direct action that would soon involve close to one thousand additional state militia.²⁹ The governor issued orders on September 13, that called for at least 300 infantry from each of three areas in the state. He also ordered out artillery and cavalry from the Baltimore area. The same basic orders were sent to General Uriah Forrest, commander of the Prince George's and lower Montgomery county militia brigade, General Jeremiah Crabb, commander of the upper Montgomery and lower Frederick county militia brigade, and to General Samuel Smith, commander of the Baltimore town militia brigade. In an effort to keep the President informed, Lee sent a similar letter to Alexander Hamilton, advising the Secretary of the Treasury that the situation would soon be under control.

Unlike the orders Lee issued for calling up the federal requisition, the orders for the state requisition were specific and urged immediate action. If the orders to Smith are used as an example, these new orders may be seen as those of a government both concerned and anxious that the orders be followed. Smith was ordered to supply 300 to 400 infantry and a complete company of artillery and a troop of horse. These two special companies were to be fully equipped

before the militia left Baltimore, thus rendering them ready for immediate action upon their arrival at Frederick. This requirement, plus the specific request for a certain number of cavalry and artillery, show a great change from the orders for the federal requisition, which was especially vague in requesting both cavalry and artillery.

Lee was also much more specific in ordering a draft if volunteers proved too few to fill the quota. Only those men from Baltimore town were to be drafted; time was not to be wasted in getting the troops under way either, for the governor's orders stated that the quota should march as soon as it was collected. Arms for the infantry would be supplied from the public stores in Frederick, and provisions were to be collected along the march. Finally, the governor stressed that no troops intended for the federal requisition were to be sent on this separate expedition.

The tone of Lee's orders of September 13 indicated a great deal more urgency than was indicated by his orders to raise the federal requisition. The need for immediate action was stressed, and no list of available men was to be made and sent to the governor before the troops marched. These September 13 orders were just that, orders, and not requests being relayed from the President by the governor. Even in the language of the day, it was clear that Lee, the commander-in-chief, was issuing commands to subordinate officers, and that he expected the orders to be obeyed. There was little of this tone in the August 14 orders. It should be remembered, however, that Lee was acting under the President's request in the August orders, and because Washington's request could be read as tentative, Lee's orders could and did reflect that tentative nature. Lee was acting

on his own when he issued the orders a month later, and so could be much more precise and demanding. Finally, the governor was not constrained by a proclamation for the rioters to disperse, he had not issued any such, and did not have to wait for the Maryland rioters to obey or disobey. It should be remembered that Washington was bound by federal law to issue a proclamation to the Pennsylvania rioters before he could call out the militia.

The other commanding generals, Crabb and Forrest, received similar orders, the only difference being that Lee did not order them to supply artillery, or limit their draft to a town. The same number of infantry was expected from each. Therefore, the governor requested a force of at least 900 infantry. Including the 100 men of the artillery and cavalry units, this state militia force was to be at least one thousand men, excluding officers; this total was slightly less than half of the federal quota expected from Maryland. The main purpose for ordering out so many militia men was to impress upon the rioters the fact that the state could be strong and powerful when it needed to be.³⁰

In prefacing the orders issued to Generals Smith, Crabb and Forrest, Governor Lee explained what he perceived to be the threat that the riots posed. Whether or not the riots ever posed a real threat is irrelevant, however, because the governor believed a danger existed, and acted from that belief. Lee listed his beliefs as: there now exist in western Maryland threats to this government, possibly to any government; the men issuing these threats are becoming more and more daring and licentious; communication exists between these men and the insurgents in western Pennsylvania; the rioters in

this state have refused to comply with a draft of militia ordered by the commander-in-chief and will not aid in the plans of the President of the United States; liberty poles have been collected, and men collected for an attack on the state arsenal at Frederick; and these rioters have used force and threaten to use more, and thereby create confusion and danger.³¹

The reasons Lee gave for his call for a separate requisition were based on the perceptions listed above. Clearly, he thought that there was an immediate threat to the government and citizens of the state. He feared an attack on the arsenal at Frederick, which if successful, would have put great resources of arms and ammunition into the hands of the rioters.³² In the event this fear was realized, it would have been logical to fear an armed march on the government in Annapolis, or on Baltimore. The fear of an actual link between the Maryland and Pennsylvania rioters was also important, not only to Lee, but to Hamilton and Washington as well. These fears do much to explain why Lee ordered so many troops to march, and did so in such a decisive manner.

The need for immediate action being established by Lee, he proceeded to discard his previous qualms about ordering out the militia. Gone was the attempt to place an equal burden on the various county militia regiments, but for very good reasons. Parts of the western shore of the state were rioting, so those could not be called. The Eastern Shore troops were too far removed from the threat to be mobilized in time to be effective. The southern counties on the western shore were in much the same position. Cecil county could not even provide limited men for the federal requisition. Lee

called for troops from some of the most densely populated areas in the state--Baltimore and the Georgetown area, and hoped for a rapid filling of the quota.

Orders for the cavalry and artillery corps were specific for this call. Even though Lee, for various reasons, feared to draft cavalry for the federal requisition before the September 13 orders, he had no fear of drafting cavalry for the state quota. Such a change was again due to the perceived need for immediate action. No hesitation was shown in calling for a general draft, either. The governor told Smith that the militia law was to be enforced and obeyed in this instance. Such a statement did not necessarily imply that the law was not to be obeyed for the federal quota also, but rather that the governor would not be so lax in demanding that the state quota be filled.

The orders issued on September 13 showed that Lee could act with firmness when an immediate danger existed or was thought to exist. Reactions by the governor's council, the militia and even private citizens were much more positive in this muster than during the call for the federal service. For its own part, the council to the governor acted decisively by ordering Lee to go personally to Frederick to help stabilize the rebellious atmosphere.³³ These orders even specified that the governor was to "command in person the detachment to march to Frederick." Governor Lee did not carry out this military aspect of the orders, but he did go to western Maryland. Actions of this type were in direct contrast with Lee's performance during the whole period of the muster for federal service; he did not march with the troops or even address any of them in an effort to lend support

for the federal quota.

The difference in the way Lee reacted was enhanced when compared to the manner by which each of the other state governors approached the federal requisition. Governors Henry Lee of Virginia, Thomas Mifflin of Pennsylvania and William Howell of New Jersey each marched with their troops, indeed led their troops. All three also made various speeches in trying to convince men to volunteer. Thomas Sim Lee ordered Samuel Smith to command the Maryland detachment of the federal requisition. A good case could be made for Lee's decision to let another man command the troops under fire: Lee had limited, if any military experience. Smith was also very popular with the people of Baltimore, and at the time of the federal call, was serving the state as a representative in Congress. The governor also chose another man to lead the state quota. Lieutenant Colonel John Striker was selected to command the state quota, and again Lee preferred a man with military experience to lead the militia.

Inexperience did not keep the governor from going to western Maryland, however. He was ordered to go, but those orders were issued by the council at a meeting that the governor attended, and were probably a formality. The decision for him to go was reached with Lee's knowledge, if not his approval. Lee went in his capacity as the executive of the state, and not as the commander-in-chief of the state military forces. He may have felt that this would have a more beneficial effect than if he arrived at the head of an army.

Men in the militia also reacted differently to this call as opposed to the federal call. The difference was that they did react, and did so in support of the state government. In fact, reports say

that on the first day the requisition was made public in Baltimore, almost three times the number of men requested volunteered.³⁵ Although this estimate may be greatly exaggerated, at least as many men as were needed volunteered, and eventually marched to Frederick from Baltimore. The contrast becomes more apparent when it is remembered that the federal quota requested was not nearly filled from Baltimore.

There are many explanations for the difference in the number of volunteers. One of these is the manner in which the requisition was made. From contemporary accounts, it appears that all of the militia in Baltimore town were asked to muster at one time and in the same place. When this was accomplished, General Smith addressed the troops.³⁶ He reportedly gave an impassioned speech, and explained the threats posed to citizens of the state. After allowing the martial atmosphere to take full effect, and his mention of threats play on the sympathy of the gathered militia, Smith sprang the request for volunteers. It is hardly surprising that the quota was immediately and completely filled after such a display of pomp and patriotism. The weight of a speech by the military hero and popular Congressman Smith could not help but make an impression on the militia. In contrast, Smith made no speech for the federal requisition, but rather simply ordered the regimental commanders in his brigade to obtain the quota by volunteers or drafts.

Another, much more subtle difference was the method used in accepting volunteers. There was no restriction on the number of men each regiment could provide, as there was for the federal requisition. The only limit was on the total number of men to be provided, and even that could be from 300 to 400 infantry. Not placing a limit of representation per unit was conducive to mass volunteerism; that is, a

whole unit, company or regiment, could volunteer together. A concession such as this may have been coincidental to the need for a large group of militia, but it did influence the total number of volunteers. At least three complete companies volunteered for the state service from Baltimore, excluding the artillery companies and the cavalry troop. In addition to these, elements from several other companies offered their services.³⁷ Of course, using a mass rally to drum up volunteers may also have brought social pressure upon the militia; if a few men volunteered to maintain a self-image--to prove that they, too, were patriots and were ready to protect life and liberty and laws. Whatever the effect of the mass muster, and of Smith's speech of the individual, these two acts did help fill the quota from Baltimore completely with volunteers.

Another explanation for the willingness to volunteer may have been the plight of the western citizens. After all, insurgents were threatening citizens of Maryland, and even the state arsenal at Frederick. These rebellious people must be stopped so that Maryland may be a safe place to live. If they were not put down in western Maryland, these "dangerous combinations" might march to Baltimore. The militia was told that there was a clear and immediate danger, and apparently certain of the militia believed what they were told, and volunteered to end that danger.

There were other factors as well. A march to Frederick or even Hagerstown was quite a bit shorter and less taxing than a march all of the way to Pittsburgh. The militia would not even have to leave the state for this service. Finally, the state service was less complex than the federal service. There would be no question of who

was to pay the militia, who was to furnish arms and supplies or even who was responsible for the call. The state ordered the militia out, and would attend to all of its needs. There would be no doubts about state versus federal rights or responsibilities in this requisition.

No record has been kept of how the state quota from the other sections of Maryland was achieved.³⁸ These quotas were met, however, and ultimately marched to Frederick, where all of the troops were assembled on or before September 17. When the militia from all of the areas arrived at this rendezvous, they were met by a numerous group of armed local citizens who had also volunteered to defend Frederick. These citizens, most of whom were too old or too young for regular militia service, banded together as early as the sixth of September to prepare a defense of the city.³⁹ In addition to these men, at least a full battalion, more than 200 men, of the Frederick county militia had been in service since September 5.⁴⁰ A troop of cavalry from the area began service on the seventh.⁴¹ All of the militia in these groups volunteered without even being asked, much like part of the militia had done earlier in Cumberland. This situation was created by the threatened danger that was thought to be approaching Frederick: expediency dictated that action was needed before orders from the governor could be obtained.

Lee did not reprimand these volunteers, indeed, he congratulated them when he arrived in Frederick. Once there, Lee ordered about one-third of the state quota to march to Hagerstown to quell the disturbances there. General Bayly complied with this order, and reported that the troops were in Hagerstown by September 17, and asked Lee to come to Hagerstown to aid in stopping the dissent.⁴² Lee complied with the

request, and spent three days in Hagerstown, apparently enough time to convince himself that the situation was controlled, and that a few troops would be able to keep peace in the area. Before leaving for Frederick, Governor Lee issued new orders to the regimental commanders in Washington and the western part of Frederick county. These orders included authority to disarm and/or arrest any person known to be or generally suspected of, supporting the riots.⁴³ With that, Lee returned first to Frederick and then to Baltimore.

By September 22, Lee began receiving reports that the situation in all of western Maryland had quieted considerably.⁴⁴ John Lynn confirmed this in a letter dated September 25, by stating that Cumberland was safe and quiet.⁴⁵ Troops that had been mustered in Frederick were demobilized, except for approximately fifty to guard the arsenal. The militia from other areas of the state marched back to Baltimore, where they formed a great parade on September 23, and were congratulated by the governor before being dismissed after only two weeks service.⁴⁶ The situation was under control, and in western Maryland "women and children no longer fear."⁴⁷

The last had not been heard of the rioters, however. Two days after the state quota returned to Baltimore, the Maryland Gazette printed an excerpt from a letter explaining that about twenty of the leading rioters were in custody. Dated September 20, while the troops were still in western Maryland, the letter continued that two other men were negotiating a surrender.⁴⁸ This report may have been incorrect, because only eight men were brought to trial. However, at least fourteen guns were confiscated from thirteen different men, as ordered by the governor.⁴⁹

There were six men indicted for treason against both the state of Maryland and the United States. These men were all participants in the riot at Hagerstown on September first, and apparently other actions aimed at disrupting the government. The bill of indictment for this case charged the six men with first waging open and public war against the state, and second with waging the same against the United States.⁵⁰ This was the reason that the state Attorney General, Luther Martin, brought treason charges against the six men. In a letter to Samuel Chase, Governor Lee did also indicate that the six men were accused of opposing the Maryland militia law.⁵¹

In a letter on the legal aspects of the case, written before the case even began, Chase advised the governor that the six men could not be tried outside the Washington county circuit court.⁵² Chase, Chief Justice of the Maryland General Court of the Western Shore, apparently not yet knowing that the prisoners would be charged with treason, stated that the General Court could hear cases for only murder, felony, insurrection of treason.

He also commented on the legality of trying these men on charges of violating state and federal law. In his opinion, the defendants should not be tried on both counts, but rather on the more serious of the two--violation of the federal excise law. After all, Chase argued, the men were accused of opposing the excise law, and only violated state law, the militia act, in their attempt to oppose the federal law. More clearly, Chase stated that he could "not see how a man by doing any one act can at the same time violate the laws of the national government, and the laws of the state governments."

Chase continued his opinion, and qualified it by listing his presumptions on the case. Because he did not have full information on the case, or even the charges against the prisoners, he assumed that the men would be charged with opposing the state militia law. If the case was to be heard in a state court, the federal charge could not be brought against the men. Chase further limited his statement, and said he assumed that the men actually committed a breach of the peace, probably a riot, in opposing the execution of the militia act. Based on this assumption, Chase concluded that the men could be tried for this offense only in the county circuit court.

Apparently, disregarding Chase's opinion, the government issued warrants for the six men,⁵³ to be moved to Annapolis, and proceedings against them were started in the October term of the Maryland General Court of the Western Shore. The prosecution, representing the state, was Attorney General Luther Martin. After the charges against the men were received, the six men entered pleas of not guilty to the first count, and a plea to the jurisdiction of the court for the charge of treason against the United States. Actually, the plea to the second charge was not guilty, but the defendants argued that a state court could not hear a case involving treason against the United States. The Constitution of the United States specified that United States treason cases could only be heard in the federal circuit courts. Since the Maryland General Court was not a federal circuit court, the defendants questioned the constitutionality of the case. Much to the chagrin of Attorney General Martin, who argued that the state could indeed prosecute in the General Court, the defendants were found not guilty of treason against the state and were dismissed from the charge of treason against

the United States.

The state of Maryland could legally try the defendants in the General Court on charges of treason against the state.⁵⁴ A not guilty plea by the defendants meant that a jury trial was necessary. A jury was properly selected and qualified, and the trial began. Unfortunately, the court minutes have not been found, but perhaps listing the witnesses for the state will be informative. The state provided several high-ranking militia officers for the prosecution, including the commander of the twenty-fourth regiment, Lieutenant Colonel Rezin Davis of Washington county, Lieutenant Colonel Thomas Sprigg, commander of the tenth regiment, Washington county, and Christian Orendorf, battalion commander for the same tenth regiment. The only testimony against the defendants found was a signed statement of the "General Inquest for the Body of the Western Shore." This document stated that the six accused men did arm themselves and gathered other people together and counselled them to oppose the execution of the federal excise law.⁵⁵ In spite of this testimony, the jury found the defendants not guilty.⁵⁶

From Chase's earlier comments on the legality of the case, and the jurisdiction of the state courts, it is not surprising that the charge of treason against the United States was dismissed while Chase was sitting as presiding justice for the trial. The Chief Justice also, from his previous statement, must have agreed with the jury's decision to find the defendants not guilty on the first charge. Finally, Chase probably approved of the next step in the prosecution of the rioters--the trial in Washington county circuit court on lesser charges.

Four of the men charged with treason, George Hoofnar, Adam Tom, John Roe and Henry Bowert, were returned to the custody of the sheriff of Washington county, and placed in that county's jail after the treason trial. These men awaited trial on charges of trespass, contempt and misdemeanor,⁵⁷ and they waited until 1795, because an earlier December, 1794 trial was postponed. The prisoners were in jail at least until January 6, 1795.⁵⁸ They may have remained in jail until the trial, but there is no evidence of this. When the case was finally heard, each of the four men pleaded guilty to the three charges. There was no question of jurisdiction this time, nor was there any other doubt. The judgment on each man was a fine of three pounds current money, and the prisoners were released after having securities post bond for them.⁵⁹ So the final outcome of the treason trial for the western Maryland rioters was that four of them pleaded guilty to lesser charges and received small fines. These four men did spend at least four months in jail, however, so waiting for the final decision was probably harder on them than the actual fine. The other two men tried for treason, Michael Bowert and Christian Fithfish, were not indicted on the lesser charges, and apparently did not stand trial for these riot-related crimes again.

However, at least two other men faced charges connected to the riots. John Rohback was tried in the Washington county circuit court for attempting to prevent the execution of the militia law. The case, originally brought before the court in April, 1795, was postponed until December 1795, when a jury found Rohback not guilty.⁶⁰ Guy Young was charged with "cocking and pointing a gun at John Puffenbarger" in addition to trespass, contempt and misdemeanor.⁶¹ This charge also

stemmed from the September first riots. Young entered a plea of guilty, and was fined twenty shillings current money and 481 pounds of tobacco in court fees.

It took until December, 1795, to finally bring all of the rioters to justice, but the state followed through on the prosecution. By this time, the situation in western Maryland had long been calmed, even though a large militia guard was placed on the Washington county jail while the prisoners were there. Governor Lee had expressed concern back in October, 1794, that an attempt might be made to free the prisoners,⁶² but no evidence has been found that would justify Lee's concern.

The government disregarded Chase's opinion that the state could not hold jurisdiction over the federal treason charge, and the result was that the charge was dismissed. Even the defendants knew that the state court had no jurisdiction to hear the charge. Perhaps affected by the dismissal of the more serious charge, a jury decided in favor of the defendants in the lesser charge of treason against the state. This was still not enough, and the state pressed even lesser charges against four of the original six, and two other men. Finally, the state got a guilty verdict, but it was a great deal of trouble. What the state was trying to prove by this tenacious effort was not explained, but perhaps the six convicted men were being used as an example to any persons who thought that riots or other illegal opposition to government could go unpunished.

Perhaps the state was also attempting to appease those men who were threatened by the rioters. Threats of physical violence had been issued against some relatively important men, such as Thomas Sprigg,

Rezin Davis and Adam Ott. These were civil and military leaders, and threats to them, combined with riots against the government could not be condoned.

The whole pattern of reaction to the western Maryland riots showed a growing and continued concern for the safety of the government, which perhaps did not end with the trials of the rioters. Lee called, using no uncertain terms, for a large force of militia to control the riots and prevent them from spreading further. He issued orders to disarm and arrest rioters and even suspects. The government brought treason charges against several of the rioters even when advised of the problems this would cause. These actions may be seen as those of men who feel insecure, either of their own safety or of the safety of their government, or both. As a state, Maryland was still not sure of itself, just as the federal government was not sure of its own authority and ability to enforce that authority. Lee could see the threat posed by the Pennsylvania rioters, and he thought he saw it grow and spread into Maryland. He perceived a threat to the government, and so reacted in the strongest way he could, by calling out the militia. This call was successful because the militia also perceived a threat to the government if not themselves.

CONCLUSION

This thesis has been directed at one instance of the use of the militia by the United States and Maryland governments during the first years after the ratification of the Constitution. The incident was the call for the militia from Maryland and three other states to help quell the 1794 whiskey excise riots in western Pennsylvania. The call and the riots themselves were also a major part of another incident-- Maryland's efforts to end riots that resulted in an attempt to draft men in western Maryland to fill the national call. Response by the militia to both calls has also been an integral part of this discussion.

The evidence brought out in the course of this thesis makes possible several conclusions. The national militia law of 1792 did not create a national militia: it allowed the states to create their own unique militias based loosely on a general plan formed by Congress. This law was passed by a Congress unsure of its authority to force the states to obey its dictates, and unsure of the proper balance of federal and state control of the militia. The Maryland government was also uncertain of its position in regard to control, and therefore enacted an ineffective state militia law. The Maryland government and militia failed to fill the requisition made by President Washington for troops to march against the western Pennsylvania rioters. This failure was due in part to the problems of control over the militia. The state gave this request less than full support for fear of partially destroying a state institution, the militia. The militia saw no threat to itself or its state in the Pennsylvania riots, and so did not respond fully. However, when a threat to the state existed, the militia could and did react forcefully. Thus, it seems that the Maryland militia, supported by the state government, was much more

willing to defend state authority than it was to defend national authority.

Congress passed a militia act in May, 1792. This act did not create a militia of any type. It simply defined who was to be in the militia. Congress stipulated that the states should pass law in accordance with the national law, and have their militias fully organized and the men enrolled by no more than one year after May, 1792. In addition, the states were to see that each militia man was properly armed, as defined by the law, no later than six months after the states enacted their own laws. Each state was also to provide an Adjutant General, to act in the manner prescribed by the Congressional law. A scheme for organization was suggested to the states, but there was no requirement for the state to follow this organization.

Congress expected much cooperation and support from the states in passing this law. Indeed, most of the burden of enrollment, organization and administration was placed directly on the states. The militia would in no way be a national military establishment. It would instead be a part of the states, available for the use of the national government. The states organized this militia in any way they chose, selected officers any way they wanted, and drilled and disciplined the troops in any way and whenever they desired. Congress or the national government had no control over these aspects. Even the requirement for who should be in the militia allowed the states ultimate authority. By permitting the states power to exempt from service whosoever they chose, the national act gave the states the power to exempt all citizens if they wished. Clearly, the responsibility of the creation, care and maintenance of the militia was left to the states. The national

act, whether intended or not, actually served only as a guide for subsequent state legislation.

The national government did not entirely relinquish authority over the militia, however. Under a separate act passed a few days before the militia act, Congress gave the President authority to call for the state militias. The circumstances under which he could do so were defined, as was the method he had to use to call out the militia for national service. This act, known as the "Calling Forth Act," even limited the number of militia that the President could call. In case the militia was actually needed to repel an invasion or suppress an insurrection, the President could call on only the militia from states that bordered the state in which the rebellion or invasion occurred.

The Congressional militia act was conspicuous not only for its giving a great deal of authority to the states, but also for its omission of the usual penalties for failure to comply with the law. No fines were mentioned for states that did not meet the deadlines, or for most other requirements listed in the law. The federal government did not know if it had authority to force such compliance on any member state, and so no fines were included. Granted, much of the law was indeed a guideline for the state legislation, something for which fines could not be imposed. The requirement for each man to arm himself within a certain, the requirement for the states to appoint Adjutants General, or the limit by which organization was to be accomplished were not supported by fines. Congress included no means to enforce this law, either where the states were concerned or where individuals were involved.

The omission of fines brings up two important issues: first the authority of the United States to force one of its member states to comply with a national act, and second, the whole concept of the control of the militia. The first issue may be discussed in terms of a new government uncertain of its strengths and limitations. The second issue is rooted much more deeply in tradition and fear of a military establishment.

The authority of the national government was in a very cloudy and confused state during the first few years after the ratification of the Constitution. In many instances, the states were extremely jealous of their own power and authority, and resisted allowing the national government to encroach on their domain. As a result, the national government was cautious in asserting its authority--at least as regards the militia. The Constitution gave the President and Congress certain powers over the militia, which included the organization, discipline and arming of the militia. These were rather broad powers, not exactly defined, but they were clearly assigned to the responsibility of the Congress. The national legislature avoided one of these responsibilities, discipline, entirely in the 1792 law, again probably because it was not certain of the exact balance of federal control over what was essentially a state institution. Organization was only suggested, and arming the militia was left to the individual militia man. At best the national militia act was an example of a state's rights interpretation of the Constitution; at worst it was an example of Congress neglecting its responsibility and authority.

The second issue, the concept of control over the militia, was also important in creating the national militia act. Many

advocates of state's rights feared the possible consequence of giving the national government a great deal of power over both the regular army and the militia. In addition to the militia clauses, the Constitution allowed Congress full power over the regular military forces. Both powers were deemed too much for one body of men, and so national control of the militia was opposed in Congress by the state's rights delegates. Congress did maintain authority over the regular army, but turned much of its authority over the militia to the states. Ideally, the military forces would then be balanced and the states would not be defenseless against a despotic national government. The cost of maintaining the militia would also pass to the states, and the national government would not have to concern itself with an additional military expenditure, unless the militia entered national service.

The Maryland legislature enacted a militia law that reflected much of the uncertainty of the national law. Organization under this state law was to be finally completed by the governor; thus the state passed on the duty of organization. Guidelines for organization were quoted directly from the national law. The state act did provide for discipline of the militia, both in the sense of practice and of fines for men who did not comply with the various provisions of the act. Like the national law, the Maryland militia act required the men to provide their own arms.

Maryland was uncertain about the extent of its authority over the citizens of the state. Fines were very light, an indication that perhaps the legislature did not care to impose a heavy burden on the citizens. In this instance the financial burden was important, but the burden of compliance with the law was just as important. Had

the fines been too heavy, mass disobedience might have resulted, and without a large enforcement agency, the government could do little to make the men comply. The militia was to be an enforcement tool, and if the militia did not obey the laws, then the government was rendered virtually helpless. The law was based on consent, with fines added as a reminder that consent was more advantageous, both to the individual and to the state, than disobedience.

The state government consented to the national requirement to form a militia, but the state did so at its own pace. More than a year and a half elapsed between the time the national law was enacted and the time the Maryland legislature passed its law. The crucial difference in time, however, was the half year more it took Maryland to begin organizing the militia. More than two years had passed before the state had even a semblance of a militia. Perhaps a lag of more than a year past the limit would not have been important if the militia had not been called for the whiskey riots, but the militia was called, and Maryland's militia was not fully organized and did not have a full complement of officers.

A second conclusion to be drawn from the evidence deals with the reaction of the Maryland government and the state militia itself to the Presidential request for troops to suppress the Whiskey Rebellion. The state government did not respond strongly to the requisition, although it clearly could have because the state certainly did respond quickly and strongly to the riots in western Maryland. The failure to fully support the national government again raises the issue of state's rights within the Maryland government.

The Maryland state government did call for the number of militia President Washington requested, but it did so cautiously and with less than full support. The problem was not with the President's authority to call for troops, but with the extent to which the call should be pursued. The state governor allowed a great deal of time for enrolling and mustering the militia for the national service. Among the reasons for the slow recruiting process was that the militia was not fully organized. The fact that it was not fully organized was a result of the state's problems in following the national militia law. Perhaps no state official knew the status of the militia organization better than the governor, for he was the person responsible for that organization. The state and the governor were clearly responsible for any difficulties arising from the fact that the militia was not organized in time for the national requisition.

Perhaps the most important reason for the militia's poor response to the national call was the governor's failure to exert his full authority over the militia. Nowhere was the governor's failure more evident than in the almost total lack of cavalry for the state detachment. The governor was also concerned about placing a heavy burden on any one section of the militia, and so he requested troops from all parts of the state. Here the failure to exert authority and call for militia from only the western shore of the state meant that troops from the Eastern Shore would be called in turn, this meant that few Eastern Shore militia would respond, basically because of the long march to Pennsylvania. Also, the Eastern Shore faced a greater loss by going than by staying home and paying the fines for not answering the call or draft.

The governor's explanation of his failure to exert full authority puts his situation in clear perspective. Governor Lee was uncertain that the militia would respond at all, and even more uncertain that the militia would continue to exist if he used his full authority and called for a draft of cavalry or even some of the infantry. The militia system was new, and Lee was not certain that the men would consent to the duty of militia service. Because of these uncertainties, he did not assert his authority to help raise the national quota, which helps to explain why it was not filled. Ironically, even though he did not use all of his legal powers, the governor complained that the state militia law did not provide adequate fines for non-compliance.

Some militia officers also did not exercise their full authority either. Samuel Smith did not use all of his influence and authority to raise the Baltimore town militia quota. He delegated authority for the muster to men of less influence, who were probably not as highly regarded as himself. The result was a surprisingly poor response from one of the state's largest urban areas. Other officers, such as the two commanders of Cecil county regiments, also did use their authority to the fullest: they claimed that the militia was too poorly and incompletely organized to effect a muster, and that therefore no troops would be coming from that county.

For their part, some of the militia also failed to use it's authority--but in a different sense. Many men did not care to be part of the instrument of authority used to put down the whiskey riots. Others violently protested the use of this tool, and their protests created a different set of problems. It is impossible to say whether the first groups did not respond because of the nature and politics of the riots, or whether because the militia law did not make disobedience less

profitable than obedience. The open and violent protest was a direct response to a militia draft--a protest of authority.

The failure to assert authority is important only because of the fact that these political leaders were entirely capable and willing to use their authority under slightly different circumstances. These circumstances formed a direct threat to the authority and possibly the security of the state government. They involved the very tool of authority, the militia, and created fear that this tool would be used against the state.

At this point, a third conclusion may be drawn. The Maryland state government and militia did not react firmly to the national call for militia because they saw no great need to. They could see no threat to their state, and in some cases, they were not sure that a threat to the nation really existed. Their actions were based on the idea that there was no immediate danger. The state government and militia complied with the national call because they respected the authority of the President. There was nothing in either the national militia act or the calling forth act to force the state to comply by quick and strong action, or even to comply at all. Without being so stated, compliance with these national laws was discretionary. The United States had no power to force obedience--it did not have a militia and use of the army to support or enforce the laws was expressly forbidden by the Constitution. The laws were based on consent, and as the discussion shows, there were varying degrees of consent.

A fourth conclusion may be drawn from the actions of the state to maintain its own authority: the state could and did use its legal authority to protect itself and the lives of its citizens. The

governor was not concerned about putting an equal burden on all sections of the state when he called for the militia to be used against the Hagerstown rioters. Lee called for troops from specific areas--in fact, he ordered troops from these areas. This subtle difference was an important indication of the governor's intent. The governor ordered the full extent of the law to be carried out, and intended that a draft should be used if necessary, regardless of consequences.

Another example of the state government's strong action involved the orders that Lee issued for mustering the militia for state service. The commanders who received these orders must have sensed the governor's desire for quick action. These commanders did respond quickly and saw that their quotas were filled if not over-filled. The most noticeable difference here was the action that Samuel Smith took to ensure that his quota was filled. He personally took charge of recruiting and in a single stroke convinced double the quota that they should volunteer. Smith used his prestige as a Congressman and his authority as a militia general to raise the quota.

The key to the success in raising the state quota was the effort put forth by the government. The militia responded in desired manner once they were convinced that they were really needed. Government efforts in this instance were aided by an important factor--a real and immediate danger to a part of the state not too distant from Baltimore, Annapolis or Georgetown. The militia was much more willing to serve when such service was for the defense of home, family and friends. Further, Frederick and Hagerstown were a great deal closer to home than Pittsburgh, and these towns were still in the state while Pittsburgh was across the mountains in Pennsylvania.

It is possible to conclude that the militia was much more willing to defend state authority than it was to defend national authority. The problem with this conclusion is that there is little primary evidence for it. No person involved in both attempts to raise the militia actually stated that the militia was more interested in state than national authority. Still, the fact remains that the militia did respond immediately and with much more men than requested for the state service. Conversely, the militia was sluggish and filled less than the quota for the national call.

Many other reasons for the difference in response have been discussed in the course of this thesis. Distance was much less a consideration for the state service. To this was added the governor's request for troops from only areas less than 100 miles from Frederick--no troops from the Eastern Shore were called; this single omission did much to increase the probability that a larger percentage of the quota would respond. Communication was also put to advantage for the state call. The governor communicated his orders clearly, so that the militia commanders could understand the full intent of those orders. In turn, the commanders, or at least Smith, communicated their orders clearly, and the militia responded by volunteering to serve. Communication on this level included convincing the militia that a real danger existed.

Rather than concluding that the militia was more interested in state than national authority, perhaps a more accurate statement would be that the state government, and again at least Samuel Smith, were more interested in maintaining state authority than national authority, much to the detriment of the response to the national call for militia. When the state appeared to be threatened, the governor took quick action, and

even became personally involved in ending the threat by going to western Maryland. The governor's council ordered him to go, and acted for him while he was gone. Lee also issued clear orders for the militia call, leaving little room for discretionary action by the various commanders. Smith did much the same thing by personally taking charge of recruiting the Baltimore town quota. Neither man, nor the council, did any of these in support of the national call. This difference in response makes possible a conclusion that the governor and his council were more concerned with maintaining state rather than national authority. This may seem obvious, and in a sense it is, but the point is that the governor and other state officials did not support the national call as they were capable of doing; they did exert full authority in the attempt to raise the militia for the whiskey riots.

The entire argument of this thesis may be finally distilled into a few statements. The discussion has centered on the connection formed by the national and state governments and the militia. The national government attempted to create a tool of authority and protection by passing the national militia act. This act affected both the state governments and a considerable number of citizens of the states. The link between all three was consent--the state consented to national authority and enacted its own militia law, while the citizens consented to be the militia. Discussion in this thesis has been limited to only the interaction between the national government and the Maryland state government and militia.

The second connection is the Maryland government, which is linked to the national government and the state militia in two ways.

The first part of the link to the national government is the consent to pass a militia law more-or-less the same as the national law; the second in the consent to help raise the militia for national service. The link that the state has to the militia involves the effort used to raise the militia for the national call first, and the state call second. Both efforts by the state to raise the militia involved obtaining the consent of the militia.

The connection is the militia itself. The militia was under both state and national authority, and linked to each because of that authority. It depended on the state for organization, administration, and leadership; it depended on the national government for its inception. The important aspect of the militia is the link of consent that the two governments had with the militia. Without consent, the militia was worthless to either government. The governments chose not to force consent by heavy fines or other punishment, and so they depended almost entirely on intellectual or emotional arguments to obtain the militia's consent to serve.

An argument was more easily carried when the state government presented clear and direct reasons for the need to use the militia. Maryland's government did so when attempting to raise the militia to defend its own authority, and the result was a strong response by the militia. The state government did not present clear and direct reasons for the national call, and so the militia did not respond strongly. The national government was on uncertain ground in asserting its authority to force the state government to use its full authority to raise militia for the national call, and so the national government could not or at least did not attempt to force Maryland to comply more fully with the national requisition.

APPENDIX

The federal militia law suggested an organization of the state militias as follows:

Each company of militia was to have one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer, one fifer, and sixty-four privates. This totaled three officers, seventy-two enlisted men and two musicians.

Each battalion was to consist of five companies, one of which had to be either grenadiers, light infantry or riflemen. Battalions were to be commanded by a major, with the officers of the various companies acting as his staff.

Each regiment was to consist of two battalions, or a total of ten companies. Regiments were to be commanded by a lieutenant colonel, with a staff of one adjutant and one quartermaster, to rank as lieutenants; one paymaster, one surgeon and one surgeon's mate; one sergeant-major, one drum-major and one fife-major. Total full complement strength of a regiment was thirty-two officers, excluding regimental staff, and 720 enlisted men, excluding musicians and regimental sergeant-major.

Each brigade was to consist of four regiments, or a total of forty companies. The brigade was commanded by a brigadier general, with a staff of brigade inspector and brigade major, both to rank as majors.

Each division was to consist of an unspecified number of brigades, with the addition of one company of artillery and one troop of horse. Divisions were to be commanded by a major-general with a staff of two aides-de-camp, each to rank as major.

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FOOTNOTES: INTRODUCTION

1. Alden T. Vaughan, "Shays Rebellion," in Historical Viewpoints Vol. 1, ed. John A. Garraty (New York: American Heritage Publishing Company, Inc., 1970) p. 135. See also Van Beck Hall, Politics Without Parties Massachusetts, 1780-1791, (Pittsburgh: University of Pittsburgh Press, 1972) Chapter 7; also Robert J. Turner, Western Massachusetts in the Revolution, (Providence: Brown University Press, 1954) Chapters 5 & 6.
2. General Benjamin Lincoln to George Washington, December 4, 1786, America: Great Issues in Our History Told By Its Makers Vol. IV, (Chicago: Veterans of Foreign Wars of the United States, 1925) p. 108.
3. Maurice Matloff, ed., American Military History, Army Historical Series, (Washington, D.C.: Office of the Chief of Military History United States Army, 1969) p. 105; See also Richard Kohn, Eagle and Sword, (New York: The Free Press, Macmillan Publishing Company Inc., 1975) pp. 74-75.
4. Gene Gurney, A Pictorial History of the United States Army, (New York: Crown Publishers, Inc., 1966) p. 87. The army could not arrive in time because even by April, 1787, only 550 men had enlisted for duty in the regular army for this service.
5. United States Articles of Confederation, 1781, Article VI.
6. Arthur A. Ekirch, The Civilians and the Military, (New York: Oxford University Press, 1956) pp. 3-17.
7. Resolution of June 3, 1784, Journals of the Continental Congress 1774-1789, Vol. XXVII, ed. Worthington C. Ford, et. al. (Washington, D.C.: Government Printing Office, 1930) pp. 530-540.
8. Alexander Hamilton, et. al., The Federalist, number 25, ed. Jacob E. Cooke, (New York: The World Publishing Company, Meridian Books, 1961) pp. 158-163.
9. *ibid.*, p. 163.
10. United States Constitution, 1789, Article I, Section 8.
11. The Writings of George Washington Vol. 26, ed. John C. Fitzpatrick, (Washington, D.C.: Government Printing Office, 1938) p. 387. (Hereafter cited as: Writings of Washington.)
12. James Brown Scott, "The Militia" Senate Document 695, 64th Congress 2nd Session, (Washington, D.C.: Government Printing Office, 1917) p. 113.
13. Luther Martin and Robert Yates, Secret Proceedings of the Federal Convention, (Richmond: Wilbur Curtiss, 1839) p. 38.

14. United States Constitution, Article II, Section 2.
15. United States Constitution, Article I, Section 8.
16. Hamilton, The Federalist, p. 184.
17. Writings of Washington, Vol. 26, p. 387.
18. American State Papers: Military Affairs, Vol. 1, (Washington, D.C.: Gales and Seaton, 1832) pp. 6-13.
19. *ibid.*, p. 7.
20. The term grenadier is self-explanatory. Light infantry carried muskets, and were used primarily as skirmishers, but could be used in the line. Riflemen, with their superior weapons, were used solely as skirmishers. They were the equivalent to the sharpshooters of today. See: John Mahon, The American Militia Decade of Decision, 1789-1800, (Gainesville: University of Florida Press, 1960) p. 19.
21. "An Act more effectually to provide for the National Defense by establishing an Uniform Militia throughout the United States" May 8, 1792. Annals of Congress Vol. 3, (Washington, D.C.: Gales and Seaton, 1840) pp. 1392-1396. (Hereafter cited as National Militia Act, 1792.)
22. "An Act to provide for calling forth the Militia to execute the Laws of the Union, suppress insurrection and repel invasions" May 2, 1792, Annals of Congress Vol. 3, pp. 1370-1372. (Hereafter cited as : Calling Forth Act.)
23. Bernard Bailyn, et. al., The Great Republic, (Boston: Little, Brown and Company, 1977) p. 348.

FOOTNOTES: CHAPTER 1

1. "An Act to Continue the Acts . . ." November, 1784, Laws of Maryland 1784-1785, (Annapolis: Frederick Green, 1785) Chapter 83.
2. "An Act to Regulate and Discipline the Militia of this state," November, 1793, Laws of Maryland Vol. 2, (Annapolis: John Kilty, 1800) Chapter 53, Section 7, (Hereafter cited as: Maryland Militia Act).
3. Militia Appointments #1, Maryland Hall of Records, Annapolis. (Unless otherwise noted, all future reference to documents, letters, etc. are from the Hall of Records.)
4. Letter from Lt. Col. Perry Benson to Governor Thomas Sim Lee, August 20, 1794, State Papers Series A, Box 76, Doc. 28.
5. Letter from T. M. Foreman, Cecil County, to Governor Thomas Sim Lee, August 29, 1794, State Papers Series A, Box 76, Doc. 20.
6. Militia Appointments #1. This estimate is based on a full complement of ten companies per regiment and fifty regiments.
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8. Rys Isaac, "Preachers and Patriots," The American Revolution, ed. Alfred F. Young, (Dekalb: Northern Illinois University Press, 1976) pp. 135-136; also Marcus Cunliffe, Soldiers and Civilians, (New York: The Free Press, Macmillan Publishing Company, 1969) pp. 200-201.
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10. "An Act to Regulate the Militia," June 1777, Laws of Maryland, 1777, (Annapolis: Frederick Green, 1777) Chapter 17.
11. "An Act to revive and continue the Acts of Assembly for regulating the militia and to empower the Governor to call out the militia to suppress insurrections and quiet disturbances" November, 1783, Laws of Maryland 1782-1783, (Annapolis: Frederick Green, 1783) Chapter 1.
12. "General Orders of Governor Thomas Sim Lee," Pennsylvania Archives, Series 2, Vol. 4, (Harrisburg, 1878) pp. 131-133. (Hereafter cited as: Pennsylvania Archives).
13. Maryland Constitution of 1776, Section 33, in Vernon H. Eney, Chmn., Constitutional Revision Study Documents, for the Constitutional Convention Commission, (Baltimore: King Brothers Inc., 1968) p. 380.

14. Maryland House Journal, 1792, (Annapolis: Frederick Green, 1792)
p. 106.
15. National Militia Act, 1792.
16. Maryland Council Proceedings, October 6, 1794.
17. United States Constitution, Second Amendment.
18. National Militia Act, 1792. The requirements were two spare flints
and not less than 24 cartridges to fit the personal weapon
if it was a musket, and 20 balls and a quarter pound of powder
if a rifle.
19. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, October
9, 1794, State Papers The Brown Books, Vol. 6, Doc. 11.
20. Calling Forth Act.
21. Annals of Congress, Vol. 3, pp. 337-356 and 418-436 for the debates.
22. American State Papers: Military Affairs, Vol. 1, pp. 5-13.
23. Annals of Congress, Vol. 3, pp. 435-436.
24. *ibid.*, p. 436.
25. Maryland House Journal, 1792, (Annapolis: Frederick Green, 1792)
p. 59.
26. *ibid.*, pp. 69-74.
27. *ibid.*, p. 85.
28. *ibid.*, pp. 93-94.
29. *ibid.*, p. 93.
30. *ibid.*, p. 105.
31. *ibid.*, pp. 93-94.
32. *ibid.*, p. 94.
33. *ibid.*, pp. 105-106.
34. *ibid.*, p. 99.
35. *ibid.*
36. *ibid.*, p. 105.
37. *ibid.*, pp. 105-106.

38. United States Constitution, Article I, Section 8.
39. Maryland House Journal, 1793. (Annapolis: Frederick Green, 1793)
pp. 44-46.
40. *ibid.*, p. 47.
41. *ibid.*
42. *ibid.*
43. *ibid.*, p. 53.
44. *ibid.*, p. 52.
45. *ibid.*, p. 97.
46. For the Maryland Revolutionary militia laws, see: Laws of Maryland, 1777, June: Chapter 17, and October: Chapter 21; Laws of Maryland, 1778, March: Chapter 22; and Laws of Maryland, 1783, November: Chapter 1.
47. Laws of Maryland, 1777, June: Chapter 17, sections 2, 3, 4, 5, & 16.
48. *ibid.*, section 7.
49. Laws of Maryland, 1777, October: Chapter 21.
50. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, September 16, 1794, State Papers The Brown Books, Vol. 6, Doc. 6.
51. American State Papers: Military Affairs, Vol. 1, p. 67.
52. Act of May 9, 1794, Annals of Congress, Vol. 4, pp. 1445-1446.
53. Letter from Governor Thomas Sim Lee to Henry Knox, May 26, 1794, Governor and Council Letterbook, 1794, pp. 28-29.
54. "An Act to continue the Acts . . .", Laws of Maryland, 1784-1785, November 1784, Chapter 83. This act extended the militia laws for one year. The next year's act to continue the acts that were to expire, November, 1785, Chapter 77, did not continue or renew the militia acts. There was no further legislation on the militia until 1792.
55. United States Articles of Confederation, Article 6.

FOOTNOTES: CHAPTER II

1. Letter from Henry Knox to Governor Thomas Sim Lee, August 7, 1794, State Papers The Brown Books, Vol. IV, Doc. 36.
2. Militia Appointments #1.
3. Adjutant General's Papers, Baltimore County, Box 5, Doc. 22.
4. Adjutant General's Papers: Box 21, Fldr. 1; Box 26, Fldr. 1; Box 39, Fldrs. 5, 11, 29; Box 45, Fldr. 4; Box 49, Fldr. 6; Box 53, Fldrs. 2; Box 55, Fldrs. 3, 5; Box 28, Fldr. 2. Note: many of the Baltimore county and city companies were probably formed before 1793, but data available in the Adjutant General's Papers is spotty at best, and enrollments for many companies in Baltimore bear no date.
5. Maryland Hall of Records Gift Collection, Fldr. 452.
6. Letter from Governor Thomas Sim Lee to Henry Knox, August 11, 1794, State Papers The Red Books, Vol. 17, Doc. 183.
7. Letter from Governor Thomas Sim Lee to Henry Knox, August 15, 1794, Governor and Council Letterbook, 1793-1796, p. 40.
8. Letter from Col. Edward Oldham to Governor Thomas Sim Lee, August 29, 1794, State Papers The Brown Books, Vol. IV, Doc. 3.
9. Letter from Henry Hollingsworth to Governor Thomas Sim Lee, September 5, 1794, Adjutant General's Papers, Box 21, Fldr. 25.
10. Letter from Col. Edward Oldham to John Hopkins Stone, November 13, 1794, State Papers Series A. Box 76, Doc. 23.
11. Letter from William Van Lear to Governor Thomas Sim Lee, September 1, 1794, State Papers Series A. Box 76, Doc. 8.
12. Letter from Benjamin Chambers to Governor Thomas Sim Lee, September 3, 1794, Adjutant General's Papers, Box 39, Fldr. 38.
13. Letter from William Whitely to Governor Thomas Sim Lee, September 1, 1794, State Papers Series A., Box 76, Doc. 6.
14. Letter from David Lockett to Governor Thomas Sim Lee, September 2, 1794, Adjutant General's Papers, Box 42, Fldr. 46.
15. Letter from Lt. Col. Perry Benson to Governor Thomas Sim Lee, September 5, 1794, Adjutant General's Papers, Box 55, Fldr. 12; see also Letter from John Hughes to Governor Thomas Sim Lee, September 6, 1794, Adjutant General's Papers, Box 55, Fldr. 6.

16. Letter from John Gale to Governor Thomas Sim Lee, September 1, 1794, Adjutant General's Papers, Box 53, Fldr. 18.
17. Reports are available for both Queen Anne's county regiments and the Caroline county regiment. At least one regiment from each of Somerset, Kent and Queen Anne's reported needing a draft. No reports from Dorchester or Worcester were found. For the Caroline county report: State Papers Series A, Box 76, Doc. 6; for Kent county see Adjutant General's Papers, Box 39, Fldr. 38; for Queen Anne's county see State Papers Series A, Box 76, Doc. 102; for Somerset county see Adjutant General's Papers, Box 53, Fldr. 18; for Talbot county see State Papers Series A, Box 76, Doc. 28 and Adjutant General's Papers, Box 55, Fldr. 7.
18. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, September 2, 1794, State Papers The Brown Books, Vol. VI, Doc. 9.
19. Letter from David Lockett to Governor Thomas Sim Lee, September 2, 1794, Adjutant General's Papers, Box 42, Fldr. 46.
20. Letter from Daniel Cresap and others to Governor Thomas Sim Lee, September 2, 1794, State Papers The Brown Books, Vol. VI, Doc. 45.
21. *ibid.*
22. Letter from Thomas Sprigg to Governor Thomas Sim Lee, September 11, 1794, State Papers The Brown Books, Vol. VI, Doc. 30b.
23. Letter from William Pinkney to Gen. Uriah Forrest, September 13, 1794, State Papers The Brown Books, Vol. VI, Doc. 32.
24. Letter from William Pinkney to Governor Thomas Sim Lee, September 13, 1794, State Papers The Brown Books, Vol. VI, Doc. 32.
25. Letter from Benjamin Brooks to Governor Thomas Sim Lee, September 8, 1794, State Papers Series A, Box 76, Doc. 17.
26. Letter from John Carlisle to Governor Thomas Sim Lee, August 30, 1794, State Papers Series A, Box 76, Doc. 16.
27. Letter from Governor Thomas Sim Lee to John Carlisle, September 4, 1794, Governor and Council Letterbook 1793-1796, pp. 49-50.
28. Letter from Governor Thomas Sim Lee to Joseph Wilkinson, September 4, 1794, Governor and Council Letterbook 1793-1796, p. 49. Wilkinson's letter, to which this is a reply, has not been found.
29. *ibid.*
30. Maryland Herald and Eastern Shore Intelligencer, Easton, Maryland, September 9, 1794, Maryland Historical Society microfilm reel 758.

31. Letter from Governor Thomas Sim Lee to Alexander Hamilton, September 4, 1794, Governor and Council Letterbook 1793-1796, pp. 52-53.
32. Letter from Alexander Hamilton to Governor Thomas Sim Lee, August 29, 1794, State Papers The Brown Books, Vol. IV, Doc. 3.
33. Letter from Governor Thomas Sim Lee to Alexander Hamilton, September 4, 1794, Governor and Council Letterbook 1793-1796, pp. 52-53. This letter confirms that Lee made the order, but no copy of the order has been found.
34. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, September 16, 1794, State Papers The Brown Books, Vol. VI, Doc. 6.
35. Baltimore Daily Intelligencer, September 12, 1794, Baltimore: Maryland Historical Society, microfilm reel 1415.
36. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, September 16, 1794, State Papers The Brown Books, Vol. VI, Doc. 6.
37. Letter from Alexander Hamilton to Governor Thomas Sim Lee, September 10, 1794, Harold C. Syrett ed. The Papers of Alexander Hamilton, Vol. 17. (New York: Columbia University Press, 1922) pp. 218-219. (Hereafter cited as: Hamilton Papers.)
38. Maryland Council Proceedings, September 15, 1794.
39. Letter from Alexander Hamilton to Gen. Samuel Smith, September 15, 1794, Hamilton Papers, Vol. 17, pp. 237-238.
40. Letter from Alexander Hamilton to Gen. Samuel Smith, September 19, 1794, Hamilton Papers, Vol. 17, p. 254.
41. Letter from Alexander Hamilton to Gen. Samuel Smith, September 29, 1794, Hamilton Papers, Vol. 17, pp. 289-290.
42. Letter from Gen. Samuel Smith to William Pinkney, September 17, 1794, State Papers The Brown Books, Vol. VI, Doc. 12.
43. Letter from Gen. Samuel Smith to William Pinkney, September 21, 1794, State Papers The Brown Books, Vol. VI, Doc. 8.
44. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, September 27, 1794, State Papers The Brown Books, Vol. VI, Doc. 36.
45. There is some evidence that these troops were from the central counties, and were intended for the federal requisition. Gen. Uriah Forrest reported to Governor Lee on September 5, 1794 that close to 200 men left from Georgetown shortly after the fifth, State Papers The Brown Books, Vol. VI, Doc. 18. Gen. Mountjoy Bayly on September 17, 1794, reported in a letter to the governor that he was using the troops at the Frederick

rendezvous to march to Hagerstown, State Papers The Brown Books, Vol. VI, Doc. 19. Since no other troops were reported to have met at Frederick before this, these men probably were from the Montgomery-Prince George's county militia group that left Georgetown on September 5.

46. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, October 1, 1794, State Papers The Brown Books, Vol. VI, Doc. 13.
47. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, October 3, 1794, State Papers The Brown Books, Vol. VI, Doc. 2.
48. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, October 8, 1794, State Papers The Brown Books, Vol. VI, Doc. 11.
49. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, August 23, 1794, State Papers The Brown Books, Vol. VI, Doc. 3.
50. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, September 27, 1794, State Papers The Brown Books, Vol. VI, Doc. 33.
51. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, October 1, 1794, State Papers The Brown Books, Vol. VI, Doc. 13.
52. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, October 9, 1794, State Papers The Brown Books, Vol. VI, Doc. 11.
53. Letter from Governor Thomas Sim Lee to George Gale, September 13, 1794, Governor and Council Letterbook 1793-1796, pp. 61-62.
54. Letter from George Washington to Edmund Randolph, October 16, 1794, Writings of Washington, Vol. 34, pp. 2-4.
55. "General Orders" October 21, 1794. Calendar of Virginia State Papers, Vol. 7, (New York: Kraus Reprint Corporation, 1968) pp. 354-357.
56. Letter from Alexander Hamilton to George Washington, October 31, 1794, Hamilton Papers, Vol. 17, pp. 351-352.
57. General Orders of Henry Lee, November 2, 1794, Pennsylvania Archives, p. 439.
58. Washington Spy, November 25, 1794, Washington, Maryland: Maryland Historical Society, Maryland, microfilm reel 1406.
59. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, November 3, 1794, State Papers The Red Books, Vol. 17, Doc. 184A.
60. Letter from Roger Nelson to Governor Thomas Sim Lee, October 13, 1794, State Papers The Brown Books, Vol. VI, Doc. 15.

61. Letter from Governor Thomas Sim Lee to Roger Nelson, October 25, 1794, Governor and Council Letterbook 1793-1796, pp. 98-100.
62. Letter from Alexander Hamilton to Governor Thomas Sim Lee, October 4, 1794, Hamilton Papers, Vol. 17, pp. 302-303.
63. Letter from Gen. Samuel Smith to Governor Thomas Sim Lee, August 23, 1794, State Papers The Brown Books, Vol. VI, Doc. 3.
64. Letter from Governor Thomas Sim Lee to Alexander Hamilton, September 30, 1794, Hamilton Papers, Vol. 17, pp. 294-295.
65. Letter from Edmund Randolph to George Washington, August 26, 1794, RG 59, Miscellaneous Letters, 1790-1799, National Archives, Washington, D.C.
66. Letter from John Wilkinson to Governor Thomas Sim Lee, October 23, 1794, Adjutant General's Papers, Box 18, Fldr. 30.
67. A look at any of the company lists found in the various boxes of the Adjutant General's Papers or State Papers will show that few companies were the exact size prescribed by the law; most were well over seventy men, with more than 100 men per company not at all unusual.

FOOTNOTES: CHAPTER III

1. Act of March 3, 1791; Amending Act of May 8, 1792; and Act of June 5, 1794, Annals of Congress Vol. 2, pp. 2320-2340, Vol. 3, pp. 1381-1383, Vol. 4, pp. 1457-1461.
2. For a more detailed account of the grievances see: Leland Baldwin, Whiskey Rebels, (Pittsburgh: University of Pittsburgh Press, Revised Edition, 1968); also H.M. Brackenridge, History of the Western Insurrection, (New York: Arno Press & The New York Times, 1969: reprint of 1859 edition); also Alfred Creigh, History of Washington County, Pennsylvania, (Washington, Pennsylvania, 1870); also letter from Alexander Hamilton to George Washington, August 5, 1794, Hamilton Papers, Vol. 17, pp. 24-58.
3. H.M. Brackenridge, Western Insurrection, pp. 28-30.
4. Leland Baldwin, Whiskey Rebels, pp. 110-128.
5. *ibid.*
6. The number of 5000 men was derived by Baldwin in Whiskey Rebels, pp. 146-147, by taking the most probable accounts of eyewitnesses. The one that he accepted was that of John Wilkinson, Sr., who was, says Baldwin, an officer in the Revolution, and in Baldwin's opinion would have a good eye for such an estimate.
7. Letter from John Lynn to Gen. John Davidson, September 1, 1794, State Papers The Brown Books, Vol. VI, Doc. 30. See also letter from Daniel Cresap to Governor Thomas Sim Lee, September 2, 1794, State Papers The Brown Books, Vol. VI, Doc. 45.
8. Letter from John Lynn to Governor Thomas Sim Lee, September 1, 1794, State Papers The Brown Books, Vol. VI, Doc. 30.
9. Letter from Gen. Mountjoy Bayly to Governor Thomas Sim Lee, September 4, 1794, State Papers The Brown Books, Vol. VI, Doc. 21.
10. Washington Spy, August 27, 1794.
11. Baltimore Daily Intelligencer, August 25, 1794. This item was referred to as a reprint from a Frederick, Maryland paper, which was not found.
12. Baltimore Daily Intelligencer, September 8, 1794.
13. Letter from Gen. Mountjoy Bayly to Governor Thomas Sim Lee, September 4, 1794, State Papers The Brown Books, Vol. VI, Doc. 21.
14. Baltimore Daily Intelligencer, September 8, 1794.

15. Letter from Lt. Col. Thomas Sprigg to Governor Thomas Sim Lee, September 11, 1794, State Papers The Brown Books Vol. IV, Doc. 30b.
16. Later references indicate that Sprigg may have been involved in the destruction of the first liberty pole. Several sworn statements appeared in the Baltimore Daily Intelligencer of October 7, 1794, and the Washington Spy of October 1, 1794, attesting to Sprigg's actions during the riots. He apparently counselled caution, fearing that his militia forces were outnumbered by the rioters. From the defensive tone of these statements, it may be guessed that Sprigg was accused of not being a staunch supporter of the government during this time of crisis. This is pure conjecture, for no evidence has been found to indicate such charges were made, formally or otherwise.
17. Washington Spy, September 17, 1794.
18. Letter from Daniel Cresap and others to Governor Thomas Sim Lee, September 2, 1794, State Papers The Brown Books, Vol. VI, Doc. 45.
19. Maryland Herald and Eastern Shore Intelligencer, September 16, 1794.
20. J. W. Thomas and T. J. C. Williams, History of Allegany County, Maryland, (Baltimore: Regional Publishing Company, 1969, reprint of 1923 edition), p. 163.
21. Letter from John Lynn to Gen. John Davidson, September 1, 1794, State Papers The Brown Books, Vol. VI, Doc. 30.
22. Letter from Gen. Mountjoy Bayly to Governor Thomas Sim Lee, September 4, 1794, State Papers the Brown Books, Vol. VI, Doc. 21.
23. Letter from Governor Thomas Sim Lee to Gen. Mountjoy Bayly, September 6, 1794, Governor and Council Letterbook, 1793-1796, pp. 53-54.
24. Letter from Governor Thomas Sim Lee to Gen. Mountjoy Bayly, August 23, 1794, Governor and Council Letterbook 1793-1796, pp. 42-43.
25. Letter from Gen. Mountjoy Bayly to Governor Thomas Sim Lee, September 10, 1794, State Papers The Brown Books, Vol. VI, Doc. 20; see also letter from Daniel Cresap to Governor Thomas Sim Lee, September 10, 1794, State Papers The Brown Books, Vol. V, Doc. 75.
26. Letter from Lt. Col. Thomas Sprigg to Governor Thomas Sim Lee, September 11, 1794, State Papers The Brown Books, Vol. IV, Doc. 30b.

27. Letter from Alexander Hamilton to Governor Thomas Sim Lee, September 6, 1794, Hamilton Papers, Vol. 17, pp. 201-202. Hamilton's letter also mentioned riots in northern Baltimore county. These were not directly connected to the western Maryland riots, but caused some concern.
28. Letter from Governor Thomas Sim Lee to Alexander Hamilton, September 12, 1794, State Papers Series A, Box 77, Doc. 2.
29. Letters from Governor Thomas Sim Lee to Gens. Samuel Smith, Jeremiah Crabb and Uriah Forrest, September 13, 1794, Governor and Council Letterbook 1793-1796, pp. 64-66 passim.
30. *ibid.*
31. *ibid.*
32. "A return of the arms and military stores in the Arsenal at Frederick" September 1, 1794. State Papers Series A, Box 76, Doc. 100. Those arms at the arsenal as of that date are listed in the above. By the time Lee's orders were issued, however, several hundred stand of arms had already been distributed to the militia in and around Frederick and 200 stand of arms had been sent to Cumberland.
33. Letter from the state council to Governor Thomas Sim Lee, September 15, 1794, Council Proceedings, 1794, p. 56.
34. Letter from Governor Thomas Sim Lee to Lt. Col. John Stricker, September 13, 1794, Governor and Council Letterbook 1793-1796, pp. 62-63.
35. Baltimore Daily Intelligencer, September 15, 1794.
36. J. Thomas Scharf, History of Western Maryland, (Philadelphia: Louis H. Everts, 1882) Vol. 2, pp. 166-167, contain a description of some of the militia uniforms worn by Baltimore companies.
37. *ibid.*, p. 167. Scharf states that 225 men of the fifth regiment marched on September 16, and 300 men of the twenty-ninth regiment marched the next day. His totals most likely are exaggerated by as much as fifty percent, but it is interesting to note that he claims two regiments went, instead of companies.
38. Letter from William Pinkney to Alexander Hamilton, September 18, 1794, Governor and Council Letterbook, 1793-1796, pp. 74-75.
39. Scharf, *ibid.*, p. 165.
40. "Payroll of men who have been on duty . . .," October 30, 1794, State Papers Series A, Box 76, Doc. 119.

41. "An abstract of Pay . . ." September 24, 1794, State Papers Series Z, Box 50, Doc. 15.
42. Letter from Gen. Mountjoy Bayly to Governor Thomas Sim Lee. September 17, 1794, State Papers The Brown Books, Vol. VI, Doc. 19.
43. Letter from Governor Thomas Sim Lee to Lt. Cols. Thomas Sprigg, Rezin Davis and William Van Lear, September 19, 1794, Governor and Council Letterbook 1793-1796, pp. 78-79.
44. Letter from Lt. Col. Thomas Sprigg to Governor Thomas Sim Lee, September 22, 1794, Adjutant General's Papers, Box 57, Doc. 11.
45. Letter from Major John Lynn to Governor Thomas Sim Lee, September 25, 1794, State Papers Series A, Box 76, Doc. 49.
46. Scharf, *ibid.*, p. 168.
47. Letter from Lt. Col. Thomas Sprigg to Governor Thomas Sim Lee, September 22, 1794, Adjutant General's Papers, Box 57, Doc. 11.
48. Maryland Gazette, September 25, 1794, Annapolis; Hall of Records microfilm reel M13.
49. Letter from Lt. Col. Rezin Davis to Governor Thomas Sim Lee, October 1, 1794, State Papers Series A, Box 76, Doc. 114.
50. General Court of the Western Shore Judgments and Miscellaneous Papers, 1788-1805, State vs. George Hoofnar and others, Bill of Indictment.
51. Letter not found, but see letter from Samuel Chase to Governor Thomas Sim Lee, October 6, 1794, State Papers Series Z, Box 58, Doc. 11. This letter mentions Lee's letter.
52. Letter from Samuel Chase to Governor Thomas Sim Lee, *ibid.*
53. General Court of the Western Shore Judgments and Miscellaneous Papers, 1788-1805, State vs. George Hoofnar and others, Bench Warrants.
54. Laws of Maryland, (Annapolis: John Kilty, 1799) Vol. 2, Chapter 50, 1790 laws.
55. General Court of the Western Shore Judgments and Miscellaneous Papers, 1788-1805, State vs. George Hoofnar and others, Judgment for Prisoners.
56. *ibid.*, Sworn Statement by Witnesses.
57. General Court of the Western Shore Judgments, 1794, Liber JG 25, pp. 30-32.

58. "Payroll for guards at Elizabethtown," January 12, 1795, State Papers The Brown Books, Vol. VI, Doc. 28.
59. Washington County Circuit Court Judgments, Vol. 2, 1795, pp. 23-29.
60. *ibid.*, pp. 29-30.
61. *ibid.*, p. 30.
62. Letter from Samuel Chase to Governor Thomas Sim Lee, October 6, 1794, State Papers Series Z, Box 58, Doc. 11.