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1959

THE UNIVERSITY OF OKLAHOMA
GRADUATE COLLEGE

THE FOUNDATIONS OF AMERICAN MILITARY POLICY
(1783 - 1800)

A DISSERTATION
SUBMITTED TO THE GRADUATE FACULTY
in partial fulfillment of the requirements for the
degree of
DOCTOR OF PHILOSOPHY

BY
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Norman, Oklahoma
1959

THE FOUNDATIONS OF AMERICAN MILITARY POLICY
(1783-1800)

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ACKNOWLEDGEMENTS

In completing my dissertation and my doctoral program, I would like to acknowledge my debt to the staff of the History Department, University of Oklahoma, and particularly to certain members who have given me special assistance of all kinds and many extra hours of their time. Among this group I would like to thank Professor Edwin C. McReynolds for first stimulating my interest in the Federal Period and for advising me on all aspects of the dissertation; Professor Charles C. Bush for acting as my military advisor on the dissertation; Professor Emeritus A. K. Christian for many penetrating discussions of stubborn writing problems and of the men and events of the Federal Period; Professor John S. Ezell for advice on questions of style and chapter arrangement; Professor Alfred B. Sears, former Chairman of the Department, for helping me organize my doctoral work in the beginning and for subsequent assistance on almost every phase of it; and Professor Gilbert C. Fite for assistance both while he was Chairman of the Department and later.

I would in addition like to thank Professor Robert E. Bell of the Anthropology Department, University of Oklahoma, for the contributions that he and his science have made to

the dissertation. To give only one example, the chapter dealing with the militia laws of the states is essentially a trait analysis after the style of the comparative anthropologist.

I would also like to express my gratitude to the Social Science Research Council for an award for "Research in the History of American Military Policy." The funds thus received were utilized for research in the Library of Congress and in other federal depositories in Washington, D. C. At least one chapter of the dissertation could hardly have been written without the fruits of this work and many could not have been properly completed.

I have also received material assistance from many other sources. Professors Clarence Bruner and Horace Raper of the Department of Social Science, Tennessee Polytechnic Institute, read and criticized several troublesome passages in the dissertation. Representative John Jarman of Oklahoma and his staff, particularly Miss Bonnie Higgs, helped in many ways that expedited my work in Washington. Mr. James Elder of the Law Library, Library of Congress, permitted me to make free use of his encyclopedic knowledge of state session laws, and Mr. Donald E. Rohall of the same office also aided. Miss Judy Harty of the Rare Book Room, Library of Congress, and the staff of the Microfilm Reading Room of the Library were equally helpful in their realms. The staff of the Library of the University of Oklahoma gave me friendly, efficient assistance that provides one of my more pleasant memories of the

many months of research.

My own experience has proven the accuracy of the often repeated historical truism that the wives of doctoral candidates deserve the degrees as much as their husbands. Through all the vicissitudes of research and composition my wife not only served as a constant source of encouragement but she also solved the interesting problem of transmuting my illegible manuscript into the first typed draft. In addition she typed great bundles of research notes, offered many useful suggestions, particularly in times of writing difficulty, and searched out more than one rare pamphlet and newspaper article of old Federalist days.

TABLE OF CONTENTS

	Page
LIST OF TABLES	vii
 Chapter	
I. INTRODUCTION	1
II. THE REGULARS UNDER THE CONFEDERATION	30
III. THE MILITIA UNDER THE CONFEDERATION	91
IV. FEDERALIST MILITARY POLICY	135
V. FEDERALIST MILITARY POLICY (CONTINUED)	203
VI. THE UNIFORM MILITIA ACT	259
VII. STATE IMPLEMENTATION OF THE UNIFORM MILITIA ACT (UMA)	299
VIII. THE "UNIFORM MILITIA" IN ACTION: FRONTIER DEFENSE AND PUBLIC DISTURBANCE	348
IX. THE "UNIFORM MILITIA" IN ACTION: THE DETACHMENTS	389
X. SUMMARY AND CONCLUSIONS	430
BIBLIOGRAPHY	465

LIST OF TABLES

Table	Page
1. Variations in the Composition of Militia Units from State to State	314
2. Comparison of Plans for the Organization of the Militia	438

THE FOUNDATIONS OF AMERICAN MILITARY POLICY

(1783 - 1800)

CHAPTER I

INTRODUCTION

Between 1775 and 1783, as the United States struggled for independence, the Congress evolved a military system that was to influence American military policy profoundly for more than a hundred years. Put together with more patches than the clothing of Washington's soldiery at Valley Forge the system made use of the two different types of troops that were traditional in the Anglo-Saxon world--militia and standing or regular forces. The two appeared to be incompatible when employed together, and the result was a kind of military chaos that prolonged the war, added unnecessarily to its expense, and might have led to its loss. In discussing these matters, which form the background of the present study, it will first be necessary to examine the two kinds of organizations themselves and the attitudes which become associated with them.

The Militia and Its Separate Development

The first colonists had brought the militia with them

from England, where its roots were embedded deeply in the tribal antiquity of the Anglo-Saxon peoples.¹ In its native, or generalized form, it placed the obligation to perform military service on all men within the fighting ages. In the time of Queen Elizabeth I the institution was modified so that the primary obligation to serve rested upon a relatively small group selected from the militia at large. The members of this group were formed into bands in each shire, given special training, and ordered out as units in the defense of the realm. With the exception of the London companies, the "trainbands" collapsed during the Civil War of 1642-49, and the Cromwellian government of the following decade relied on its own "New Model" or "Independent" army. After the restoration of the Stuarts in 1660 the militia was reconstituted and reorganized. Though the bands were retained, the troops in the future were to be raised and maintained by the property-holders in each locality. Thus a wealthy man might be required to support one or more horsemen in proportion to his

¹One authority notes that in England "an organized militia existed from the earliest times, and was never entirely displaced by the transplanted Norman feudal forces." Oliver L. Spaulding, The United States Army in War and Peace (New York, 1937), 3. Hereafter cited as Spaulding, United States Army. In a broader sense it may be pointed out that the military institutions of all primitive peoples, including the American Indians and undoubtedly also the Anglo-Saxon groups that overran England following the departure of the Romans, were based upon the two essential foundations of the English militia system of historic times: (1) the universal obligation to serve, and (2) the requirement that each person furnish his own arms.

holdings. As one writer notes, the strength of the militia was no longer based upon the population of a county but upon the value of the property therein.²

In early America the sparse population and lack of established wealth dictated a return to the undifferentiated form of the English system. In most colonies the obligation to serve was placed upon all men within certain age groups ranging from about sixteen to fifty or sixty. These citizen-soldiers were formed into companies and drilled several days a year. Every man was required under penalty to provide his own arms,³ an ancient and characteristic feature of all militia systems. When Indians or other dangers threatened, the companies were embodied as units and sent to the field. Since the militia was considered to be a weapon of local

²Archibald Hanna, Jr. presents a brief and excellent summary of the development of the English militia system in "New England Military Institutions, 1693-1750" (unpublished Ph.D. dissertation, Dept. of History, Yale University, 1950). See his pages 7-10 in particular. Hereafter cited as Hanna, "New England Military Institutions."

³Data on colonial militia laws dating from the earliest period may be found in: Ibid.; Harry L. Harris and John T. Hilton, A History of the Second Regiment, N.G., N.J.; Second N.J. Volunteers, Spanish War; Fifth New Jersey Infantry; Together with a Short Review covering Early Military Life in the State of New Jersey (Paterson, 1908), hereafter cited as Harris and Hilton, New Jersey National Guard; Emmons Clark, History of the Seventh Regiment of New York, 1806-1889 (New York, 1890), hereafter cited as E. Clark, Seventh Regiment; and William P. Clarke, Official History of the Militia and the National Guard of the State of Pennsylvania (Philadelphia, 1910).

defense,⁴ colonial governors and commanders were usually reluctant to order the companies to march far from their homes. The demands of hearth and farm dictated that continuous tours of service be limited to about three months or less.

In addition to the ordinary militia, most colonies also maintained special "volunteer" companies of artillery, cavalry, and sometimes infantry. These organizations possessed a unique legal status in that they were usually created by individual enactments of the colonial legislatures. The resulting charters or authorizations usually conferred special privileges on the companies and sometimes placed them entirely outside the general militia system. In the latter case they were called "independent" companies. Such units generally took orders only from their own immediate commanders and from the governors. In practice the distinction between the terms "volunteer" and "independent" was apparently often ignored, and the two came to be used interchangeably. Since the volunteer companies were required to clothe themselves in uniforms or "regimentals," they were also referred to as "uniform" companies.

The volunteer component satisfied two basic needs of the times. It provided organizations in which men of a martial turn could pursue their interests further than the

⁴The militia in England had always been considered an arm for home defense. Though it might be marched from one county to another, it could not be employed in foreign service. Spaulding, United States Army, 3.

ordinary militia with its limited facilities for training permitted. It also provided all of the artillery and cavalry of the militia. These special arms could not be formed in the standard component because of the high cost of horses and field pieces. The volunteers, generally men of means, could afford these military ornaments, which lay far beyond the resources of the average militiamen. As might be expected from these circumstances, the volunteers were by every standard of comparison greatly superior to their more plebian brothers in arms.⁵

The most venerable of all the volunteer companies was "The Ancient and Honorable Artillery Company" of Boston, which was established in 1638.⁶ In New York City, the first such organization was formed prior to 1710, and by 1755 the number had reached six. In 1772, when William Tryon, "a military character," was governor, the New York legislature authorized a total of nine companies for the state.⁷ One of the more famous of the volunteer units, though it was not organized until late colonial times, was "Paddock's Artillery Company" of Boston. General Henry Knox, the most capable

⁵For further discussions of the superiority of the volunteer militia see below pages 343-45.

⁶Francis S. Drake, Life and Correspondence of Henry Knox, Major-General in the American Revolutionary Army (Boston, 1873), Appendix, 126. Hereafter cited as Drake, Knox.

⁷E. Clark, Seventh Regiment, 22-24.

artilleryman of the Revolution, and many of his colleagues received their training in this organization.⁸ In colonial days a few volunteer units might be found not only in the cities mentioned above but also in most others, and they became quite numerous after the Revolution.

As time passed the generalized English militia system that had been transplanted to America developed independently in directions determined by the nature of the new environment. Its relationship to the state, for example, underwent significant modification. In England the control and supervision of the troops was vested in representatives of the Crown, namely the lord lieutenants of the counties.⁹ In America this centralization of authority became a casualty of geography, history, and British colonial policy. The same factors that resulted in thirteen separate colonies also produced an equal number of militias each formed under a different law. From the beginning both the British intendants and the colonists themselves appear to have recognized the provincial character of this system. Troops became completely identified with the colonies to which they pertained, and no real effort was made to establish unified control.¹⁰

⁸Drake, Knox, Appendix, 126.

⁹Hanna, "New England Military Institutions," 9-10; Spaulding, United States Army, 3.

¹⁰An East New Jersey Law of 1698, for example, actually precluded the compelling of militiamen "to go forth [out] of his own country, much less out of this Province,

At the same time, the Americans began to look upon their militia as the very antithesis of the national troops that England kept in America. Taken as a whole it represented provincial interests, and it was subject to provincial control. In any showdown with the mother nation it could no doubt be utilized against the national regulars. The truth of this last concept was convincingly demonstrated in 1775 when the Revolution began. The colonial call to arms was directed to the militia, and the response for the moment was all that could be desired. This dramatic demonstration of the advantages of troops subject to local authority left a lasting impression on American military thought. Those favoring the rights of the states found any military system that placed control of large armed forces in the hands of the central government completely unacceptable.

The provincialism characteristic of the American militia had other important consequences. Each of the thirteen separate systems tended to follow its own independent development. By the time of the Revolution marked differences in such features as age of obligation, tactical organization, and exemption policy had arisen. The existence of such variations and the failure of the militia during the

into foreign Ports [Parts?] in time of War, or Peace, unless in case of a sudden Invasion, or by special Act of General Assembly." Harris and Hilton, New Jersey National Guard, 28. Such laws as this made unified control and command impossible.

war itself led to demands for reform, and these in turn to new conflicts over the extent of the military powers of the federal government. Since uniformity and efficiency could be imposed only from the top, the anti-nationalists opposed all really effective reform bills on the theory that they tended to build up the prerogatives of the central government.

The colonials also found it necessary to modify the English system of mobilization. Under British practice the militia companies were normally ordered up for service as units.¹¹ As one writer shows, this procedure proved to be inconvenient if not entirely impracticable in New England. The colonies of that area had to provide troops for two major purposes, the protection of the frontiers and offensive operations against the French. To meet the former need it was necessary to keep forces in the field throughout the entire year. Since the frontiersmen also had their own work to do, they could not undertake the task on a continuous basis, and the frontier companies could thus be embodied as units only for short periods during emergencies. To solve the problem without causing major disruption either on the frontier or in the interior communities the New England governments stopped mobilizing units as such and began to raise men for frontier service from the militia at large, usually by

¹¹Hanna, "New England Military Institutions," 17-19.

levying small draft quotas on the companies.¹²

Between 1700 and 1748 the New England colonies were called upon to provide troops for six different expeditions against French objectives in Canada and the Caribbean. Since the militia could not properly be employed in foreign service, the authorities found it impolitic to impress complete units. Again they raised the men, usually as volunteers, from the militia at large.¹³ Thus in both frontier defense and the colonial wars the New England militia was converted from a fighting force to a system of mobilization. It, of course, retained its training functions and responsibilities.¹⁴ Judging from the state militia laws of a later period, this conversion also occurred in the remaining sections of the country.¹⁵ This is not to say that complete units were not still ordered out on occasion for local use during short-lived emergencies.

The Regulars

The differences between regular or standing troops and the militia were both clear and numerous. Regulars were enlisted for periods reckoned in terms of years rather than weeks or months, and they were constantly embodied. Their

¹²Ibid., 65-74, 112-13.

¹³Ibid., 117-43.

¹⁴Ibid., 19.

¹⁵See below pages 98-99, 319-23.

training was continuous, and they were supplied with arms, uniforms, equipment, and pay by the state. All of these factors contributed to military efficiency of an excellence seldom if ever attained by the militia. Indeed from the point of view of discipline, training, and general combat readiness, the militia was an organization of amateur soldiers. The regulars were professionals.

In the Anglo-Saxon military tradition the national troops both in England and in America were always regulars.¹⁶ This arrangement resulted not only from the superior efficiency of standing troops but also from the traditional concept already mentioned that precluded the use of militia in either distant service or offensive operations. As national troops, regulars in theory, though not invariably in practice, were recruited directly by the central government. In the United States the major departure from this rule occurred in Revolutionary days and for a short time thereafter when the responsibility for actually procuring men was passed to the states.

A Great Fog--the Militia Myth

During much of American history the popular belief that the militia was infinitely superior to the regulars has lain like a giant fog over the problems of military policy.

¹⁶At a later time the United States also utilized "national volunteers."

This myth rested upon several timeworn foundations. During early colonial days the colonists had been forced to look only to themselves for protection against the Indians that surrounded them like the waters of some dangerous sea. The farmer and the villager in moments of danger laid aside the plow and the awl and took up the musket. Composed thus of the people themselves, the good yeomen and the good burghers, the militia was eminently respectable. In looking at such troops the public looked at itself. In looking at regulars it saw drunks, gamblers, brawlers, and unproductive consumers of the public treasure that seemed to have come from lost worlds never visited by ordinary citizens.¹⁷ Such refuse was hardly human, and it could possess neither solid virtues like courage nor high ideals like patriotism. The militiaman fought for hearth and country, and the regular for lucre to pursue his hideous vices.

If these intrinsic differences were not enough to demonstrate the superior fighting qualities of the militia, incontrovertible proof could be found in history. General Braddock, the archetype of the professional officer, and his British regulars had been destroyed at the battle of the Monongahela by a handful of militialike French partisans and

¹⁷This view was partially correct. See below pages 155-56. However, the composition of the army reflected not only its attractions for the "riffraff" but also the repugnance it excited in the "respectable." This is to say that the latter by not enlisting helped to perpetuate the low over-all quality of the troops.

a few Indians. The peerless New England militia had butchered another column of regulars in the retreat from Lexington and Concord and turned back the massed strength of the British army at Bunker Hill. And so on for the few other battles, such as King's Mountain, in which the American militia did not suddenly find that it had urgent business elsewhere as soon as the first shot was fired by the enemy.

By 1776 the Philadelphia Evening Post was prepared to philosophize on the subject:

If we search for the cause of this superior bravery in the people of a country, compared with what are called regular troops . . . [we find that the latter] have no principle, either of honor, religion, public spirit, regard for liberty, or love of country to animate them. . . . Discipline only gives the officers the power of actuating them; and superior discipline may make them superior to other troops of the same kind [other regulars] not so well disciplined. Thus discipline seems to supply in some degree, the defect of principle. But men equally armed and animated by principle, though without discipline, are always superior to them when only equal in numbers; and when principle and discipline are united on the same side, as in our present militia, treble the number of mere unprincipled mercenaries, such as the regular armies commonly consist of, are no match for such a militia.¹⁸

Dozens of similar statements glorifying the militia might be cited. To refer to only a few of them, in the spring of 1777 the Executive Council of Pennsylvania announced that only "the vigorous manly efforts" of a few valiant militiamen had saved Philadelphia during the winter.

¹⁸Philadelphia Evening Post, 30 Mar. 1776 as quoted in Frank Moore, Diary of the American Revolution; from Newspapers and Original Documents (New York, 1863) I, 213-14.

In the summer of 1779, President Joseph Reed of Pennsylvania thought that all the lessons of history proved that a good militia was the best safeguard against invasion and that "the enemy should stand more in awe of them than three times the number of standing troops."¹⁹ In 1785 General John Sullivan, who knew better, wrote that a little extra training would make the militia almost as formidable as the great standing army of Prussia.²⁰

The truth of the matter is that many editors and politicians, as well as some military figures, had seized upon a pitifully small number of facts, misinterpreted them, and reached a false generalization. In a large majority of the actions in which the state troops participated during the Revolution they misbehaved miserably. Many battles, such as Camden and Guilford Court House, were lost when the supposedly unconquerable militiamen fled, and some commanders, such as Daniel Morgan at Cowpens, placed them in advanced positions with federal troops, or Continentals as they were called, in the rear to prevent any unplanned run-away.²¹

¹⁹From quotations contained in Hugh Jameson, "The Organization of the Militia of the Middle States during the War for Independence" (unpublished Ph.D. dissertation, Dept. of History, University of Michigan, 1936), 233-34. Hereafter cited as Jameson, "Militia of the Middle States."

²⁰Otis G. Hammond (ed.), Letters and Papers of Major-General John Sullivan, Continental Army (Concord, 1930-39), III, 392-93.

²¹General Nathaniel Greene used similar tactics with considerably less success at Guilford Court House.

Furthermore, militiamen seem to have been born deserters, and the American armies melted away like the snows of winter whenever farm tasks became urgent, camp life grew monotonous, or battles approached.

In addition, the rationale used to demonstrate the superiority of the militia in the battles upon which its reputation rested was faulty. The failure of the British regulars at the Monongahela did not result from their inadequacies but from the faults of their leader. General Braddock did not understand the principles of wilderness warfare, and he obstinantly refused to be enlightened. In the retreat from Lexington and Concord the British troops marched stoically through what amounted to one great defile some sixteen miles in length, withstood a heavy running fire from unseen marksmen almost the entire distance, and never completely lost their discipline.²² This remarkable performance went unnoticed in the general applause given the wraiths who had sniped at them from the cover of woods, hedges, rocks, and houses. At Bunker Hill the blame again rested on the British commander, who threw away his men in hopeless frontal attacks on prepared positions.

²²The column of Colonel Francis Smith, which made the march to Lexington and Concord and which bore the brunt of the initial American onslaught, broke formation; but it was attempting to re-form under heavy American fire and the threats of its officers when Earl Percy's relieving troops arrived. After Percy assumed command, the combined force never faltered though the American action continued unabated. Christopher Ward, The War of the Revolution, ed. John R. Alden (New York, 1952), I, 44-50.

These facts were not lost upon some critics, particularly military leaders and observant civilians connected with the army. As a result a body of opinion that had no illusions regarding the militia developed early in the Revolution. Washington himself did not hide his disgust with the over-all performance of the militia when he commented,

We must . . . on every exigency have recourse to the Militia, the consequences of which, besides weakness and defeat in the field, will be double or treble the necessary expense to the public. . . . they are commonly twice as long in coming to where they are wanted and returning home, as they are in the field; and must of course for every days real service receive two or three days pay, and consume the same proportion of provisions.²³

On another occasion he stated that he had never witnessed "a single instance than can countenance an opinion of Militia or raw troops being fit for the real business of fighting."²⁴ In 1777 after watching a British force occupy Philadelphia without a fight, Elias Boudinot, Washington's "Commissary of Prisoners," wrote

We have mustered from the whole State [of Pennsylvania,] by exerting every Nerve about 4000 Men, who as soon as a Gun was fired within $\frac{1}{4}$ of a Mile of them would throw down their arms & run away worse than a Company of Jersey Women. I am Confident one regiment of English Troops [regulars] would drive the best 5000 in the State.²⁵

²³Letter to the President of Congress, 15 Mar. 1779, John C. Fitzpatrick (ed.), The Writings of George Washington (Washington, 1931-1944), XIV, 244.

²⁴"Circular to the States," 18 Oct. 1780, Ibid., XX, 209.

²⁵Letter to Elisha Boudinot, 3 Sept. 1777, George Adams Boyd, Elias Boudinot, Patriot and Statesman, 1740-1821 (Princeton, 1952), 42-43.

General Henry Knox thought that militia would be virtually useless in any effort to retake Philadelphia by storm. They had already broken before the enemy in two major actions, and it was known that "they will not stand within the range of a cannon-ball."²⁶ William Bryan, a North Carolina brigadier, disgustingly resigned his commission in April 1779 because the state's militia had only "a faint resemblance to a military force."²⁷ That Bryan had spoken the truth was made abundantly clear by the misbehavior of the North Carolina troops at Guilford Court House. The state government, humiliated by the incident, finally recognized that its troops were something less than invincible and ordered every man who had run away during the battle to enlist in the Continentals for a year.²⁸

Unfortunately, the group which abjured the fallacious beliefs making up the militia myth was always a minority. The extent to which the majority actually believed the legend is not known. One would not think that experienced politicians could have been so thickheaded, but the reasoning processes of otherwise intelligent men were frequently stultified by the inflexible demands of party doctrine. Furthermore,

²⁶Drake, Knox, 137.

²⁷From a quotation contained in Allen Nevins, The American States During and After the Revolution, 1775-1789 (New York, 1924), 367. Hereafter cited as Nevins, American States.

²⁸Ibid., 381.

many officeholders must have recognized the great political value of giving lip service to the popular opinion. Washington, apparently speaking of the people as a whole, thought that only the credulous who "easily swallowed every vague story in support of a favorite hypothesis" actually believed the myth, and a recent writer who has looked into the matter agrees.²⁹

Another Miasma--Fear of Regulars

The fear of regular troops was also deeply embedded in the historical background of the English people. Perhaps it was even older than the War of the Roses in which both sides had employed large numbers of mercenaries, a term which was to become synonymous with regulars in America. During the early period of colonization, the British at home looked upon standing troops with particular aversion. The Petition of Right of 1628 contained demands that the king refrain from quartering soldiers in private homes and that he not declare martial law in peacetime. Following the Revolution of 1688 the Parliament in the Bill of Rights made the raising of standing forces illegal without the consent of that body. The famous Mutiny Act of the same period brought about a condition in which the army had to be renewed each year by special legislative enactments.

²⁹Jameson, "Militia of the Middle States," 235. He also quotes Washington's remark on page 235.

By the end of the eighteenth century American statesmen appealed not only to these sanctions and the experiences that lay behind them but also to others more distant in time and place. History books had been conned for examples showing the dangers and perfidities of standing troops, and from the information thus gathered another vast generalization had been created. Nothing other than standing armies had brought about the demise of virtually every fallen government in history. By early Constitutional days states' rights politicians looked upon this generalization as being an indisputable law of nature.³⁰

Even more important in the formulation of these attitudes was the experience of the colonies themselves. After the French and Indian War the British "military office" in America had become an enormous agency with long bayonets that reached into many important spheres of colonial civil life. It enforced various unpopular policies of the home government, controlled Indian trade, and made recommendations upon many matters of a non-military nature, such as the raising of funds in the colonies. Indeed the commander in chief began to outshine the colonial governors in authority and splendor.³¹ The colonists could hardly have failed to remark

³⁰See below page 254-55 (comments of John Randolph).

³¹Clarence E. Carter, "The Significance of the Military Office in America," in The American Historical Review, XXVIII, No. 3 (April, 1923), 475-88 passim.

either this growth in the power of the military or the threat to civil government that it constituted.

As the break with Great Britain approached, the danger of regulars was dramatized by clashes between groups of colonials and British troops. One such incident, the Battle of Golden Hill, occurred in New York City in January 1770. Though the soldiers beat off the clubs of the citizens without firing, they had faced the townspeople with arms in their hands.³² In the Boston Massacre of the same year, the redcoats used their muskets, killing five members of a large mob. Though agitators had produced the first affray and the mob itself the second, these facts were lost in the general condemnation of the troops.

In another triumph of bad logic this fear based upon experiences with British regulars and upon the troubles of other nations going all the way back to ancient Rome was rapidly transferred to American regulars. As early as January 1776, Sam Adams, one of the most influential revolutionary leaders, wrote that a

standing army, however necessary it may be at some times, is always dangerous to the liberties of the people. Soldiers are apt to consider themselves as a body distinct from the rest of the citizens. They have their arms always in their hands. Their rules and their discipline is [sic] severe. They soon become attached to their officers and disposed to yield implicit obedience to their commands. Such a power should be watched with

³²Nevins, American States, 51-52.

a jealous eye.³³

The attitude exhibited in statements such as this became a keystone of states' rights military policy. In the period with which this study is concerned there was, of course, a body of contrary opinion. As in the case of the militia myth, however, it represented the belief only of a small minority. Indeed, not all of those who spoke out against the militia were willing to speak in favor of regulars.

The Dual System of the Revolution

The American colonies had been created separately, usually by groups of divergent social, religious, and political philosophy, and they had followed separate lines of development. Though this provincialism made cooperation difficult, the New England colonies, which formed to a certain extent a geographic and social entity, had banded together for military defense in the New England Confederation of the seventeenth century. However, British attempts at the outbreak of the French and Indian War to enjoin combined action on the part of all the colonies had failed at the Albany Conference. In the decade following that war, the colonies had been brought closer together by their resistance to British commercial restrictions. At the end of this period they formed the First and later the Second Continental

³³Quoted in Merrill Jensen, The New Nation: A History of the U. S. During the Confederation, 1781-1789 (New York, 1950), 29.

Congress for joint opposition to British rule. These agencies had few real powers, but the second served as the central governing body during part of the Revolution. It was succeeded after a few years by the Confederation Congress, which was little stronger.

In these inter-colonial governments authority was divided between the central congress and the states. On the whole the latter were stronger than the former. In the military realm they were able to invalidate, usually by failing to provide the men, all efforts to create strong federal military forces. At the same time American folklore as embodied in the militia myth and the fear of regulars dictated that the militia be a part, preferably the predominant element, in the armies of the revolt. These factors might have led logically to the employment of militia alone, but the provincial troops early in the conflict demonstrated their inability to carry the load. There was, on the other hand, never any question of placing full reliance on regular troops.

The original military forces of the Revolution were raised and controlled by several of the new state governments, if they may be termed that for purposes of simplicity. Following Lexington and Concord, Massachusetts called on its New England neighbors for assistance, and they made a determined effort to embody thirty thousand militiamen. During this undertaking swarms of New England troops descended on

Boston, where the British army waited behind its fortifications.³⁴ Unfortunately the militiamen soon showed a tendency to return home almost as fast as they had come. Under these circumstances Massachusetts, pointing out that the troops represented several colonies, asked the Congress to take charge.³⁵ In June (1775) that body assumed authority over the forces at Boston, took them into its pay, and appointed George Washington commander in chief.³⁶

On 21 July of the same year Congress authorized Washington to enlist his command up to twenty-two thousand men. Since recruiting proceeded slowly, the commander in chief was forced to order out five thousand militiamen to make up deficiencies.³⁷ As enlistments continued to lag throughout the year--only sixteen thousand were on the rolls and only thirteen thousand present for duty in January 1776--he again compensated for the shortage by calling on the militia.³⁸ The dual system, having been established in this manner, continued in use throughout the war, the federal

³⁴Emory Upton, The Military Policy of the United States (Washington, 1917), 1-2. Hereafter cited as Upton, Military Policy.

³⁵Nevins, American States, 608.

³⁶Upton, Military Policy, 3.

³⁷Ibid., 6.

³⁸Spaulding, United States Army, 39. Upton gives the number on the rolls as 10,500 rather than 16,000. Military Policy, 10.

forces being supplemented by levies on the state troops as the need arose.

Meantime Congress had taken two additional steps that had contradictory effects. In July 1775, anticipating the difficulty of keeping the federal army up to strength it had recommended to the states that the then completely disorganized militia be reconstituted along its original lines.³⁹ In October, it had directed that the federal regiments be numbered in a single Continental series⁴⁰ and placed the selection and arrangement of the officers directly under the control of Army Headquarters.⁴¹ These moves were apparently intended to emphasize the national character of the troops. Thus Congress worked with one hand to preserve the militia and with the other to strengthen and further federalize the Continentals. The joint product of both hands tended to perpetuate the dual system.

Though the militia was reconstituted, the effort to integrate the Continentals rapidly floundered. In December 1776, with recruiting problems multiplying, it was decided that the necessary men might be obtained by appealing to provincial interests and loyalties. The Continental regiments were therefore renumbered into state "lines," and the

³⁹Upton, Military Policy, 8.

⁴⁰Spaulding, United States Army, 39.

⁴¹Upton, Military Policy, 4.

federal promotion list for officers was abandoned in favor of state lists.⁴² Under the Articles of Confederation, Congress relinquished to the states most of its remaining responsibilities relative to the troops. The states were thus made responsible for recruiting, arming, and equipping the regiments assigned to them. The Congress retained only the power to determine the number of men required and to assign each state its quota.⁴³ Washington complained that he sometimes did not know whether he was commanding one army or thirteen.⁴⁴

The dual system thus comprised quasi-federal troops in the Continentals and state troops in the militia. Its defects included such weaknesses as the following:

(1) The militia brought in to supplement the Continentals could be held no longer than a few months. As a result of these short terms Washington was faced with the annual task of disbanding most of one army and raising most of another. This dangerous process had to be accomplished in the presence of the enemy, and it was so time consuming that the commander in chief was frequently forced to remain inactive for long periods.⁴⁵

(2) The constant arrival and departure of the militia was costly and wasteful. A large part of the time two separate sets of men had to be kept under pay, one group going home and another coming to camp. With the continual

⁴²Spaulding, United States Army, 70.

⁴³Article IX.

⁴⁴Washington to John Sullivan, 17 Dec. 1780, Fitzpatrick, Writings of George Washington, XX, 488.

⁴⁵Upton, Military Policy, 10-12, 14, 18-19. The reference quotes Washington and General Nathaniel Greene.

rotation of troops and the average militiaman's larcenous fingers, it was virtually impossible to prevent the large scale disappearance of muskets and other equipment.⁴⁶ Men seldom stayed in camp long enough to build up much resistance to disease, and new arrivals were highly susceptible to every kind of garrison illness.⁴⁷

(3) Though the militia was capable of turning in good performances on occasion, its record, as already noted, was largely one of inefficiency, desertion, refusal to fight, and misbehavior in the face of the enemy. These faults were due primarily to lack of training and discipline.

(4) The militia mobilization system was cumbersome, slow, and ineffective. It did not function satisfactorily in a single case out of some eighty-three investigated by one writer, who estimates that fifty percent of the militia population of the Middle States found ways to avoid service.⁴⁸

(5) As a result of faulty recruiting policies and other factors, the Continentals were almost invariably some thirty to fifty percent understrength.⁴⁹

From the beginning the federal regiments and the militia were forced to compete for men. The outcome was a bounty war which finally saw one state giving militia recruits one thousand dollars in excess of all allowances offered to Continentals.⁵⁰ After 1777 Continental soldiers enlisted for long terms began to desert to the militia to take

⁴⁶William Addleman Gance, The History of the United States Army (New York and London, 1942), 19.

⁴⁷Upton, Military Policy, 15.

⁴⁸Jameson, "Militia of the Middle States," 134-35, 77-78.

⁴⁹Upton, Military Policy, 13, 27, 34, 40, 47-48, 57-58.

⁵⁰Ibid., 48.

advantage of such benefits.⁵¹ Aside from the monetary inducements, many, if not most, potential soldiers preferred the militia because of its shorter terms and easier discipline.⁵²

The consequences of all this were lost battles, unnecessarily heavy casualties, and the general disruption of life on the home front as the revolving militiamen constantly picked up and laid down their workaday occupations. The public purse was squandered to little advantage, and the waste of manpower was appalling. The United States employed from time to time a total of almost four hundred thousand men to combat British forces that never exceeded forty thousand.⁵³ Though this comparison does not take into account British replacements, which would have increased the British total, it does indicate that the American military requirement was several times that of the enemy.

The Post-War Problem

Three great military lessons were to be found in the history of the American armies during the Revolution. The first of these was that the dual system had failed, the second that the traditional militia organization had furnished perilously ineffective troops, and the third that the

⁵¹Ibid., 28, 41-42.

⁵²Ibid., 13.

⁵³Ibid., 58-59.

federal troops had proven their superiority. Unfortunately these lessons could not be considered apart from their wider implications. The over-riding political questions of the day were concerned with the division of powers between the federal government and the states. Any effort to place complete reliance on federal forces, or even to strike a more favorable balance between such troops and the militia, would threaten the military rights of the states. Any measure to reform the militia by federal action would have the same effect.

Thus the entire problem of military policy was thrown into the arena of popular politics. Those who favored extension of the powers of the central government advocated large standing forces and the federalization of the militia. The anti-nationalists opposed both of these solutions and demanded that full reliance be placed on the old, poorly organized militia. In the resulting Congressional conflicts, the regulars and the militia faced each other again and again on the uncertain battlegrounds of partisan politics. The effect on military legislation was disastrous. Almost every military measure that ran the gantlet of Congress was hacked to pieces. Only the American love for compromise permitted any to survive the ordeal, and they came through the line so changed that their sponsors hardly recognized them.

Both sides brought forward strong arguments to support their positions. The anti-nationalists ceaselessly

referred to the militia myth and the danger of regulars. The nationalists pointed to the failures of the militia during the Revolution and ridiculed the idea that standing troops might turn against the government and the people. But these were not the only factors that influenced the solution. The chronic lack of funds with which to support military forces and the public disinterest in military affairs except in time of crisis played important roles. It was also necessary to consider and provide for practical military needs stemming from the Indian threat and foreign danger.

The study which follows will investigate the attempts to solve the problems of military policy during the formative period of 1783-1800. It will begin with the immediate post-war moves to establish an adequate federal army and to reform the militia. It will then take up the renewal of these efforts in the early Constitutional period with chapters being devoted to the regulars and others to the militia. In the treatment of the latter the infamous "Uniform Militia Act of 1792" will be analyzed in detail. This act poses many special problems in itself. Though its rough trip through Congress has been described by Brigadier General John M. Palmer, his coverage is relatively brief.⁵⁴ The present study will attempt to supplement Palmer's pioneer work with a broader investigation that will:

⁵⁴John Macauley Palmer, America in Arms (New Haven, 1941).

(1) Describe the entire militia reform movement of the era both before and after the passage of the act.

(2) Provide as much detail as the limited information permits on the legislative history of the act including the content of the several antecedant bills, the points of view of the two sides in the debates, and the provisions of the act as finally passed.

(3) Evaluate the effects of the act on the militia system.

In the last regard it may be noted that Palmer and other writers have assumed that the measure had no practical effect whatsoever. Yet no report on the implementation of the measure in the laws of the states exists, and much of the history of the militia after 1792 is virtually unknown. A knowledge of both these subjects is essential to the evaluation of the act itself. In order to fill in these gaps a comparative analysis of the new state laws will be presented for what is believed to be the first time. An excursion will also be made into the history of the militia as organized under these laws, covering such matters as the defense of the Southwestern frontier, the crushing of rebellions, and the effort to organize the several standby detachments and associations of the period.

CHAPTER II

THE REGULARS UNDER THE CONFEDERATION

As the war drew to a close in the spring of 1783 Congress found itself forced to face the military problems of peace. For awhile these consisted primarily of frontier defense, the supposedly imminent occupation of the British posts in the Northwest, and the protection of commissioners that were to be sent among the Indians. In 1786, as the law makers still struggled with these matters, a first class crisis that appeared to require the intervention of Congress arose in Shays Rebellion. For a moment it seemed that law, order, and even government itself, tottered in the balance. Meantime, the militias of rival states marched against each other in several disputed areas, East Tennessee, The Susquehanna Valley, and Vermont.¹ While the fighting could hardly be called serious, it dramatized the weaknesses and the failures of the Confederation.

Under the circumstances, the Congress drifted from expedient to expedient. It was clear that military forces

¹See below pages 120-24, 128-33.

were urgently required, but there was a difference of opinion as to how they should be raised. Many powerful influences, including constitutional reservations, the growing fear of standing armies, and the lack of funds, militated against the formation of a federal force. On the constitutional issue, the states' rights or anti-national bloc denied that Congress had the authority to raise its own troops in time of peace by demands on the states. The nationalists thought that to deny this right was to undermine the very foundations of the Confederation. They tried ceaselessly to put through bills that would provide a regular army. Indeed, both sides viewed every military measure in terms of control. Would it leave the ultimate disposition of the troops in the hands of the states or the Congress?

Some of the events of demobilization seemed for a moment to prove that regular troops were indeed a threat to law and liberty, as the anti-nationalists had been preaching. During the spring and summer the spirit of mutiny rocked the main army at Newburgh, a small scale revolt occurred in Philadelphia, and a military order having vaguely aristocratic features was formed throughout the country. The greatest of these threats was the Newburgh conspiracy, an effort on the part of the officers to force a settlement of the half-pay question. Realizing that they must act before the army was disbanded, they petitioned Congress to commute the half-pay pensions, which had been promised them in the

dark days of 1778, to lump-sum payments.

As that body hesitated, an anonymous writer in the famous Newburgh addresses suggested that the officers meet to consider measures to carry their appeal from "the justice to the fears of government." As events developed more than one citizen must have thought that there was indeed a lion inside the soldier's clothing. The letters were thought to be part of a plot to overturn the government, and it was rumored that the officers intended to establish a military dictatorship. With fears mounting, Washington by adroitly seizing control of the meeting, which was held on 15 March 1783, neutralized the danger. A week later, Congress, thoroughly frightened, passed a commutation act.²

Though the conspiracy was settled peacefully, it reinforced fears of violent action by the discontented soldiery of the main army.³ Their pay had long been in arrears, and a settlement would have to be made immediately because they

²One of the most complete accounts of the Newburgh conspiracy is contained in Louis Clinton Hatch, The Administration of the American Revolutionary Army (New York, 1904), 142-178, and the "addresses" are reproduced therein on pages 197-209. Hereafter cited as Hatch, Revolutionary Army. The commutation act may be found in Worthington C. Ford and Gaillard Hunt (eds.), Journals of the Continental Congresses, 1774-1789 (Washington, 1904-37), XXIV, 206-210, under date of 22 March 1783. Hereafter cited as W. C. Ford and Hunt, JCC.

³For an example of the apprehensions that were felt see letter of The North Carolina Delegates to the Governor of North Carolina, 1 Aug. 1783, E. C. Burnett (ed.), Letters of Members of the Continental Congress (Washington, 1921-36), VII, 246-47. Hereafter cited as Burnett, Letters.

were clamoring for immediate discharge from the service. While everyone wondered where the necessary money was coming from, Washington warned the men he would tolerate no disorder, directed each brigade to post special guards, and began assigning only general officers as officer of the day, a task performed in the past by field officers. As the discontent increased there were several incidents so serious that the participants were tried for mutiny or wilful disobedience of orders, convicted, and sentenced to a hundred lashes each.⁴

A few moments before the cauldron exploded, the problem was settled by half-measures that played upon the overwhelming desire of the men to return home. The "war men" were permitted to leave the Army with the understanding that their furloughs would become discharges as soon as the war ended officially. On their departure from camp, they were given three months pay in six months certificates and promised the remainder later. "The Financier," Robert Morris, hardly got this pittance delivered to Newburgh in time. As a special mark of the favor of Congress, the men were permitted to take their arms with them.⁵ This concession greatly

⁴George Washington to Alexander Hamilton, 22 Apr. 1783, John C. Fitzpatrick (ed.), The Writings of George Washington (Washington, 1931-1944), XXVI, 350-51; General Orders, Apr. 16, Apr. 18, Apr. 22, May 11, May 17, 1783, Ibid., 327, 336, 354, 424, 439-40.

⁵General Orders, 2 and 6 June 1783, Ibid., 463-64, 471; Washington to the Superintendent of Finance, 3 June 1783, Ibid., 466-67.

alarmed some observers. Colonel John Land wrote Governor George Clinton of New York that "such a number of Old Veterans (whose minds are much soured) turned loose, with arms in their hands, and under no restraint will doubtless become a great terror, to the inhabitants."⁶ This point may have received recognition in the decision to march the men back to their states in organized groups under the control of officers. The "three year men," who could not claim discharge, were kept on as the only force in being.

The mutiny of the Pennsylvania recruits in June was a reminder of what could have happened on a large scale at Newburgh. Some eighty new soldiers, angry because their pay was long overdue and desiring a settlement of accounts, marched from Lancaster to Philadelphia, where they were joined by about two hundred soldiers from the garrison. Surrounding the state house, where both Congress and the state executive council were meeting, they sent a curt note to the latter threatening "to instantly let in these injured soldiers upon you" if their demands were not met within twenty minutes. Congress, after being forced to look for several hours at fixed bayonets and guarded doors, departed precipitately for Princeton. The revolt was finally quelled without bloodshed when the council called for the militia and the Congress

⁶Hugh Hastings (ed.), Public Papers of George Clinton, First Governor of New York, 1777-95, 1801-04 (Albany, 1904), VIII, 163. Hereafter cited as Hastings, Clinton Papers.

ordered Washington to send a large force of veterans from the main army.⁷

When dangers of armed intervention faded with the disbandment of the army, many fastened their fear of the military on the Society of the Cincinnati. This organization of army officers had appeared during the days of the Newburgh conspiracy. Though it was partly fraternal and partly charitable, its rules provided for the transmission of membership by primogeniture. This feature and the known nationalistic orientation of the officers immediately brought it under violent attack. Many feared that it would result in a military aristocracy, that it would be used to force a change in the form of government, and that it would serve as an agency to press the financial demands of the members. Though the first two of these fears were greatly exaggerated if not entirely groundless, the third probably had some basis in fact. The general condemnation forced the officers to abandon the hereditary feature, but the society continued to excite apprehension and suspicion for years.⁸

⁷Hatch, Revolutionary Army, 181-87; Emory Upton, The Military Policy of the United States (Washington, 1917), 64. Hereafter cited as Upton, Military Policy.

⁸John Bach McMaster, A History of the People of the United States (New York, 1901-14), I, 167-76; Merrill Jensen, The New Nation; A History of the United States During the Confederation 1781-1789 (New York, 1950), 261-62. Hereafter cited as Jensen, New Nation. Contemporary opinion of the Cincinnati may be found in Elbridge Gerry to Stephen Higginson, 13 May 1784, Burnett, Letters, VII, 522; Henry Knox to

That the threats of 1783 strengthened the fear of regulars and affected military legislation for years, there can be no doubt. The most dramatic proof of this is to be found in the debates prior to the army reduction of April, 1787. At that time, the lack of funds with which to pay the troops recalled the dangers of 1783. In urging the reduction Charles Pinckney, of South Carolina, pointed out this fact, and it became a primary consideration in the passage of the measure.⁹ The unfair treatment that the army had received in pay matters during both the war and the demobilization does not appear to have materially affected the reaction against it. Only a few "army men," such as Alexander Hamilton and General Henry Knox, attempted to excuse the mutinous activity and related excesses.

The continuing lack of funds played a determinative role in the military policy of the Confederation to the end. It was urged time and again as a reason for not raising regulars or for raising fewer than were needed. David Howell, a Congressman from Rhode Island, wrote in April 1784 that "the

Washington, 19 Mar. 1787, Francis S. Drake, Life and Correspondence of Henry Knox, Major General in the American Revolutionary Army (Boston, 1873), 148, hereafter cited as Drake, Knox; Jefferson's "Observations on Demeunier's Manuscript," Julian P. Boyd (ed.), The Papers of Thomas Jefferson (Princeton, 1950-56), X, 49-51. An interesting retrospect view is contained in General John Cochrane, "The Centennial of the Cincinnati," American Historical Register, IV, No. 3 (May 1796), 276-284. The writer alleges that the order was "designed to counteract the influences of the treasonable cabal" of the officers at Newburgh.

⁹See below page 81.

plans for a peace establishment are contracting to a less scale as the prospect of a Continental impost vanishes."¹⁰ In 1785 recruiting was suspended because no money was available, and in 1787 the failure of the states to meet a special requisition for funds elicited Pinckney's comparison with conditions in 1783 and the subsequent reductions, as mentioned in the preceding paragraph. Much of the time Congress was far from able to support the small force it kept in the Ohio country. In the summer of 1786, for example, when these troops were destitute of stores, the Board of Treasury was unable to meet the Secretary at War's urgent application for one thousand dollars to send ammunition.¹¹

The efforts of the nationalists to shore up the shaky financial understructure were unsuccessful but they warrant examination because of the role the army itself played. Their scheme called for the establishment of an income for Congress that would be independent of the doubtful largess of the states and for the assumption of the public debt by the Union.¹² In the spring of 1783 they revived in a new form the once defeated plan for import taxes as a means of providing the income. After the measure had been pushed

¹⁰Letter to Deputy Governor of Rhode Island, 12 Apr. 1784, Burnett, Letters, VII, 492-93.

¹¹Rufus King to Elbridge Gerry, 18 June 1786, Ibid., VIII, 393.

¹²Hamilton to Washington, 9 Apr. 1783, Ibid., VII, 129.

through Congress, they urged the army to join with other public creditors in working for its success in the states. As Gouverneur Morris outlined the strategy in a cynical letter to Knox, "The army may now influence the Legislature and if you will permit me a metaphor from your own profession after you have carried the post the public creditors will garrison it for you."¹³ At one stage Hamilton thought that fears of overt action by the army might force the states toward favorable decisions.¹⁴ In view of the dissatisfaction at Newburgh at the time this point might have impressed many.

The sword, as in most cases, had two edges. In the states, particularly in New England, the very fact that the measure might benefit the officers aroused opposition. It was thought that they had in effect extorted both the half-pay and the commutation from a reluctant Congress. Massachusetts for the moment declared herself opposed to the tax on the basis that she disapproved the acts.¹⁵ She finally came around as did all states except Rhode Island. The lack of the single ratification, of course, caused the failure of the measure.

Although anti-nationalist sentiment predominated for a while, it met a serious challenge in the military counter-

¹³Letter of 7 Feb. 1783, Ibid., VII, 34-35.

¹⁴Hamilton to Washington, 17 Mar. 1783, Ibid., 87.

¹⁵Hatch, Revolutionary Army, 193-94.

part of the forces that were gradually pushing the states toward Alexandria, Annapolis, and Philadelphia. The inability of the states to protect their frontiers, to cope with domestic disturbances, and to provide themselves with military supplies led to demands for federal assistance. In 1785 the problems of frontier defense finally produced a few regulars for use in the Northwest, where land sales were soon to be opened. Congress, however, hardly able to support this small force, did little to assist Virginia in the defense of Kentucky or Georgia in her constant squabbles with the Creeks. In 1787 it refused to take action on a Georgia resolution that would have obligated the Union to punish Indians making war on any of the states.¹⁶ This difference in treatment between sections can be attributed to the fact that the Union owned the land in the Northwest and the states owned it in the South.

There were two primary examples of the need for federal aid during insurrections, Shays Rebellion in Massachusetts and the troubles in Luzerne County, Pennsylvania, in 1788. Although Congress had neglected the requests for frontier protection, it did all in its power to assist Massachusetts safely through the Shays crisis.¹⁷ Unfortunately its efforts were unsuccessful, and the insurgents were

¹⁶See below pages 88-89.

¹⁷See below pages 66-84.

finally put down by state troops. In the Luzerne riots, which were an outgrowth of the new state movement in the Wyoming Valley, Congress ordered that a detachment of Continental troops detour through the area on their march to the West. When they got as far as Easton, they found that the state had been able to disperse the rioters.¹⁸

Requests to borrow arms, supplies, and equipment were continually received by Congress. Between 1785 and 1787 South Carolina, New Hampshire, New Jersey, and Massachusetts applied for artillery, Georgia for cavalry small arms and two small field pieces, and Virginia for various stores to be used in the West. After approving South Carolina's request, which was the first received, Congress decided that further dispersion of its meager supplies would adversely affect the public safety and urged the states to procure their own equipment. The Secretary at War refused even to recommend the sale of the needed material to Virginia. However, the frontier danger in Georgia became so serious that Congress broke its own rule in that single case.¹⁹

The Best Laid Plans (1783)

Though the time, tense with the apprehensions already

¹⁸See below pages 125-26.

¹⁹W. C. Ford and Hunt, JCC, XXVIII, 352-53, 395-96; XXIX, 805-06, 808, 867-68; XXXII, 137-39; XXXIII, 530-31. Massachusetts Resolves 1786 June Sess., 19. The Virginia Delegates to the Governor of Virginia, 24 Dec. 1786 and 19 Feb. 1787, Burnett, Letters, VIII, 524-25, 543.

described, was less than propitious, Congress began thinking of a military peace establishment in the spring of 1783. It was natural that Hamilton's special committee, which had been set up to investigate the matter, should have requested Washington's suggestions.²⁰ After consulting with several of his officers, the commander in chief on May 2 submitted his famous "Sentiments on the Peace Establishment."²¹ Although this document and the final plan of the committee preserved the dual system with both of its components, the regular force and the militia, discussion of the latter will be reserved for a later chapter.²²

Washington approached the question of regulars with caution that reflected his understanding of the public temper. A large standing army in time of peace, the "Sentiments" declared, "hath ever been considered dangerous." Fortunately, it continued, our requirements for such a force were not great because of our distance from Europe. All we needed were men sufficient to garrison the frontier posts, to guard the public magazines, and to prevent surprise attack. Four regiments of infantry and one of artillery, the total strength

²⁰Hamilton to Washington, 9 Apr. 1783. Burnett, Letters, VII, 131-32.

²¹The "Sentiments" may be found in Fitzpatrick, The Writings of George Washington, XXVI, 374-98.

²²See Chapter III.

being 2631 men, would be sufficient for these purposes.²³

That this force constituted the absolute minimum necessary to perform the several missions is clear from Washington's suggestions as to its disposition. The infantry would be scattered in some twenty small detachments down the Ohio and along the great wilderness line that formed the northern, western, and southern frontiers. No posts, not even those in the most dangerous Indian country, would contain more than two hundred men, and half would be garrisoned with thirty or less. The artillery would be utilized to reinforce the several detachments with firepower as might be required, to garrison West Point, the most important of the forts, and to guard the public magazines.²⁴

Washington no doubt anticipated that even this miniscule and divided force would rouse the doctrinaires to instant and vociferous objection. Nevertheless it is hard to see how it could conceivably pose a threat to liberty and the public safety. The posts were so widely separated and the travel so difficult that Washington himself said two general officers would be required to carry out the necessary inspections.²⁵ It might be added that these two unfortunates would never be at rest from their journeys.

²³Fitzpatrick, The Writings of George Washington, XXVI, 274-81.

²⁴Ibid., 378-79, 382.

²⁵Ibid., 382.

He also recommended the establishment of three arsenals, one each in the Southern, Middle, and Eastern States, and the formation of military academies at engineer and artillery posts. These would not only train officers for the two special branches but would also supply replacements to fill vacancies in the infantry. He was not certain whether it would be possible, presumably for financial reasons, to establish manufactories and laboratories at the moment. If not, he suggested that the arsenals be equipped to repair arms and equipment and to cast cannon.²⁶

On 18 June the committee submitted its own report which recommended a slightly larger force of regulars than Washington had suggested.²⁷ It also contained a closely reasoned exposition of the right of Congress to raise and maintain its own military forces in time of peace. This was directed at the constitutional scruples of the anti-nationalists who had seized upon a somewhat vaguely worded clause in the Articles to demonstrate the opposite. Though the clause may seem clear enough today, Hamilton and the committee no doubt realized that no national force was likely to be voted as long as their opponents clung to their forced construction of its meaning. The exposition itself is a

²⁶Ibid., 395-98.

²⁷W. C. Ford and Hunt, JCC, XXV, 722-45. The text of the report is entered under 23 Oct., the day on which it was considered.

typical Hamiltonian plea for nationalism, and though restricted to the field of defense it may well represent one of the more significant constitutional analyses of the era.

The exposition first raised the constitutional issue, then disposed of it at length, and finally urged the practical advantages of a national force on the assumption that such was entirely legal. The constitutional argument devolved around the fourth clause of the sixth Article which precluded the states from maintaining forces in time of peace except with the permission of Congress. This clause, the report said, should not be loosely interpreted to mean that the states alone were responsible for defense in peacetime. Indeed the reverse was true, for the clause actually placed restrictions on the states. Its purpose was to prevent their maintaining forces which might in the opinion of Congress disturb the tranquility of the Union. On the other hand it did not contain a single word which was "directory to the United States" with regard to the maintenance of forces.²⁸

The report then pointed out that a subsequent clause, the fifth in the ninth Article, specifically empowered Congress to raise and keep up such troops as it thought necessary. This second clause, which was general in nature, was not restricted by any mention of war and peace. However, for the sake of further elucidation, let the two clauses be

²⁸Ibid., 723.

interpreted to mean that the Union would be responsible for the armed forces in time of war and the states in time of peace. Such an interpretation would not permit the Union to create an army until after the need for one had already arisen. In view of the long period of training required to whip recruits into shape, it could not be assumed that the intent of the Articles was so improvident. When this is admitted it follows that Congress is at liberty to raise and maintain such forces as it judges "requisite for the Common safety." This principle being so important to the national welfare, the Congress should put aside any doubts as to the meaning of the first clause unless a majority of the states should follow a different interpretation.²⁹

Having shown that the central government had the authority to maintain troops, the report then amassed an imposing array of reasons that it should do so rather than leave affairs in the hands of the states. Certain aspects of the defense problem that were national in character, such as the protection of lands lying outside the original claims of any state, required national forces. If the frontier fortifications were to form a mutually supporting system, they should be planned by a central agency. If defense were left to the states, those with large western claims would necessarily keep up large forces and others little or none.

²⁹Ibid., 723-24.

In effect this would confide "the safety of the whole to a part," which would be unable to afford as many troops as the common welfare might require. Large forces in the hands of a few states might also by arousing the apprehensions of the remainder destroy the harmony of the Union. A single establishment would be cheaper than thirteen separate establishments. Finally the commander in chief, the secretary at war, and other experienced officers who had been consulted recommended that the establishment be placed under the national government.³⁰

The committee's plan for the regular army reflected the nationalism of the exposition, a firm knowledge of the lessons of the Revolution, and relatively advanced military thinking in certain other respects. The force should consist, the report said, of four regiments of infantry and a corps of artillerists and engineers with a total strength of 3034 officers and men. In order to avoid the well-remembered pitfalls of short enlistments, the men should be enrolled for six years service with the provision that they serve to the end of any war occurring within their term.³¹

The force should be raised directly by the central government rather than by the states as had been the practice.

³⁰Ibid., 724-25.

³¹Ibid., 725-27, 732-33, 738. The corps of artillerists and engineers would be known as the Corps of Engineers and would consist of a regiment of artillery and a corps of artificers.

The proposed method would eliminate the difficulties in apportioning the officers and filling vacancies which had existed under the old system. It would also end the practice whereby the states in competing for enlistments raised the price of men by offers of bounties and extra pay. It would thus be cheaper and the United States would not have to pay for extravagance or mismanagement over which it had no control.³²

From a technical point of view the most advanced proposal concerned mobilization. The companies would contain 64 privates with the understanding that they be recruited to 128 in time of war. When this occurred, the number of officers and sergeants would remain the same but the corporals would be doubled.³³ This solution to the transition from peace to war constitutes a very close approach to the concept of "the expansible standing army" advanced by John C. Calhoun some forty years later. The chief difference lies in the fact that under the committee's plan the general staff would be dispensed with in peacetime. Under Calhoun's plan its existence in peace was considered essential to the efficient expansion of the troops when war came.

The committee also recommended the establishment of

³²Ibid., 736-37.

³³Ibid., 725, 739.

such forts, arsenals, and arms manufactories as might be required. While it opposed the establishment of military academies as such, thus going counter to Washington's judgment, it suggested that professors of mathematics, chemistry, natural philosophy, and drawing be attached to the corps of artillerists and engineers. The infantry, it thought, would acquire military knowledge best in the actual performance of its duties. According to the estimate, the expense of the complete establishment in peacetime would be \$359,530 per year from which might be subtracted \$131,950 representing the materiel produced by the manufactories. The net cost would therefore be \$227,580 annually.³⁴

This important report was not called up at once for a variety of reasons, including its unpalatable taste in some mouths, the thinness of representation in Congress, and circumstances connected with the move to Princeton.³⁵ Meantime, the nationalists, who needed all the assistance they could get, moved that Congress invite Washington to Princeton in order to obtain his further advice in the matter. Though the opposition of Rhode Island forced them to delete any mention of the purpose of the invitation, they got the resolution

³⁴Ibid., 738, 732-33, 740.

³⁵See Hamilton to George Clinton, 27 July 1783, Burnett, Letters, VII, 238, re the thinness of representation. The report was left in Philadelphia by mistake and was not reclaimed until 11 Aug. Charles Thompson to the President of Congress, 11 Aug. 1783, Ibid., 256 footnote.

through.³⁶ A few days later they won a more complete victory, despite the resistance of Rhode Island and Massachusetts, when Congress agreed to a special committee to discuss the subject with the commander in chief during his visit.³⁷

When the General was received by the body on 26 August, the mien of the President might have given observers some premonition as to the immediate future of the peacetime army, for "Boudinot, remaining seated and wearing his hat, to indicate the preeminence of the civil power, made a short address . . . after the manner of a speech from the Throne."³⁸ However, the address, which had been prepared by the committee, consisted of congratulations and the expression of a desire that Washington confer with the committee.³⁹

The next day Theoderick Bland of Virginia moved that Congress resolve itself into a committee of the whole to consider the extent of its powers with respect to a peacetime establishment. The Rhode Islanders immediately attempted to shift the emphasis of the inquiry to the question of whether Congress had any such powers at all. Their amendment and a

³⁶W. C. Ford and Hunt, JCC, XXIV, 452; President of Congress to Washington, Burnett, Letters, VII, 243; B. C. Steiner, Life and Correspondence of James McHenry, Secretary of War under Washington and Adams (Cleveland, 1907), 56-57.

³⁷W. C. Ford and Hunt, JCC, XXIV, 492-96.

³⁸George Adams Boyd, Elias Boudinot, Patriot and Statesman (Princeton, 1952), 131-32.

³⁹The speech and Washington's reply are in W. C. Ford and Hunt, JCC, XXIV, 521-23.

subsequent motion by Hugh Williamson of North Carolina that the house simply take up the question of the peace establishment were both lost. Although many states split their votes on the first of the two roll calls, the second showed the New England States opposing the motion and the Southern and Middle States favoring it.⁴⁰ It will be noted that a vote against the second motion was to some extent a vote against federal action and vice versa.

Further action was slow and indecisive. On 10 September the special committee presented a report that consisted primarily of Washington's comments on the plan of 17 June. He compared it with his own, concluded that the two would cost about the same, and agreed that the states should transfer their rights regarding appointment and promotion of officers to Congress. No discussion ensued and for the time being Congress turned to other business. Finally the committee dusted off the report and presented it again on 23 October. After a long discussion the committee of the whole agreed to the principle that the United States should maintain "some garrisons" in time of peace. This auspicious start unfortunately led to nothing. The committee spent the next day in further talk, obtained leave to sit again, and then used the time set aside for this purpose in making arrangements for the reception of the Dutch ambassador.⁴¹

⁴⁰Ibid., 524-26.

⁴¹Ibid., XXV, 548-51, 722-45.

Perhaps the basic cause for the failure of the plan lay in the constitutional objections it had aroused. Congress seemed to face a problem that was insoluble under existing circumstances. If it interpreted the military provision of the Articles in its own favor, as James Madison wrote, it would increase the "paroxysm of jealousy" that existed in the states.⁴² This jealousy was directed against any measure that would tend to strengthen the federal government, and many viewed the army as part of a general program directed toward this end. Stephen Higginson, a delegate from Massachusetts, no doubt expressed popular opinions when he commented that:

There are those among us who wish to keep up a large force, to have large Garrisons, to increase the navy, to have a large diplomatic Corps, to give large Salaries to all of Our Servants. Their professed view is to strengthen the hands of Government, to make us respectable in Europe, and I believe, they might add to divide among Themselves and their Friends, every place of honour and proffit.⁴³

Though Hamilton had disposed of the constitutional question on the narrow ground of the military clauses, his cold logic made little impression upon attitudes that were essentially emotional. The opponents of the plan maintained their constitutional scruples and continued to parade their tender

⁴²Letter to Edmund Randolph, 17 June 1783, Burnett, Letters, VII, 190.

⁴³Letter to Samuel Adams, 20 May 1783, Ibid., 167. See also Clinton to Washington, 14 Oct. 1783, Hastings, Clinton Papers, VIII, 258.

consciences.⁴⁴

However, the opposition was by no means limited to such objections. Both in Congress and out many had "an unconquerable aversion" to anything resembling a standing army in peace.⁴⁵ Some thought the expense would be too great, a sentiment particularly strong in New England, where the question of commutation was causing such an uproar. Many of the landless states did not wish to help pay for the protection of settlements on lands wrongfully claimed, so they thought, by other states.⁴⁶ Even Washington's intervention, which actually began with his plea for nationalism in the famous circular letter of 8 June 1783,⁴⁷ probably hurt as much as it helped. If he lent the "Sunshine" of his name to the plan, wrote David Howell, it would be evidence that the greatest man in the world was "but a man."⁴⁸

⁴⁴See, for example, Samuel Holten to Samuel Adams, 14 Aug. 1783, and David Howell to Thomas C. Hazard, 26 Aug. 1783, Burnett, Letters, VII, 263; VIII, 842.

⁴⁵Samuel Osgood to John Adams, 14 Dec. 1783, Ibid., VII, 415.

⁴⁶David Howell to Thomas C. Hazard, 26 Aug. 1783, Ibid., VIII, 842.

⁴⁷The letter, which called for the adoption of "a proper Peace Establishment" among other things, may be found in Fitzpatrick, The Writings of George Washington, V, 483-96. For its unfavorable reception in Virginia see the footnote on page 491 thereof.

⁴⁸Letter to Thomas C. Hazard, 26 Aug. 1783, Burnett Letters, VIII, 842-43. The citation also includes a denunciation of the circular letter.

Another Struggle on the Constitutional Question
(1784)

By the following spring the need for some solution to the problem had become more urgent. It seemed likely that garrisons might have to be sent to take over the frontier posts held by the British at almost any time, and men would certainly be required to protect the commissioners planning to visit the Indians in the Northwest. Most of the troops retained in service, less than seven hundred at Fort Pitt and West Point, were Massachusetts and New Hampshire men engaged during the war at twice the Continental pay. If they were kept on, Congress out of fairness to those two states would have to assume the extra expense, an action which it had so far refused to take. Meantime, the enlistments of many of the men would soon expire in any event.

Those who wanted to establish a federal army found little to encourage their hopes. Hamilton, Madison, and other nationalist leaders were no longer in Congress, and fears of constitutional infringements and regular armies continued to hang like a black cloud over New England. To make matters worse, a new champion of the rights of the states, Elbridge Gerry of Massachusetts, appeared out of all this darkness to bring light to the halls of Congress. With two states, Delaware and Georgia, absent the nine votes required to pass military measures seemed impossible of attainment, and a new complication had arisen in the changed

attitude of New York.

The state was engaged in two land controversies of long standing, one involving western territory also claimed by Massachusetts and the other the Hampshire Grants, where the Vermonters were attempting to form a separate state. In order to occupy these areas, or at least the first of them, New York had in 1783 requested Congress to permit it to raise five hundred troops.⁴⁹ At that time Hamilton, the leading New York delegate, by ignoring his instructions had prevented the request from affecting action of the peace establishment.⁵⁰ In 1784, however, the state importuned Congress to act on the measure before taking up plans to deal with the military problems of the Union itself. It also bitterly opposed the interim use of the existing troops with their large complement of Massachusetts men to garrison the posts because two of them, Oswego and Niagara, lay in the first of the disputed areas.⁵¹

In contrast to New England, the Southern and Middle States preferred to rely upon a federal army rather than the militia. With very minor defections, they voted as a bloc

⁴⁹Hastings, Clinton Papers, VIII, 108.

⁵⁰Hamilton to Clinton, 3 Oct. 1783, Henry Cabot Lodge, The Works of Alexander Hamilton (Federal ed., New York and London, 1904), IX, 388-94.

⁵¹Discussions of New York's attitudes may be found in Hugh Williamson to James Duane, 8 June 1784, Burnett, Letters, VII, 346-47, and in Gerry to Jefferson, 24 Aug. 1784, Ibid., 587-88.

on each question, achieving much more unity than the New England group. Their leadership appears to have been concentrated in the Southern delegations and included such men as James Monroe of Virginia, Jacob Read of South Carolina, and Hugh Williamson of North Carolina. They took the position that the right of Congress to raise troops was explicit and that it could not be given up without endangering the Union.⁵²

On 6 April a special committee consisting of Gerry, Howell, Ephriam Paine of New York, and Arthur Lee and John Francis Mercer of Virginia, presented a report that contained two main recommendations. Preparations should be made to occupy the posts with 350 of the troops in service as an interim measure, and 896 men should be raised for three years to replace them in the garrisons and to carry out other frontier duties. The states should "furnish" the new men according to quotas levied on each. Though the terminology of the report was not specific, it was obviously based on the assumption that Congress had the power to demand or requisition troops in peacetime.⁵³

The report must have surprised those who were not accustomed to seeing a cannon set off without any powder. Howell had been the arch foe of federal armies in the last

⁵²Williamson to the Governor of North Carolina, 30 Sept. 1784, Ibid., 594.

⁵³W. C. Ford and Hunt, JCC, XXVI, 201-07.

session, and Gerry was to play the same role in the present one. Lee and Mercer had never been known as either nationalists or army men, and Paine placed his state's request for troops first. Howell and Mercer, however, appear to have moderated their views as indicated by their subsequent attitudes,⁵⁴ and Lee, who was a member of the Indian commission, may have found his own skin of more concern than his scruples. These three, of course, constituted a majority of the committee.

The report was taken up on 25 May, and after some twenty roll call votes action was finally completed on 3 June. Proceedings were frequently interrupted by the efforts of the New Yorkers to call up their own measure and by those of Gerry and his colleague Francis Dana to exonerate Massachusetts and New Hampshire from the extra expense of their troops. The gentlemen from Massachusetts were also prodigal with amendments to insure that any troops be raised by "recommendation" to the states rather than by "requisition" on the states. These two words may require some explanation because they reflected the two different constructions of the military provision of the Articles. The first implied that Congress had no power to exact troops from the states, and the second that it did.

During the consideration of the report those favoring

⁵⁴ Howell's activities will be mentioned in the following pages. Mercer seconded several motions calling for a federal force. Ibid., XXVII, 432-33, 436.

a federal army presented two milder substitutes for the committee's plan. The first of these, which was submitted by Howell, provided simply for the raising of 450 men for three years. This was a compromise proposal in two respects. It stood half-way between the 896 men recommended by the committee and none at all, and since it did not contemplate the use of any of the troops in service it eliminated some of New York's objections. The second, which was moved by Edward Hand of Pennsylvania, differed only in that the number of new men was set at 896. A third substitute proposed by Monroe was similar to the committee's plan in requiring the use of the old troops but called for 700 new men instead of 896.⁵⁵

Howell's substitute was the first to be voted upon. Dana, a foe of Federal troops regardless of the number, no doubt recognized its compromise attractions and the resulting possibility of passage. In any event he unsuccessfully moved an amendment which would have required Congress to dismiss the new men on the request of five states. With the addition of only one state, New England could have determined the fate of the troops. He need not have gone to this trouble. The army bloc at the time intended to hold out for the larger number, and New York remained implacable. As a result, the plan, which obtained the votes of only New Hampshire,

⁵⁵Ibid., 428, 499.

Connecticut, and Maryland, suffered a perhaps undeserved fate. Meantime Hand's proposal also failed for the moment on a straight vote between the two blocs with New York joining New England.⁵⁶

On the 26th, Read renewed Hand's resolution,⁵⁷ but the big event of the day was Gerry's doctrinaire attack on the whole concept of federal troops. There was a difference of opinion in Congress, he said, as to whether that body had the authority to requisition troops in time of peace. A construction of the Articles permitting the requisition of a few men could be logically extended to include any number. Such a construction when coupled with the power to borrow money would constitute a real danger to the states. The standing armies that would result were unrepugnant, "dangerous to liberties," and "destructive engines for establishing despotism." Because of its isolated location the United States had no need for such troops. It should instead rely on the "well regulated and disciplined Militia" provided by the "plan of the Confederation." In any event the power of Congress to requisition was so doubtful that the delegates should consult their constituents before exercising it. Having delivered himself of these inspiring sentiments, he moved that recommendations instead of requisitions be sent

⁵⁶Ibid., 429-31.

⁵⁷Ibid., 432-33.

the states for the raising of any troops that might be immediately necessary. As soon as he had finished South Carolina moved the previous question, which was carried by a straight vote of seven to four. Read's motion was then lost when the four New England states were joined by New York in voting against it.⁵⁸

The plans of the committee and of Monroe calling both for the temporary use of the troops in service and for the raising of new forces were then considered. The former never came to a vote, but the latter was the subject of a hot fight that consumed all of one day and part of a second. In an apparent effort to make the bill more palatable to Massachusetts and New Hampshire the house finally approved with only one dissenting vote an amendment favoring those states in the matter of the extra pay of their troops. Though this important concession had been denied many times in the past, the two states did not come around. To the contrary Gerry found a method to preserve the advantage and at the same time dispose of the seven hundred federals in the bill. Realizing that he could not obtain the nine votes necessary to delete the pertinent clause, he simply moved that it stand, and thereby placed the burden of the ballot on the opposition. The seven hundred men and with them the crux of Monroe's plan fell on the roll call. Though Gerry

⁵⁸Ibid., 433-35.

could take only Massachusetts and New Hampshire with him against his own motion, Rhode Island, Connecticut, and New York divided with the result that the army bloc mustered only six votes. On the next vote the first part of the plan, that providing for the use of the existing troops, and the pay amendment went down together.⁵⁹

With the failure of Monroe's motion the army men apparently decided that nothing could be accomplished. They thus joined in a new plan presented in two separate motions to discharge the existing troops except eighty to guard the stores at Fort Pitt and West Point and to recommend that four states, Connecticut, New York, New Jersey and Pennsylvania, raise a total of seven hundred men from their militia for one year's service. These states were selected because they were the "most conveniently situated." Connecticut and New York were to furnish 165 men each; New Jersey, 110; and Pennsylvania, 260.⁶⁰ The plan was opposed only by New Jersey, which did not think the terms under which the men were to be raised consistent with its militia law, and by New York, intractable to the last.⁶¹ Gerry's victory was not complete, however, for the house beat down two amendments relating to

⁵⁹Ibid., 436, 499-502, 512-17, 519-20.

⁶⁰Ibid., 520, 526-27, 530-31, 538-40.

⁶¹Ibid., 520-24, 536-40.

the pay of the New Hampshire and Massachusetts troops.⁶²

The defeat of the resolutions which would have provided a federal army hardly reflected the majority opinion of Congress. An analysis of 14 key roll calls in which the two sides lined up against each other discloses some interesting facts in this respect. Out of 154 possible votes, 15 were thrown away as the result of divisions in the delegations and 139 were cast. Of the latter, the New England position on the several questions obtained 51 and that of the army bloc 88. Nor was the vote of New York, which was cast twice with New England and eleven times with the other side, decisive in a single case. All of this is to say that Congress adopted neither Gerry's apprehensions nor his solution. The latter, however, was forced on it by the voting rules of the Confederation. When the army bloc realized that it could never obtain the nine votes required, it simply bowed to realities. As Hugh Williamson sorrowfully wrote, "The minority however would not recede and we had recourse to a poor expedient, but the only one remaining, viz: To calling on certain States for Militia. The inefficacy and expense of this measure may probably give rise to better ones."⁶³

The solution was probably the worse that could have

⁶²Ibid., 520-23.

⁶³Letter to the Governor of North Carolina, 30 Sept. 1784, Burnett, Letters, VII, 594.

been devised. The experienced troops were not only discharged, but they could not be re-enlisted. Two of the four states designated to raise the new men had bitterly opposed the plan, and it seemed likely that either or both might refuse to raise their quotas. This they could do without subjecting themselves to serious criticism, for the law had used the fatal word "recommend." Furthermore the force to be raised was by no stretch of the imagination a national force. Not only was it limited to four states, which had been selected because of their proximity to the area of operations, but the commander was to be selected not by Congress but by Pennsylvania, the state furnishing the largest quota.

New York made no effort to raise its quota, and the other states delayed in taking measures to provide theirs. According to Governor George Clinton, who had been the moving force behind New York's drive for its own troops, the recommendation had not been received until after the state legislature had adjourned. Since it was then too late in the season (July) for the troops to be used, he had not thought the matter urgent enough to call the lawmakers back.⁶⁴ In mid-August both New Jersey and Pennsylvania passed acts for the voluntary enrollment of their quotas, and in October

⁶⁴Clinton to Arthur Lee, Richard Butler, and Oliver Wolcott (the Indian commissioners), 13 Aug. 1784, Hastings, Clinton Papers, VIII, 333.

the Connecticut legislature approved measures that Governor Matthew Griswold had taken to comply with the recommendation.⁶⁵

A Few Quasi Regulars (1785)

By 1785 plans for the sale of public lands in the Northwest had added a new element to the military problem. Though Congress expected huge profits, several difficulties would have to be removed before the money could be expected to pour in. Squatters were already moving on to some of the choice lands, to the great peril of the anticipated revenues, and the enthusiasm of prospective buyers of cautious mind was dampened by the Indian threat. Furthermore, it would be necessary to guard the surveyors when they were sent out. Many thought that the protection of the land from intrusion and the settlers and surveyors from tomahawks would require a better army than that already in service.⁶⁶ Meantime, the financial squeeze was becoming more severe, and most of the military problems of the previous year continued.

The committee appointed to consider these matters went directly to the point in its report delivered late in

⁶⁵New Jersey Acts, 1784 Aug. Sess., Chapter XXXVII; J. T. Mitchell and Henry Flanders (eds.), Statutes at Large of Pennsylvania (Philadelphia), XI, 354-56; Connecticut, Journal of the House of Representatives, 19 Oct. 1784, 169 (Microfilm Collection of State Records, Library of Congress, Connecticut, A 1 b, Reel 2, Unit 4).

⁶⁶W. C. Ford and Hunt, JCC, XXVIII, 88, 223-24. James Monroe to Jefferson, 12 Apr. 1785, Burnett, Letters, VIII, 90.

February. It set the military requirement at fifteen hundred men for three years and recommended that they be raised by requisition on all the states.⁶⁷ Congress, finding all this too much to swallow in one dose, broke the report down into several parts. On April 1 it dealt a blow to the hopes of the committee by reducing the force to seven hundred. A few days later on April 7 it voted down a motion by William Ellery of Rhode Island and Rufus King of Massachusetts that the troops be raised from the militia as in 1784. Only four states, Massachusetts, New Hampshire, Pennsylvania, and Rhode Island, favored the motion.⁶⁸

The most troublesome question, as in the past, concerned the Constitutional issue. This time, however, it was solved more on the basis of practical expediency than on that of dialectics. It was generally agreed that "requisition" was applicable only when exercised on all the states. However, the probability that the surveyors would soon need protection did not permit time to assemble quotas at large. Thus the apparent urgency of the situation dictated that the men be raised from the four states nearest the area in which they were to be employed. This in turn dictated that they be raised by "recommendation." Though many of the nationalists felt that continued neglect might diminish the power of "requisition," they were forced to give way to a logic they

⁶⁷W. C. Ford and Hunt, JCC, XXVIII, 88-89. The report was presented on 21 Feb.

⁶⁸Ibid., 223-24, 239-40.

themselves espoused.⁶⁹

On April 7 and 12 Congress, avoiding the bitter battles of 1784, recommended that the four states furnishing the militia of that year also furnish the contingent of 1785. The same quotas were established, and it was hoped that many of the troops in service would continue in the new force.⁷⁰ Upton refers to the new army as regulars,⁷¹ and indeed they were in one very important sense, the long term of enlistment. However, like the Continentals of the Revolution, they were raised and officered by the states, and since the word "recommended" had been used their very existence depended upon the states.

As in 1784 the states were slow in implementing the recommendations. Some of the legislatures not being in session, only Connecticut had passed the necessary legislation by July, and in that month Congress instructed Colonel Josiah Harmer, commander of the militiamen of 1784, to use his "best endeavors" to keep in service the Pennsylvania and New Jersey men, whose terms were expiring, until their states

⁶⁹These problems are discussed in Monroe to Jefferson, 12 Apr. 1785 and Monroe to Madison, [8?] May 1785, Burnett, Letters, VIII, 90, 115-16.

⁷⁰W. C. Ford and Hunt, JCC, XXVIII, 241, 247-48. The resolution of 7 April provided that "it be recommended to the states hereafter named" to furnish the men. That of 12 April named the four states.

⁷¹Upton, Military Policy, 69.

had acted.⁷² Pennsylvania finally put a bill through in September and New Jersey in late November.⁷³ New York ignored the whole affair for the moment. Meantime the lack of funds had become so critical that on 2 November Congress requested the states to suspend recruiting until 1 March 1786. With all this confusion it may be surprising to learn that about four hundred of the men were actually recruited in 1785 and about 180 in 1786. All except a small detail at West Point were marched to the Ohio country.⁷⁴

"A Little Rebellion" (1786-87)

In 1786 Congress was driven to uncharacteristically strong military measures by a "little rebellion" in Massachusetts. The uprising began in the late summer as debtors who had been losing their land by foreclosures devised a scheme to save themselves from jail and ruin. Under the leadership of Daniel Shays, Luke Day, and others, they fell in armed parties upon the courts which had been handing down foreclosures against them. Soon several western counties were in what appeared open revolt. On 29 August a force estimated at fifteen hundred closed the court at Northampton. At Worcester a week later a party seized the courthouse the night before the justices were to arrive.

⁷²W. C. Ford and Hunt, JCC, XXIX, 560.

⁷³Mitchell and Flanders, Statutes at Large of Pennsylvania, XII, Chap. 1171, p. 15-16; New Jersey Acts, 1785 Oct. Sess., 212-13.

⁷⁴W. C. Ford and Hunt, JCC, XXIX, 866; XXXIV, 578.

At Springfield on 26 September about eleven hundred insurgents forced the judges to adjourn after three days of near violence. Thereafter the commander of the government forces that had been gathered had been forced to release his men as a condition to the dispersion of the insurgents. Similar "outrages" were repeated at Great Barrington, Cambridge, and other places during October and November. In early December after again forcing the adjournment of court at Worcester, the insurgent leaders planned a march on Boston. The citizens of that city trembled, for it had long since become apparent that the uprising was not to be taken lightly. The "regulators," as the disaffected preferred to call themselves, were composed to a large extent of veterans of the Revolution, well versed in fighting. Organized into military units and wearing sprigs of hemlock in their caps, they had looked truly formidable as they paraded on court days.⁷⁵

The state authorities were able to do little to restore justice to its proper dignity. Proclamations did not seem to work, and the militia could not be relied upon in the affected counties. Much of it was following the rebel leaders, and when commanders managed to raise troops their

⁷⁵Excellent accounts of the closing of the courts and the entire progress of the rebellion are contained in Marion L. Starkey, A Little Rebellion (New York, 1955); Robert J. Taylor, Western Massachusetts in the Revolution (Providence, 1954); and Charles Martyn, The Life of Artemas Ward, The First Commander-in-Chief of the American Revolution (New York, 1921).

loyalty left much to be desired. At Springfield many of General William Shepard's men tore the white cards that served as the emblem of government from their caps, replaced them with the badges of rebellion, and fell in with the insurgents. At Great Barrington one of the justices, testing the reliability of his defenders, suggested to General John Patterson that the troops favoring the sitting of the court line up on the right of the road and those opposing it on the left. When the order was given, nearly eight hundred out of one thousand men went to the left. Until January the government with its forces either unwilling to fight or ready to desert seemed to command more snowstorms than completely reliable battalions. A nor'easter prevented the descent of the insurgents on Boston, and another a few days later took a heavy toll of their fortitude as they marched back to their homes.⁷⁶

As the intelligence of rebel successes and government paralysis began to pour in, Congress gave its imagination free rein. Fears that the government of the state, indeed all government, might be overthrown, that the very foundations of property might be destroyed, and that British "influence" was operating behind the scenes, circulated like

⁷⁶Starkey, A Little Rebellion, 29, 39, 59, 80, 104-05, 108. Taylor, Western Massachusetts in the Revolution, 144.

specters among the delegates.⁷⁷ Many of these cloudy apprehensions, which would have amazed the insurgents, were based on the reports of General Henry Knox, whom Congress itself had dispatched to the scene of conflict in late September. Whether or not Knox had misevaluated the seemingly modest intentions of the insurgents, he could point to the probability of some real trouble at Springfield. This town contained the federal arsenal, and the latter in turn contained some seven thousand stands of new small arms, thirteen hundred barrels of powder, large quantities of shot and shell, and a few field pieces.⁷⁸ If the rebels should seize these stores, their power and the consequent danger would be immeasurably increased.

The defense of the arsenal posed an immediate military problem that seemed almost insoluble. Since Congress had no troops to send, Knox had arranged with Governor James Bowdoin for the use of the local militia, but General Shepard's inability to protect the courts had not been reassuring. Indeed, it was likely that only the agreement by both sides to disband their troops had saved the stores on

⁷⁷See, for example, letters from Henry Lee to Washington, Oct. 1 and 17, 1786, Burnett, Letters, VIII, 474, 486; and letter from Edward Carrington to the Governor of Virginia, 8 Dec. 1786, Ibid., 516.

⁷⁸Joseph Parker Warren, "The Confederation and Shays Revellion," The American Historical Review, XI (Oct. 1905-July 1906), 44. Hereafter cited as J. P. Warren, "Shays Rebellion."

that occasion. Meantime, they were unguarded, it being feared that the raising of a detachment would incite the rebels to action.⁷⁹ With this heavy care and many general misgivings, Knox, Bowdoin, Rufus King, who was one of the Massachusetts delegates to Congress, and other state officials met in Boston about 8 October to decide what measures should be taken to meet the crisis.

While part of the work of the conference can only be conjectured, Knox reported many details to Congress. It was agreed, he wrote, that the stores at the arsenal should not be removed. To do so would not only require as large a force as to protect them in place, but it would also be a sign of weakness that would encourage the rebels. At the same time, it would be difficult to assemble men to form a guard without alarming the insurgents. If the state should attempt to raise the force, it would be impossible to preserve secrecy in the legislature, which was composed of "a variety of characters." On the other hand, the effort might be veiled behind a troop request from Congress. He added that five hundred federal troops should be placed at the arsenal and recommended that the army be augmented to fifteen hundred men.⁸⁰

⁷⁹Knox to President of Congress, Sept. 20 and 28 and Oct. 3 and 18, 1786, W. C. Ford and Hunt, JCC, XXXI, 675-76, 698-700, 751-53, 886.

⁸⁰Knox to President of Congress, Oct. 8 and 18, 1786; Ibid., 875, 886-88.

While this is as far as the Secretary's written reports go, it seems almost a certainty that the conferees concoted a more detailed plan. They could hardly have failed to ask themselves one question: Under what pretext could Congress request the raising of the troops? Fortunately the answer was not difficult to find, for it had been known since spring that the Indians were growing more hostile on the frontiers. In June, Knox had told Congress that fifteen hundred men would be required to protect the line from Fort Pitt to the Mississippi,⁸¹ and now he undoubtedly had all available information on recent developments. King mentioned the possibility of an Indian war to Gerry while he was in Boston at this time, and on his return to Congress, he played an active role in steering the troop request through Congress.⁸² It may or may not have been a coincidence that the fifteen hundred men Knox suggested in the report were precisely the number he had recommended in the summer for employment against the Indians.

There is more doubt as to whether the question of direct federal intervention was discussed at the conference. From beginning to end this matter was treated with great caution. It was felt both in Congress and out that a request for such assistance should properly originate in the state

⁸¹Knox to President of Congress, 21 June 1786, Ibid., XXX, 346-47.

⁸²J. L. Warren, "Shays Rebellion," 48.

legislature. Bowdoin for reasons involving both secrecy and the temper of the lower house was hesitant to broach the subject. In December, apparently long after the fact, Edward Carrington of Virginia wrote that the Massachusetts delegates had made a verbal application to Congress without the consent of the legislature.⁸³ The last body itself did not pass a resolution mentioning the matter until February after the members sympathetic to the insurgents had been thoroughly browbeaten. This measure, forced through the lower house only with great difficulty, simply requested the governor to inform Congress that the state was successfully suppressing the rebellion but that it would count on federal assistance in case of any emergency. Apparently some of the resistance to the measure came from government supporters who opposed federal interference as a matter of principle.⁸⁴

Soon after his return from the conference, Knox prepared new reports for Congress concerning the Indian troubles. Almost providentially letters had recently arrived from the frontier describing new and greater dangers. Major William North, inspector of the federal troops, had written on 23 August and again on 15 September concerning conditions in Kentucky and impending Indian attacks. Knox submitted these letters on 16 October and three days later he sent up

⁸³Letter to the Governor of Virginia, 8 Dec. 1786, Burnett, Letters, VIII, 517.

⁸⁴J. P. Warren, "Shays Rebellion," 61.

additional papers from Colonel Harmar, the federal commander. The intelligence was truly alarming and might in itself have justified army increases.⁸⁵

With all these reports concerning the Indians and the rebellion before it, Congress faced the crisis with courage and resolution that had long been absent from its chambers. On 20 October, a committee composed of Charles Pettit of Pennsylvania, Henry Lee of Virginia, Charles Pinckney, John Henry of Maryland, and Melancthon Smith of New York presented a dramatic review of the Indian danger. The disaffected tribes of the Northwest were gathering in the Shawnee towns to form a league against the United States. Their strength was expected to reach one thousand fighting men when all the dissatisfied groups had been drawn in, and their war parties had already begun to move against the settlers. The temper of the Indians both in the North and South together with the efforts being made by Great Britain and Spain to incite them against the United States all pointed to the probability of a general Indian war.⁸⁶

The committee then recommended that a new force of 1340 men be raised for three years for the defense of the frontier and that it be united with the old troops to form a

⁸⁵W. C. Ford and Hunt, JCC, XXXI, page 891 footnote. The letters from Major North and the Indian danger in general are discussed in J. P. Warren, "Shays Rebellion," 51-55.

⁸⁶W. C. Ford and Hunt, JCC, XXXI, 891-93.

legionary corps of 2040. According to the quotas suggested by the committee, almost all of these Indian fighters would be enlisted in New England. Massachusetts would furnish 660, almost half of the total; New Hampshire, 260; Connecticut, 180; and Rhode Island, 120. Only the cavalrymen would come from other areas with Maryland and Virginia providing 60 each. With unaccustomed unanimity Congress approved these recommendations, and requested the several states concerned to raise the troops as rapidly as possible, calling special sessions of their legislatures if necessary.⁸⁷

The next day the same committee rendered a secret report recommending that the new troops be employed in Massachusetts. The report first buried the constitutional questions involved under the doctrine of necessity. The Massachusetts General Court, it said, would undoubtedly defeat any effort on the part of the governor to formally request federal interposition. However, such interposition was necessary to protect the arsenal, put down the insurgents, and prevent civil war. Under such circumstances the United States was "bound by the confederation and good faith" as well as by "friendship, affection, and sound policy" to help restore the government of the state to its full constitutional authority.⁸⁸

⁸⁷Ibid.

⁸⁸Ibid., 895-96.

It was not, however, the report continued, expedient that Congress assign such a reason for the raising of the necessary troops. Fortunately the intelligence from the frontier had provided grounds to authorize the augmentation on an entirely different basis, as the committee had recommended the day before. Since the new troops were to be raised in the Eastern States, they could easily be used in Massachusetts before they were marched to the western country. In a second show of unanimity Congress agreed to the report and placed the matter under injunction of secrecy.⁸⁹

It completed this series of bold measures by authorizing the Board of Treasury to borrow \$500,000 to support the new troops. In order to stimulate leaders it placed a requisition on the states for both the principal and the interest, the quotas to be paid in by 1 June 1787. Then remembering its war and postwar experiences with unpaid troops it passed a strange resolution that warned the monied class not to be dilatory in taking up the loan. Congress had taken "the perilous step" of arming men whose fidelity depended upon the prompt payment of their wages, it read, only on the understanding that the "money-holders in the State of Massachusetts and the other States" would make every effort to put up the money.⁹⁰

⁸⁹Ibid., 896 and footnote on same page.

⁹⁰Ibid., 893-94, 896.

Congress, reflecting the general concern that military preparations would cause the insurgents to move, apparently intended that the secrecy injunction be strictly observed. However, secrecy had its drawbacks and the ruse was more or less transparent anyhow. The state governments could be expected to act more rapidly in raising the men and money if they had full knowledge. Soon the delegates were leaking the real purpose of the augmentation to their governors.⁹¹ In Massachusetts when Governor Bowdoin went before the General Court to ask for the troops, he solemnly acted out the farce.⁹² No one was deceived. The country members laughed upon learning that the men were to be employed against the Indians.⁹³ Even in far off Paris, Thomas Jefferson, though not completely aware of the seriousness with which Congress looked upon the rebellion, easily saw through the camouflage. It was "a new idea," he wrote, to raise an army in the East for the purpose of fighting the Shawnee in the West.⁹⁴

⁹¹See, for example, Charles Pettit to the President of Pennsylvania, 23 Oct. 1786, Burnett, Letters, VIII, 491; Edward Carrington to the Governor of Virginia, 8 Dec. 1786, Ibid., 517-18.

⁹²J. P. Warren, "Shays Rebellion," 56.

⁹³Gerry to King, 29 Nov. 1786, Charles R. King (ed.), The Life and Correspondence of Rufus King, Comprising His Letters, Private and Official, His Public Documents, and His Speeches (New York, 1894-1900), I, 197.

⁹⁴Jefferson to William Stephens Smith, 20 Dec. 1786, Boyd, The Papers of Thomas Jefferson, X, 620.

Although all states except Maryland soon passed laws to raise their men,⁹⁵ recruiting got underway slowly. The immediate difficulties lay in the lack of money to begin enlistments and the inability of Congress to provide the required food, clothing, and shelter. Virginia and Connecticut dealt with the first problem by putting up funds themselves,⁹⁶ and the Massachusetts General Court authorized the treasurer to borrow £ 2500 for the purpose.⁹⁷ Rhode Island and New Hampshire waited expectantly for the central government to advance the necessary cash.⁹⁸ Meantime the Board of Treasury, responsible not only for finding the supplies but also for floating the Continental loan, began what was to prove a long and fruitless search for willing contractors and liberal "money-holders."

In Massachusetts, where the bulk of the troops were to be raised, the warpath was strewn with unusually large

⁹⁵Knox to President of Congress, 12 Feb. 1787, W. C. Ford and Hunt, JCC, XXXII, 39; Massachusetts Resolves, 1786 Sept. Sess., (30 Oct. 1786), 124-26; Rhode Island Acts and Resolves, 1786 Oct. (2) Sess., 8-9; Laws of Virginia, 1786 Oct. Sess., 11. The Connecticut act is mentioned in the Journal of the Lower House, 30 Oct. 1786 (Microfilm Collection of State Records, Library of Congress, Connecticut A 1 b, Reel 2, Unit 5). A search of the session laws failed to reveal the New Hampshire act.

⁹⁶Knox to President of Congress, 12 Feb. 1786, W. C. Ford and Hunt, JCC, XXXII, 40.

⁹⁷Massachusetts Resolves, 1786 Sept. Sess. (Oct. 30, 1786), 124-26.

⁹⁸Knox to President of Congress, 12 Feb. 1786, W. C. Ford and Hunt, JCC, XXXII, 40.

boulders. The loan opened by the treasurer brought little or no response. Finally in December General Henry Jackson, who had been appointed to raise and command the men, began recruiting on the doubtful strength of money pledged to be paid later. By the end of the month he had enlisted only seventy men. He suffered further embarrassments in January as the state government, stung into action by another court closing, began to raise a large force of its own. The wealthy men of Boston opened their purses for this project, and recruits, knowing they would be paid, turned out by the thousands.⁹⁹ With prospective soldiers showing such a heavy preference for the state service, Jackson's contingent grew even more slowly. While it is not the purpose here to investigate the failure of the Massachusetts "money-holders" to support Jackson, it is likely that they had more confidence in the ability of the state to repay its obligations than in that of the Congress.

By 21 January, when the state troops under General Benjamin Lincoln began their move against Shays, it is unlikely that more than a fifth of the 1340 federal troops had been enlisted. This was not enough to be a factor in a campaign involving thousands, and they were not employed, though for other reasons. Knox, dissatisfied with Massachusetts' failure to assist with funds, overruled suggestions

⁹⁹J. P. Warren, "Shays Rebellion," 57-59.

that the men from that state be placed at Lincoln's disposal. On February 9, after the rebels had been dispersed, he finally ordered the Connecticut and Massachusetts forces to Springfield but limited their use to the defense of the arsenal. The Massachusetts men were to move only when the state provided them with supplies. Colonel Daniel Humphreys, Washington's former aide-de-camp, and the Connecticut troops reached that town on February 24. The Massachusetts contingent, not receiving the required aid from the state, did not march.¹⁰⁰ The final strength returns showed that Massachusetts eventually raised about 300 men, Connecticut about 150, and Virginia its complete quota of 60. New Hampshire, Rhode Island, and Maryland did not enlist a single man.¹⁰¹

This debacle was due primarily to the financial embarrassment of Congress. Everything depended upon the success of the loan, and this in turn depended upon the way in which the states met the requisitions for its repayment. Only Virginia, which placed a tax on tobacco, took any action at all, and the resulting revenue was not likely to be enough to meet her entire quota. As a result, none of the "money-holders," not even those of Boston, showed the least interest in subscribing money. Without the loan it was virtually

¹⁰⁰Ibid., 60-62; Massachusetts delegates to the Governor of Massachusetts, 21 Feb. 1787, Burnett, Letters, VIII, 544.

¹⁰¹J. P. Warren, "Shays Rebellion," 65.

impossible to let contracts to feed and clothe the men after they were raised.¹⁰² Knox and the Board finally prevailed upon Robert Morris and Jeremiah Wadsworth to undertake the business on a contingency basis. In February the unwilling purveyors decided that the cost of patriotism was too high for their pocketbooks. They withdrew, and no further contracts were arranged.¹⁰³

Meantime, matters were made even worse by the failure of the states to pay the general requisition of the preceding August. As a result the Board informed Congress on 7 February that it would be unable to meet the payment on the foreign debt.¹⁰⁴ This announcement of virtual bankruptcy, though not unexpected, forced Congress to review its enlistment program. The only question seemed to be which would vanish first, the program or the insurgents, for it seemed desirable for psychological reasons to delay the revelation of weakness as long as possible. Fortunately Lincoln's legions had already completed their epic march through the blizzard and the black night to Petersham, and the stunned insurgents were running to cover in adjacent states. On 14 February, presumably after news of this success had arrived,

¹⁰²Board of Treasury letter, 7 Feb. 1787, W. C. Ford and Hunt, JCC, XXXII, 32-34.

¹⁰³J. P. Warren, "Shays Rebellion," 57-59.

¹⁰⁴Board of Treasury letter, 7 Feb. 1787, W. C. Ford and Hunt, JCC, XXXII, 32-34.

Charles Pinckney moved that further enlistments be suspended. Two days later a special committee appointed to consider both the motion and the Treasury letter recommended that a decision be deferred for the moment, but Pinckney renewed his resolution on the nineteenth when the report came up for consideration.¹⁰⁵ He argued that the rebellion had been crushed and that the states had not complied with the requisition for funds to support the troops. It would be folly, he continued, to raise men who could not be "paid cloathed nor fed." At the end of the war we had managed "to get rid of an armed force without satisfying its just claims," but it would be dangerous to repeat the experiment.¹⁰⁶

When Rufus King of Massachusetts arose to oppose the suspension perhaps he heard again for a moment the lost echos of Gerry's voice condemning standing armies and reflected upon the irony of his own position. According to Madison he made a "pathetic" appeal that the enlistments be continued for several weeks more. There was no assurance, he said, that Lincoln's success had been complete. Furthermore, the punitive measures the state government might take, particularly in disfranchising the insurgents, would no doubt arouse public sympathy for those affected. If Congress stopped enlistments under these circumstances, it would appear that

¹⁰⁵W. C. Ford and Hunt, JCC, XXXII, 57, 61-64.

¹⁰⁶Madison's "Notes of Debates in the Continental Congress," W. C. Ford and Hunt, JCC, XXXIII, 719.

she had abandoned the state government and disapproved its measures. This might encourage the disaffected to create new disturbances. It should also be realized, he continued, that rebellion might occur anywhere with the result that other states would be asking support in the same strain as Massachusetts.¹⁰⁷

What King really wanted was the shadow not the substance of the federal army, as his further comments disclosed. Congress could grant Massachusetts this indulgence, he said, without inconvenience to itself. Even though the enlistments were not suspended, few men would enter the federal service while the state itself was still recruiting. It was natural that men should prefer to serve at home and receive their pay rather than to be sent to Ohio to fight Indians for nothing.¹⁰⁸

Pinckney rejoined sharply that Massachusetts in adopting such stringent punitive measures should be left alone to bear the consequences of its own misconduct. Madison spoke strongly in support of King. After admitting that the Confederation did not expressly authorize Congressional interference in the internal affairs of the states, he said that he would not examine the question at the moment. Having thus disposed of the pangs of conscience by ignoring them, he

¹⁰⁷Madison's "Notes . . .," Ibid., 719-20.

¹⁰⁸Madison's "Notes . . .," Ibid., 720.

repeated most of King's arguments. These must have been effective for in the roll call that followed, the motion to suspend was lost, and the matter was placed under injunction of secrecy for two months.¹⁰⁹ When it was turned up again early in April a new committee recommended that the act for raising the men be repealed and that those already enlisted be retained for use on the frontier. The Congress decided to retain only the two companies of artillery raised in Massachusetts and directed that they be marched to Springfield to replace the Connecticut troops there. Only Massachusetts and Rhode Island opposed this solution with New York dividing.¹¹⁰

Thus Congress, which had boldly grabbed for its sword at the moment of danger, never got it out of the sheath. It had seen the peril, though perhaps in overcolored tones, and had acted with resolution that will bear favorable comparison with the initial movements of the government at the time of the Whiskey Rebellion. Its efforts had been defeated by the lack of funds and by the failure of the states to support the strong measures that seemed to be required. Its consequent inability to influence the outcome of the rebellion was a dramatic demonstration of its weaknesses. In stopping the enlistments, as one writer puts it, "it seemed to be letting

¹⁰⁹Madison's "Notes . . .," Ibid., 720-22.

¹¹⁰W. C. Ford and Hunt, JCC, XXXII, 153-54, 158-60.

slip its last actual hold on power."¹¹¹ The men who would soon be meeting in convention at Philadelphia hardly failed to remark these facts.

Though Congress had made use of the Indian threat as part of the stratagem, it had not manufactured the evidence. The danger was actually serious enough to have justified the raising of the troops for frontier defense along. This, of course, is not to say that Congress in view of financial conditions could have been brought to raise them for that purpose. Fortunately by the time the enlistments were suspended the danger had temporarily abated.¹¹²

Some More Ineffective Plans (1787-89)

After a short remission the Indian trouble flared up again in the early summer of 1787 and continued through the following year. The main scenes of action were Kentucky and the Georgia frontier. The former was constantly ravaged by raids, and the situation in Georgia became so threatening that fortifications were begun at Savannah itself. However, there was also danger in other quarters. North Carolina and the Cherokees engaged in another of their never-ending quarrels over land, and out of the dim woods of the Northwest came a threatening letter from Joseph Brant, the Iroquois

¹¹¹J. P. Warren, "Shays Rebellion," 65.

¹¹²Ibid., 53-55, 66.

chieftain.¹¹³ He had formed a confederation of all the tribes of the area and in their name demanded a settlement of the boundary question on the Ohio line. The Congress met these dangers by renewing the army, by making vague plans to send out large forces to restore order, and by undertaking to make general treaties with the Indians in both the North and the South. Its job was made infinitely more difficult by the failure of Georgia and North Carolina to cooperate fully.

In the new army act, which was passed on 3 October 1787, Congress in effect extended the act of April 1785 for another three years. The same states--Connecticut, New Jersey, New York and Pennsylvania--were directed to raise seven hundred men for that period according to the old proportions. It was, of course, hoped and expected that many of the veterans of the original force would re-enlist.¹¹⁴ Since the terms of the Massachusetts artillerymen still had about two years to go, the over-all composition of the army remained unchanged.

By the middle of June 1788, Connecticut, New Jersey, and Pennsylvania had enrolled a total of 250 men, less than half the number required of them. The New York legislature, as usual, had delayed in acting, but through a mistake the

¹¹³Ibid., 66-67. Though the letter from Brant was dated 18 Dec. 1786 it was not submitted to Congress by Knox until 18 July 1787. W. C. Ford and Hunt, JCC, XXXII, footnote page 369.

¹¹⁴W. C. Ford and Hunt, JCC, XXXIII, 596-97, 602-03.

recruiting of the state's quota had gotten off to an unwontedly fast start. The officers with the troops, unaware of the neglect of the legislature, busily began to re-engage their men and sent a party back from Fort Harmar to raise more at home. The party soon returned empty-handed except for news indicating the extra-legal status of the re-enlistments.

Though New York apparently never legalized the enrollments, Secretary Knox was able to relieve the officers of their embarrassment. As he reported to Congress, the soldiers engaged were mostly foreigners and they had continued in the service of the United States "without any regard for the quota of any particular state." Thus they might be retained.¹¹⁵

As formerly, the army was inadequate to meet special threats. When Virginia applied for aid in the defense of Kentucky in the summer of 1787, Knox reported that fifteen hundred additional men would be required to fully protect the Western territory. Since financial considerations precluded their being raised he recommended that a treaty be made with the Shawnee and other Wabash groups and that fifteen hundred militia be drawn from Kentucky and Pennsylvania for offensive operations in case the Indians would not come to terms. Any such expedition should be commanded by the commanding officer of the United States troops. Congress approved the recommendations but reduced the militia force to one thousand, all to

¹¹⁵Ibid., XXXIV, 236-38.

be taken from Kentucky.¹¹⁶

At the same time Knox reported on the dangers to be apprehended from Brant's confederation. It had become so threatening that the United States would have to either fight or make a treaty settlement. If the former were the case, the lack of funds would require that the militia be employed, and the campaigns would cost about two million dollars. He recommended that a general treaty be made with the tribes involved and that money be provided to extinguish their land claims. Payments should be made even in cases in which ownership had passed to the United States by prior treaties. In October Congress approved these recommendations after expanding them to include the Southern Indians.¹¹⁷

The difficulties with Georgia and North Carolina arose over the interpretation of the constitutional provisions relating to Indian affairs. At the time the two states were engaged in land disputes with the Creeks and the Cherokees, and large scale war seemed certain unless the United States intervened. However, under the Articles the central government could deal only with Indians not subject to the government of a state, and in these cases it was prohibited from infringing the "legislative right of any state within its own limits." The Creeks were an independent tribe, not a part of

¹¹⁶Ibid., XXXII, 327-31, 370-76, XXXIII, 385-87.

¹¹⁷Ibid., XXXIII, 388-91, 478-80, 611-12, 665-66, 696, 701-13.

Georgia, but the state exercised legislative jurisdiction over the disputed area. The same conditions existed with respect to North Carolina and the Cherokees. Knox in a report of July 1787 suggested that the states might be prevailed upon to cede the lands to the United States.¹¹⁸

When the matter came under consideration, the Georgia delegates moved that Congress call upon their state to make every effort to preserve peace and that Congress itself assume the responsibility of punishing any tribe of Indians making war on any of the states. A special committee attributed the danger of war to the encroachments of the two states, and made a long analysis of the constitutional question, arriving at conclusions that favored the power of the Union. It then levied a scathing attack on the Georgia motion. It could not, of course, be the purpose of the Georgia delegates to imply that Congress was bound to send its forces out and recall them, to make war and peace, as that state might wish. To the contrary the delegates must have meant that wars against independent tribes should be conducted by the Union, at least in cases in which its forces were employed. But the power to make war clearly implies the right to examine into the justice of the reasons for which the war is to be fought. In this particular case the reasons were hardly just. Whatever might be the interpretation of the motion, however, the problem could best be met by the

¹¹⁸Ibid., 366-68.

measure proposed by the Secretary of War. The report closed with several recommended resolutions, including one covering the land cession, but they do not appear to have been acted upon.¹¹⁹

Meantime, the Southern Department was included in the plans for general treaties as noted above. When the Creeks refused to make peace and continued their incursions, Congress in the summer of 1788 finally resolved to inform them that continued refusal would result in the sending of United States troops to the frontier, and Knox drew up a plan for that eventuality. Every effort should be made, he reported, to terminate the conflict in a single campaign. Since no United States troops could be shifted from the Ohio, the alternatives were to employ large bodies of militia or to raise a special force of United States troops. The latter was to be preferred as being both cheaper and more efficient. Twenty-eight hundred men, organized into three regiments of infantry, one regiment of cavalry, and a corps of artillery, would be required for nine months. They might be apportioned as follows: Georgia, 1050; South Carolina, 840; and North Carolina, 910. Since this plan comprehended about five times as many troops as were then in service it is small wonder that it aroused little enthusiasm in Congress.¹²⁰

¹¹⁹Ibid., 407-08, 455-62.

¹²⁰Ibid., XXXIV, 253, 268-69, 327, 362-65.

These plans were like the last ineffectual blows of a broken sword. The militia of Kentucky was not called out, at least not for great operations under a Continental commander, and the twenty-eight hundred regulars did not magically appear to march off through the Southern forests after the elusive Creeks. Congress made one or two more final feeble parrys in the late summer of 1788 when it toyed with the idea of federal interposition to protect the Cherokees from further encroachments by North Carolina and again planned to hold militiamen in readiness for use against the Northern Indians.¹²¹

¹²¹Ibid., 342-44, 369-71, 412-14, 478-79.

CHAPTER III

THE MILITIA UNDER THE CONFEDERATION

After the war, interest in militia activities reached a new low in most places, but leading military thinkers nevertheless brought forward plans to recast the militia system on new principles. Though the need for change had become evident during the war, Congress ignored the suggestions of the reformers. Meantime, as the Indian pressure increased south of the Ohio, the quasi-military state of Franklin was organized as a defense measure, and it expended its short life in endless battle with the Indians and with the mother-state, North Carolina. Its history illustrates two of the characteristic military phenomena of the era: the leading role played by the militia in new state movements and the use of troops by rival states in contests over land ownership and jurisdiction. These phenomena were also present in varying degrees in the new state movements and land conflicts in the Wyoming Valley and the Hampshire Grants.

Darkness with a Few Centers of Light

Frederick von Steuben, former inspector general of the Continental Army, attributed the nationwide lack of

interest to the inadequacies of the state laws and the failure to enforce them. Among the most important of the former, he wrote, was the fact that a militiaman could save money by absenting himself from musters. He showed that the total annual fine for this offense in Pennsylvania was a few shillings less than the several day's income lost during attendance, and his finding probably applied to most states. Few militiamen would willingly sacrifice the money, he continued, when the training they received was so ineffective. They could look with nothing but indifference upon such a "business" that had no "pleasing or professional features."¹

The lack of enforcement was noted in the spring of 1785 by Richard Dobbs Spaight, a delegate to Congress from North Carolina. Few of the states, he wrote, had organized and armed their militia and fewer still had taken steps to procure military stores.² These remarks certainly applied to New Hampshire, Massachusetts, and North Carolina. In New Hampshire in early 1785, many field officers had been appointed, but they had neglected to nominate company officers. Despite the energetic efforts of General John Sullivan, first

¹Frederick von Steuben, "A Letter on the Subject of an established Militia, and Military Arrangements, addressed to the Inhabitants of the United States," Parts I and II, Connecticut Courant and Weekly Intelligencer, Mar. 22 and 29, 1785.

²Letter to James Iredell, 10 Mar. 1785, E. C. Burnett (ed.), Letters of Members of the Continental Congress (Washington, 1921-36), VIII, 64. Hereafter cited as Burnett, Letters.

as senior officer of the militia and later as president of the state, the disorganization persisted. In the spring of 1787 the field officers of five regiments requested the postponement of a scheduled review because of the "deranged" condition of their commands.³ In the summer of the same year, when some difficulties occurred in a cavalry unit, the confusion was reflected in a letter from one of the officers to President Sullivan:

Sir I fancy you think the Field Officers of the third Regiment of Light Horse, either regardless of their duty or Ignorant of it--so far as it Respects my self I am willing to confess the latter but the former I cannot--I therefore beg your Excellencys patience while I say something on a subject with which I am unacquainted. . . . A Commission is all I have received, and this has had its weight for I was as much Puzzeled to know what to do with it as a clown is with his hat and hands on his entering into Genteel Company--I therefore stood gaping, but feeling a strong inclination to do something and not knowing what--I have been running round and round like a puppy after its tail--I flew to my Colonel for direction but found him in as bad or worse situation then myself--to my Majr and it was no better--⁴

In Massachusetts in 1786 the militia laws were ignored on a wholesale basis. General officers were not making returns, units were not electing officers, and commanders were failing to muster and train their units. Many towns had not laid in and kept up the required ammunition supplies. Governor James Bowdoin, after receiving complaints of these

³Otis G. Hammond (ed.), Letters and Papers of Major-General John Sullivan, Continental Army ("Collections of New Hampshire Historical Society," Vol. XV, Concord, 1930-39), Part III, 386-92, 412-13, 431-32, 440-41, 520, 525. Hereafter cited as Hammond, Sullivan Papers.

⁴William Page to President John Sullivan, 4 June 1787, Ibid., 530-31.

conditions, issued public orders requiring their correction. His "measures . . . to revive the military spirit" included specific instructions to each rank of officers from generals down to captains.⁵

North Carolina apparently had not laid in the necessary military stores. In 1786 the assembly directed that a battalion be raised in the eastern part of the state for service against the Indians on the Cumberland. The commander faced almost insurmountable supply difficulties in getting his men to their destination. He charged that he had been furnished only a fraction of the provisions required for the march of four hundred miles "through a wilderness and in a strange State where no supplies could be had either on public or private credit." Nor could he have paid cash, for the quartermaster had refused to issue him a single shilling. He furloughed his men in Kentucky, which was on his necessarily round-about route, so that they could work to earn provisions for the rest of the trip. After long delays and many vicissitudes the troops finally reached Nashville in October 1787, ragged, hungry, and greatly reduced in numbers.⁶ They looked so little like fighting soldiers that the Cumberlanders could

⁵"Public Orders respecting the Militia," given at the Council Chamber in Boston, 14 Aug. 1786, Connecticut Courant and Weekly Intelligencer, 21 Aug. 1786.

⁶Samuel C. Williams, History of the Lost State of Franklin (Johnson City, Tennessee, 1924), 121, 148, 170-171, 173-74. Hereafter cited as Williams, Lost State.

take little comfort in their presence, and the Indians must have yawned.

Examples such as the above could no doubt be multiplied indefinitely, but though they described the prevailing conditions they do not tell the whole story. Here and there a few energetic men did their best to put the militia on a sound footing, and in several places interest ran high among militiamen at large. General Sullivan is an excellent example of the military enthusiast. He made public addresses in New Hampshire extolling the importance of the militia and urged his listeners, many of whom had been avoiding service by the payment of the fines, to start attending musters. He inspected the troops assiduously, did all possible to insure that deficiencies were corrected, and published regulations for the light horse. After becoming chief executive of the state he urged improvements in the militia laws and continued to give much time to reviews and other militia matters. He was one of the first to suggest that military training be made a part of the curriculum of schools. Though he was unable to overcome all the inertia and disinterest that existed, his influence undoubtedly greatly decreased both the number of clowns, to use the word of the puzzled officer, and the number of disorganized units.⁷

⁷Hammond, Sullivan Papers, Part III, 385-93, 399-407, 412-13, 432-37, 441, 456, 460-62, 479-81, 493, 525-26, 552, 600.

Among the places that the military spirit needed little fostering were some sections of the frontier and New York City. The Franklin troops in East Tennessee were undoubtedly the best on the continent, and those of Washington County in southwestern Virginia were also excellent. Governor Patrick Henry told the legislature that the latter had awed the Indians into friendship and referred to the county as a "nursery of soldiers."⁸ In New York City the interest of the townsmen in militia activities greatly impressed observers in 1787. It was reported that an experienced officer had been employed at a large salary to supervise training and that about eight hundred men were enrolled in independent companies. These last were completely uniformed, well disciplined, and commanded almost entirely by Continental veterans. They paraded on Sundays "with bold presumptuous steps, Martial music, Swords and guns as though they were determined to take Heaven by force and arms."⁹ Gold epaulets could no longer be obtained in the city because young officers had bought up the existing stocks.¹⁰

⁸W. P. Palmer and others (eds.), Calendar of Virginia State Papers (Richmond, 1875-1893), IV, 34.

⁹Nicholas Gilman to the President of New Hampshire, 7 Nov. 1787, Burnett, Letters, VIII, 676.

¹⁰William Pierce to Sullivan, 24 May 1787, Hammond, Sullivan Papers, Part III, 528.

The Need for Reform

The need for reform of the militia system stemmed both from its inherent weaknesses and from its lack of uniformity in the states. Most important among the former were inadequacies related to training and mobilization. The lack of uniformity was most serious in the provisions regulating membership and in those determining organizational structure. Both the weaknesses and the variations may be illustrated by the analysis of a sample of the militia laws covering six northern and middle states--Connecticut, Delaware, Massachusetts, New Hampshire, New Jersey and Pennsylvania.¹¹ It is likely that the defects in the laws of the remaining states were equally marked.

Membership in the militia of any state was dependent upon one's age and occupation. In the six states in the sample, the ages of obligatory service ranged from sixteen to forty-five on one extreme and from eighteen to fifty-three on the other. In two of the states men finishing their service in the "trainbands," or ordinary militia, were required to serve in "alarm list" companies until they were sixty.

¹¹The several acts may be found in the state session laws and collections as follows: Connecticut, 1782 May Sess., 585-99; Delaware, 1785 June Sess., 57-66; Massachusetts, 1785 Jan. Sess., 219-30; New Hampshire, 1786 June Sess.; New Jersey, 1780 Oct. Sess., 39-54 (Microfilm Collection of State Records, Library of Congress as follows: Connecticut, B 2, Reel 1, Unit 8; Delaware, B 2, Reel 1, Unit 3; Massachusetts, B 2 a:b, Reel 3, Unit 3; New Hampshire, B 2, Reel 1 a, Unit 5; New Jersey, B 2, Reel 4, Unit 2.) J. T. Mitchell and Henry Flanders (eds.), Statutes at Large of Pennsylvania (Harrisburg, 1896-1915), X, 144-73 (act passed 20 Mar. 1780).

One state exempted only four occupational groups, the others from thirteen to twenty-two. Variations of these types were unfair to large groups that were compelled to serve in some states, while their counterparts in others went free.

The primary organizational differences were no less striking. Two states, as already noted, divided their troops into two groups, the "trainbands" and the "alarm list" units. The former were composed of men under forty and were intended for general service. The latter, made up of the older men, were used only as a reserve for home defense. One state retained the obsolescent institution of the "county lieutenant," a man of rank much higher than the title indicates, who served as the head of the militia in his territorial division. In one state the highest tactical unit was the battalion; all of the others had brigades and two had divisions. The number of men in a company might be as few as 24 in one state and as many as 125 in another. Though all but one of the states provided for independent corps of artillery and cavalry, the sizes of these units, their proportions to the infantry, and their organization into higher units were far from uniform. Variations such as these seriously handicapped the operations of combined forces. For example, a combat task that could be performed by a company from one state might require a battalion from another.

The laws prescribed two basic types of mobilization procedures. In three states the men of each company were

divided into eight classes by the drawing of lots. When troops were required, the classes were called out in rotation, and their members assembled at central points, where they were formed into new units. In case of emergencies the governors of these states were also authorized to embody complete units. In the remaining three states, quotas for the divisions or brigades were established by the governors, and these were broken down at each organizational level until the companies were reached. The company commanders then detached the number of men required to fill their allocations. In both the class and the quota method the troops were rotated after no more than about two months service. Both this short term and the slow and cumbersome procedures of the two methods were disabling defects. Though the method involving the embodiment of complete units produced troops fairly rapidly, it was not the preferred procedure in the states in which it was authorized.

The effectiveness of training was to a large extent dependent upon the number of training periods and the penalties for enforcing attendance. None of the states required more than seven muster days per year, and the average for the group was five, hardly enough to turn out practiced soldiers. The average fine for absence at company musters was about six and a half shillings, and only two states provided higher fines for the same delinquency at regimental musters, these being ten shillings in each case. It has

already been noted that men in most states could save money by staying away from training and paying the fines.

The ability of the states themselves to correct the weaknesses in their laws was severely limited. It is not conceivable that they should have arrived at uniformity either by accident or by design, and the extent to which they could have increased such things as the number of training days and the size of fines hardly promised much improvement. In the case of the training days, for example, as will be shown in the following section, economic considerations alone would have precluded really effective revisions.

In any event, the states as a whole did not seem disposed to undertake the impossible. Between 1783 and 1789 only five passed new general militia acts, and these did little more than make minor adjustments in the old ones.¹² In some cases postwar legislation actually worked to the detriment of efficiency. Thus Pennsylvania completely abolished company musters, and reduced the fine for absence at battalion musters.¹³ The nature of the problem, the failure of the states to make even minor improvements, and the fact that new theories of militia organization were evolving seemed to indicate the need for federal action.

¹²The states were New Hampshire (1786), New York (1786), North Carolina (1786), Vermont (1787), Virginia (1785).

¹³Mitchell and Flanders (eds.) Statutes at Large of Pennsylvania, XIII, 41-44 (act passed 22 Mar. 1788).

The Reformers and Their Failures

All of the radical new plans for the reform of the militia reflected an equally new understanding of certain aspects of the militia problem. It had been learned during the war that four or five days' training each year did not make good soldiers and that a few well-trained men were worth many times their weight in raw troops. It had also been realized that fewer men were required for defense than had formerly been thought necessary. What was the need, asked von Steuben, of trying to keep up hundreds of thousands of militiamen when England had been able to send no more than forty thousand men against us at one time and when no country was capable of sending a larger number?¹⁴ Finally it appeared that it was not economically feasible to attempt to make properly trained soldiers out of the great mass of the militia. Four hundred thousand men, the entire labor force of the country, could not be mustered the requisite twenty to thirty times a year without suffering losses of income that would affect not only themselves but also their communities.

All of these considerations pointed to the basic conclusion that the militia defense should rest primarily upon a relatively small and highly trained corps formed from the militia at large. According to the authors of the several

¹⁴von Steuben, "Letter . . . to the Inhabitants of the United States," Part II, Connecticut Courant and Weekly Intelligencer, 29 Mar. 1785.

new plans this select body of troops might be organized in any of several ways. Washington advocated the formation of a special "light company" in each regiment. Hamilton and his committee on the peace establishment, which was discussed in the preceding chapter, suggested that "trainbands" be set up in the cities and incorporated towns. Von Steuben called for the organization of a federal or Continental militia and Knox for the establishment of a military class composed of younger men. All thought that the select corps should be armed and equipped at the public expense.

Each of these plans except von Steuben's provided that the general militia be made uniform in all the states and that it be utilized as a reserve. Von Steuben took issue with the whole concept of universal service. In his opinion it was neither necessary nor worthwhile to subject all men, many of whom did not possess the necessary physical and mental qualities, to the heavy and expensive training necessary to make good soldiers. "It would be as consistent to say that every man should be a sailor," he wrote. His system¹⁵ was devised to provide a pool of trained reserves in another way, as will be shown later.

Washington's plan was contained in the "Sentiments on a Peace Establishment" which he had prepared for Hamilton's committee in the spring of 1783. He was familiar with the

¹⁵Von Steuben, "Letter . . . to the Inhabitants of the United States," Part I, Ibid., 22 Mar. 1785.

several concepts mentioned above and proposed two of them, the Continental militia and the age-class as alternative solutions. He apparently preferred the light companies for reasons of expediency. As compared to the other two possibilities, they would be "most consistent with the genius of our Countrymen and perhaps in their opinion more consonant to the spirit of our Constitution."¹⁶ Whatever these ringing words may have meant, he no doubt realized that their formation would create almost no derangement in the existing militia. As Brigadier General John M. Palmer has pointed out, the officers for the most part would remain undisturbed in their jobs and hence would not raise major objections to the change.¹⁷

The plan proposed that the light companies be formed either by voluntary enlistment or by the draft, that they be organized into "particular Battalions or Regiments," and that the period of service be not less than three nor more than seven years. The training of the companies should consist of from twelve to twenty-five musters per year, including some battalion, regimental, and brigade meetings. The general militia, according to the plan, should be viewed as an arm for use only as a last resort. It need not meet for musters

¹⁶John C. Fitzpatrick (ed.), The Writings of George Washington (Washington, 1931-1944), XXVI, 390-91.

¹⁷John M. Palmer, America in Arms (New Haven, 1941), 26-27.

more than once or twice a year. In order to provide uniformity throughout the military system, Congress should draw up codes and regulations for use by both the militia and the standing forces. It should also appoint an inspector general to supervise the execution of the regulations in the states.¹⁸

A question arises as to whether Washington intended the light companies to be composed only of men in the younger age groups. Unfortunately this point is not at all clear from the exposition in the "Sentiments." The difficulty of interpretation results from an introductory paragraph lauding the superior military qualities of men between the ages of eighteen and twenty-five. This is followed by the three suggested ways in which the select corps might be formed:

(1) By the establishment of a Continental militia, "selecting every 10th 15th or 20th Man from the Rolls of each State. . . ." (no reference made to age).

(2) By the organization, presumably into special units, of "all the Men fit for service between some given Age and no others, for example between 18 and 25. . . ."

(3) By the formation in each regiment of a light company composed of the "best Men" (no reference to age).¹⁹

On the one hand it would appear that the use of other qualifications--"every 10th 15th or 20th Man" and the "best Men"--in solutions (1) and (3) would over-ride or eliminate the age qualification contained in the introductory paragraph. The fact that solutions (2) and (3) would be more or less

¹⁸Fitzpatrick, Writings of George Washington, XXVI, 389-93.

¹⁹Ibid., 390-91.

identical if the age qualification applied to the latter reinforces this conclusion. In this respect the young men in solution (2) would have to be organized into units on a local basis, and such units would presumably be elements of the battalions or regiments of the general militia.

On the other hand, the uniform militia bills presented a few years later in the First and Second Congresses provided for the organization of light companies as in solution (3), and these were to be formed from the younger age group. It is a reasonable assumption that the proposal went back to Washington's plan. If this were the case, the possibility that the contemporary understanding of Washington's ideas left no doubt as to his real meaning cannot be ignored. The importance of the interpretation placed on the matter will appear later when the Uniform Militia Act of 1792 is discussed. Though Washington's plan was studied by Hamilton's committee in 1783, it was not presented to Congress at that time or at any other time during the Confederation.

The plan of Hamilton's committee was submitted in 1783 as part of its report on the peace establishment. Though the plan adopted the ancient term "trainbands" and talked about cities and incorporated towns, the arrangement was not as bizarre as it might seem at first glance. On close examination the trainbands appear to have been only a variation of Washington's light companies. The main difference was a difference in strength. The committee's plan

limited membership in the bands to one-fiftieth of the militia in any state, or to about eight thousand men over-all. Washington's companies would have contained about forty thousand. The further differences resulted from the one to fifty ratio, which made it impossible to form the bands in the regiments at large. A regiment could have provided only about one-fifth of a band. Indeed the ratio dictated that the units be established only in centers of population as the plan provided. The apparent purpose of the committee in establishing such a low ratio was to limit costs. It estimated that the expense of the eight thousand men would be less than sixty thousand dollars per year.²⁰

The plan further provided that the bands be composed of volunteers, that the men be engaged for eight year terms, and that they serve for three years after being called to active duty in wartime. It set the training requirement for these units at twenty-four musters annually. The plan also divided the general militia into a corps of married men and a corps of single men and specified that the former be mustered six times a year and the latter nine times. In case the state were invaded, units of both corps or either, with no preference, would be ordered to the field and held in service for a year before rotation. Members of either corps

²⁰ Worthington C. Ford and Gaillard Hunt (eds.), Journals of the Continental Congress, 1774-1789 (Washington, 1904-37), XXV, 742-43. Hereafter cited as W. C. Ford and Hunt, JCC.

might volunteer for the trainbands.²¹

This plan appears to have received little attention. Washington read it and commented that any of the methods he had suggested would suit the American genius better, distribute military knowledge more widely, and afford more equable protection to all parts of the country.²² When Congress took up the committee's proposals it apparently confined itself to the recommendations dealing with standing troops.²³ It will be remembered that this last subject had aroused much interest and that there was a pressing and obvious need for some solution. On the other hand, no one seemed to be interested in the militia, and only the more thoughtful appreciated the need for reform.

Von Steuben produced his plan some time prior to March 1784 and began to publicize it in 1785 in a "Letter on the Subject of an established Militia, and Military Arrangements, addressed to the Inhabitants of the United States." The timing coincided closely with the formation of a new Congressional committee to study the militia problem. The plan provided that seven legions of three thousand men each be formed from the whole militia. Each legion, as the name indicates, would contain the appropriate complements of infantry, artillery, and cavalry to form a well balanced combat team. Although this idea was not entirely new at the time, it represented

²¹Ibid., 741-42.

²²Ibid., 551.

²³Ibid., 744-45.

advanced military thinking. Von Steuben suggested that two of the legions be raised in New England, three in the Middle States, and two in the South.²⁴ It has been said that he anticipated the "corps area" organization of the twentieth century in making these territorial divisions,²⁵ but as far as his own development of the concept is concerned this conclusion may well be viewed with caution.

The plan further provided that service in the legions be voluntary, that enlistments be stimulated by bounties, and that only men between eighteen and twenty-four be accepted. The training of the troops would consist of thirty-one musters per year. The men would be armed by the public and they would retain their arms when their enlistments expired. It was estimated that the entire expense of the establishment, presumably including the cost of the arms, would be about \$315,000 per year.²⁶

The plan also outlined a staggered system of enlistment for the initial recruitment. One-third of the men in each company would be engaged for two years, one-third for three, and one-third for four. As the terms of these groups

²⁴Von Steuben, "Letter . . . to the Inhabitants of the United States," Part I, Connecticut Courant and Intelligencer, 22 Mar. 1785.

²⁵J. M. Palmer, America in Arms, 29-31.

²⁶Von Steuben, "Letter . . . to the Inhabitants of the United States," Parts I and II, Connecticut Courant and Intelligencer, 22 and 29 Mar. 1785.

expired they would each be replaced with three year men. When the system had become established the legions would always contain two-thirds veterans and one-third recruits. At the end of each year, seven thousand well-trained and completely armed men would be added to an ever increasing reservoir of soldiers.²⁷

The Congressional committee mentioned above was appointed on 7 February, but it apparently did little work before it was discharged on May 16.²⁸ Meantime, von Steuben's letter had caused the running of no ground swells of enthusiasm in favor of militia reform, and there is no indication that it influenced either the committee or Congress. After the discharge of the committee, the matter was referred to the Secretary at War, who did not report until March 1786.²⁹

Secretary Henry Knox in his report recommended that the whole militia be divided into three groups on the basis of age--the advanced corps, the main corps, and the reserved corps--and that all of these be organized into legions. The advanced corps, composed of young men from eighteen to twenty years, would be armed, uniformed, and equipped at the expense of the other two corps. It would receive six weeks training annually at special encampments, and when its members graduated to the main corps they would, like Steuben's legionnaires,

²⁷Ibid., Part I.

²⁸W. C. Ford and Hunt, JCC, XXVIII, 90-91.

²⁹Ibid., XXX, 117.

take their arms with them. The main corps, composed of men from twenty-one to forty-five, would attend only four musters per year, but it was expected that the annual infusions of highly trained and spirited young men would constantly improve its military qualities. The reserve corps, made up of the remainder of the men under sixty, would undergo no training.³⁰

Fighting forces would be formed by draft on the advanced and main corps. The reserved corps would be required to furnish men only in case of actual invasion. In order to establish a uniform system of mobilization, each company in each of the corps would be divided into sections of twelve men each. When troop requisitions were received, each section would be assigned a quota. The members of the section might hire from their number the men to perform the required service. If this proved impossible the required men would be peremptorily detached, and the members would be assessed to pay them the going rate. The men drafted might be held in service as long as three years at one time, and men from the advanced corps, but apparently not those from the main corps, might be required to serve outside their own states for as long as a year at a time.³¹

³⁰Henry Knox, "A Plan for the General Arrangement of the Militia of the United States," 28 Mar. 1786, folio u A 42, A 2, 1786, American Imprints Collection, Rare Book Room, Library of Congress.

³¹Ibid.

The scheme, according to Knox, would make little demand on the time of the regular working population. Only the advanced corps would receive extensive training, and young men of the age group involved would not have entered upon their full economic life. In most cases, it would be found that they were engaged in learning farming or some trade, and the losses incident to the encampments would not fall upon them but upon their parents or masters. Since their services during the period of apprenticeship resulted in large profits to their "tutors," the latter would suffer no great hardships.³²

Though this elaborate plan involved heavy expense, it was deceptively self-supporting. Each section of the main and reserved corps would be assessed \$24.00 per year to provide arms, clothing, and equipment for the advanced corps and to pay the expenses of its encampment. According to Knox's estimates this tax, if it may be called that, would provide each advanced legion with an annual income of \$52,000, which was about \$3,000 more than the estimated expense. While all of this did not sound alarming, except perhaps to those who would have to pay the assessments, the some 45,000 young men in the age bracket would constitute fifteen legions. The total income of the advanced corps would then be \$780,000 annually and the total expenses \$735,000, staggering sums to a country that could hardly find \$1,000.00 to ship ammunition

³²Ibid.

to the Ohio.³³

On 4 April a "grand committee" was appointed to consider the plan, and after long delays it finally rendered a favorable report. The plan would place the militia on a "formidable footing," and it should be recommended to the states for adoption.³⁴ At this stage the matter was permitted to rest. According to Henry Lee of Virginia, who personally favored the plan, it had so little chance that it was not thought worthwhile to bring it up for decision. "We lament the indifference which pervades our country on this important subject," he wrote.³⁵

The failure of Congress to act favorably on the plans may be attributed to the high costs, to the public indifference, and to the lack of any military threat alarming enough to transmute this lack of interest into concern. Even if these factors had not been present, it is doubtful that Congress would have been able to do much. While its authority to raise standing troops in time of peace was at least subject to interpretation, its powers respecting the militia had no more body than the echo of a musket shot. Indeed a close reading of the Articles indicates that it had

³³Ibid. Also see above page 37.

³⁴W. C. Ford and Hunt, JCC, XXX, 151, footnote; XXXI, 642.

³⁵Letter to James Madison, 19 Oct. 1786, Burnett Letters, VIII, 489.

no such powers whatsoever. It could, of course, recommend some plan to the states, but its past recommendations on military matters had been notoriously ineffective.

East Tennessee: Sparta in the Wilderness

By the end of the Revolution about twenty thousand people lived in East Tennessee along the Wautaga, Holston, French Broad, and Nolachucky rivers. The Kentucky communities were expanding and colonists had begun to move into the Cumberland region near Nashville. As the settled areas grew, the Indians struck back furiously to prevent further encroachments on lands they considered their own. The conflict that followed continued without interruption for years. When the mother-states neglected to send aid, separatist movements developed in all three areas. That in East Tennessee resulted in the ephemeral state of Franklin. Under constant assault from both internal and external foes, it became a kind of Sparta in the wilderness, whose history differs more in intensity of action and completeness of development than in basic form from that of the other two regions.

The Franklin movement began in the late spring of 1784 when North Carolina ceded its western lands to the Union, a move apparently dictated by the desire to escape the ever mounting costs of their defense.³⁶ When news of

³⁶John Haywood, The Civil and Political History of the State of Tennessee, from its Earliest Settlement up to the Year 1796 (2d ed., Nashville, 1891), 148-49. Hereafter cited as Haywood, Civil and Political History.

the cession arrived, the East Tennesseans looked upon themselves as lost men. Though North Carolina had never been a strong reed, the national government was just as weak and even more remote. Meantime, a period as long as two years might be consumed in the transfer of sovereignty, or so it was thought,³⁷ and the frontiersmen could take little comfort in a provision of the cession act designed to maintain North Carolina's jurisdiction during this interim. If she had not aided before, they could hardly expect her to send assistance at the very time she was surrendering her claim. To make matters worse she began her withdrawal by stopping payment to the Indians for land purchased from them and sold to the Tennesseans. The Indians soon set out to collect from the settlers, and they accepted lives in lieu of the promised goods.³⁸

The frontiersmen thus cut adrift realized that their salvation rested upon their own arms. Acting as rapidly as the urgency of the situation seemed to require they formed an association for mutual defense and soon expanded it into a formal government.³⁹ The militia played a leading role in the establishment of the new state, and military figures

³⁷Ibid., 149.

³⁸Williams, Lost State, 64, 74-75, 82, 339.

³⁹Though land speculators played an important role in Franklin, it is believed that the interpretation of the reasons for its formation as given above in the text will stand the closest scrutiny.

dominated its political life from beginning to end. Unfortunately, North Carolina repealed the cession act within a few months and attempted to reassert its sovereignty. The Franks, as contemporary writers referred to them, did not readily return to the fold. They did not expect North Carolina to furnish more military aid than she had in the past, and they remembered other grievances, the high taxes North Carolina had assessed and her failure to provide adequate criminal courts.⁴⁰ Though they kept their militia, the best in America, almost constantly in the field against the Indians, they hesitated to employ it with full effectiveness when the conflict with North Carolina became critical.

That the militia was the fountainhead of political action in the separatist movement there can be no doubt. The movement began with county conventions composed of two men from each militia company. These conventions selected delegates to a combined assembly, and there is no reason to think that they went outside their own ranks in making the selections. The combined assembly established the association and adopted articles which provided for a second assembly to formulate detailed plans for government. Again the delegates were to be chosen by the companies.⁴¹ The significant point up to here is not that the conventions

⁴⁰Williams, Lost State, 63-64.

⁴¹Ibid., 29-31.

were composed of militiamen--everyone was a militiaman--but that the companies were the basis of representation.

After a formal constitution was finally adopted in November 1785, political representation no longer rested in the military, but the state took its essential character from its political leaders, most of whom were men of martial mind and background. John Sevier, the state's premier soldier, was made governor, and out of thirty-eight other leading Franks listed by Samuel C. Williams the great majority had distinguished military backgrounds. At least seven had served in the colonial militia prior to the Revolution, and of these four counted service all the way back to Lord Dunmore's War. At least twenty-two fought in the Revolution, most of them as officers, and ten were present at King's Mountain. All but nine of the entire group of thirty-eight held high political office in the state, and many also held important militia appointments. Thus the group provided both brigadier generals, the adjutant general, four county colonels, two second colonels, and various officers of lesser rank.⁴²

During its short existence the state sent out at least six large expeditions and numerous small parties against the Indians.⁴³ From 1786 to 1788 it attempted to set up a military combine with Georgia for a joint attack

⁴²Ibid., 289-329.

⁴³Ibid., 102-03, 211-14, 217.

on the Creeks. Though that state was hesitant, it finally passed an act raising four thousand men for the campaign and authorizing the governor to call on Franklin for fifteen hundred more. Before the army took the field, however, Congress sent peace commissioners to the Creeks, and the Georgians backed out of the arrangement.⁴⁴ Aside from this abortive alliance and the caissons full of sympathy and esteem that were regularly received from Georgia, the Franks had to rely on their own resources. They made bullets from lead obtained locally, manufactured powder from saltpeter found in the soil of caves, and replenished their supply of horses by raids on the Indians.⁴⁵

The excellence of the Franklin troops may be attributed to several factors. Their military tradition encompassed years of Indian fighting and included the masterpiece of the American militiaman, the battle of King's Mountain. They had much greater opportunity to practice their art than the militia of most other areas. Even more important was the quality of their leaders. First among these was Governor Sevier, perhaps the greatest of American militia commanders, who led most of the large expeditions and who is said to have

⁴⁴Williams, Lost State, 106-07, 111, 113-14, 173, 177-82, 191-93; James G. M. Ramsay, The Annals of Tennessee to the End of the Eighteenth Century (Reprinted ed., Kingsport, Tennessee, 1926), 395-96, 414. Hereafter cited as Ramsay, Annals of Tennessee.

⁴⁵Williams, Lost State, 257.

fought thirty-five battles throughout his long career without suffering a single defeat. Others included William Cocke and Daniel Kennedy, who were the two brigadiers, and Major Augustus Enholm. The last, a native of Holstien, appears to have been a kind of frontier Steuben. Veteran of campaigns with Francis Marion and Henry Lee and former adjutant general of Georgia, he served as adjutant and drill-master.⁴⁶

The Franklin militiamen were horsemen who fought on foot. Riding into the Indian country after a band of marauders, they left their mounts with holders as they approached the enemy and fell upon his village or camp. Over the scene of carnage that usually followed rang the famous Sevierian battle cry "Here they are! Come on, boys!" After the last Indian warrior had fallen or fled, the militiamen took scalps, gathered the Indian horses, destroyed the crops, and put the village to flames. If ammunition were low or damaged by weather, they relied heavily upon tomahawks during the attack. One such occasion, the tomahawkmen captured a village with little assistance except a few preliminary rounds from several small field pieces.⁴⁷

Despite his esprit de corps, aura of professionalism, and efficiency in close quarter combat, the Franklin soldier

⁴⁶Ibid., 309-10.

⁴⁷Ibid., 224, 257, 291; Haywood, Civil and Political History, 195, 198-99.

was not immune to attacks of poor discipline, the familiar malady of the American militiaman. When his blood raced with anger after some Indian foray he turned the tomahawk and the knife upon women, children, the aged, and friendly Indians alike. Though Sevier condemned these atrocities, he was not able to control them. One day when he was absent from the command, John Kirk, a captain in the "Battalion of Bloody Rangers," murdered Corn Tassel and several other friendly Indians who had walked in under a flag of truce. Kirk and his men replied insolently to Sevier's remonstrances.⁴⁸ Indiscipline was also reflected in the rare but not unknown refusal of the militiamen to follow their leaders.

North Carolina did not have the military capability of sending troops against Franklin, nor was it likely that public opinion would have supported such a measure. Under these circumstances it made conciliatory moves designed to assault the new state from within. Formerly under North Carolina law there had been no local centralization of control of the western militia. Now the assembly, legislating as though the Franklin government did not exist, formed the disaffected counties into a single district and appointed a brigadier general to over-all command.⁴⁹ This legislation and reforms in other fields were partially successful in

⁴⁸Haywood, Civil and Political History, 195-96; Williams, Lost State, 213, footnote.

⁴⁹Williams, Lost State, 38.

undermining the Franks, and old-staters together with many lukewarm new-staters placed themselves under the leadership of Evan Shelby, Joseph Martin, and John Tipton, all of whom advocated reunion with North Carolina.

A second militia, loyal to North Carolina and commanded by officers appointed by its assembly, soon made an appearance. In many places it existed as an extra organization alongside the Franklin militia, but its main centers lay in the northeast where old-state sentiment was the strongest and the Indian threat the weakest.⁵⁰ Efforts by the North Carolina loyalists to establish county courts and other agencies of local government soon led to clashes with the Franklin authorities. These began as raids in which informally constituted bodies of armed men attempted to seize or displace new-state officials. Retaliation in kind followed, and in the last years of the Franklin regime the two sides engaged in a kind of warfare marked by the forcible seizure of property, the imprisonment of rival leaders, raids on the courts, and frequent head-crackings.⁵¹ Sevier appears to have deliberately attempted to foment war with the Indians to distract attention from this conflict and to rekindle the enthusiasm of his adherents. Williams thinks that such motivations lay behind some of his efforts to organize the

⁵⁰Ibid., 135, 190. Ramsay, Annals of Tennessee, 338, 340, 351, 356, 389.

⁵¹Williams, Lost State, 143, 163, 198-99.

joint Georgia-Franklin attack on the Creeks.⁵²

The growing friction culminated in February, 1788, in a pitched battle between small forces commanded by Sevier and Tipton, the old-state commander of the militia of one of the Franklin counties. The battle apparently resulted more from the personal animosities of the two leaders than from the formal policies of the two states, and it is therefore extremely doubtful that the men of either side were legally embodied. Sevier, who seems to have been lacking in enthusiasm for internecine warfare, delayed his attack and as a result suffered what may have been the only defeat in his career when Tipton unexpectedly received numerous reinforcements. The engagement was not hard fought. It took place in a blinding snowstorm, and many on both sides fired into the air to avoid inflicting casualties.⁵³ The dissolution of the Franklin government came rapidly after this battle, and soon many of its leaders were taking the oath of allegiance to North Carolina. However, a truncated "lesser Franklin," composed of the exposed southern region of the state as originally constituted and led by Sevier, existed in the form of a defensive association for about a year.⁵⁴

⁵²Ibid., 114.

⁵³Ibid., 199-205.

⁵⁴Ibid., 225-28.

The Wyoming Valley: Pennamites, "Wild Yankees,"
and Half-share Men

The conflict over the Wyoming Valley in northern Pennsylvania began in colonial days. Connecticut claimed this area under its charter of 1662, and in 1754 the Connecticut Susquehanna Company purchased the land title from the Iroquois. When the company began to send colonists into the territory, Pennsylvania struck back with armed force. The resulting "Pennamite-Yankee" wars of 1769 and 1775 left the settlers in possession, and Connecticut assumed jurisdiction of the region during the Revolution, organizing it into Westmoreland County.⁵⁵ After the war Pennsylvania asked Congress to settle the quarrel under the provisions of Article IX of the Confederation. At Trenton in December 1782 a Congressional tribunal awarded jurisdiction to Pennsylvania but left the question of the land titles undecided. Since Connecticut acquiesced in this decision, the company and the colonists were left to stand alone.⁵⁶

The Pennsylvania assembly, strongly influenced by land speculators, sent militia in the spring of 1784 to take over the territory. When these troops encountered the

⁵⁵Allen Nevins, The American States During and After the Revolution, 1775-1789 (New York, 1924), 583-85. Hereafter cited as Nevins, American States.

⁵⁶Ibid., 586; Julian P. Boyd, "Attempts to Form New States in New York and Pennsylvania," New York State Historical Society Proceedings, XXIX (1931), 258-59. Hereafter cited as Boyd, "Attempts to Form New States."

settlers, bloody clashes ensued, and the fighting continued throughout the summer. Though the Yankees were driven off, the Pennsylvania council of censors, which was not dominated by the speculators, bitterly criticized the campaign for the sufferings it had caused, for the money it had cost, and for the violation of the Articles of Confederation it was thought to represent.⁵⁷ As a result, the Pennsylvania government restored the holdings of the settlers pending investigation and adjustment of the titles.⁵⁸

Meantime, the company, its movements clothed in secrecy, had begun to foment a new-state movement as the surest way to protect its interests. The primary requisite for success was some kind of military force to resist the Pennamite troops. To meet this need the company directors at a meeting in July 1785 planned the formation of a private militia. They resolved that "able-bodied and effective men" reporting to Wyoming and placing themselves at the disposal of the company's representatives for three years should be given a half-share of land. Though the minutes of the meeting contain no mention of soldiers and fighting, this offer constituted a call for troops and was intended as such.⁵⁹

⁵⁷"Action of Council of Censors," 11 Sept. 1784, Pennsylvania Archives, 2d Ser., XVIII, 640-41.

⁵⁸Nevins, American States, 279, 588.

⁵⁹Pennsylvania Archives, 2d ser., XVIII, 105-08; Boyd, "Attempts to Form New States," 260.

During this period of preparation the company also opened negotiations with Ethan Allen; and, after an appropriate number of shares had been transferred, groups of armed Green Mountain Boys soon arrived on the scene.⁶⁰ Allen, an old hand at state making, addressed some bellicose advice to the settlers: "crowd your settlements, add to your numbers and strength, procure firearms and ammunition, be united among yourselves. . . . I will not give up my interest to usurpers, without trying it out by force of arms."⁶¹

Leadership of the separatist movement rested in the hands of a standing committee of four, including Allen and John Franklin, one of the more radical settlers.⁶² When Connecticut ceded its western claims to Congress in May 1786, interest in the movement rapidly gained momentum. By this time the "half-share militia" had been enlisted to about six hundred men. The Pennsylvania claimants had few kind words for the recruits that were obtained. Those given shares in one area, they said, "were universally given to thievery" and to "disimulation, intrigues, and bad morals."⁶³

⁶⁰Boyd, "Attempts to Form New States," 260.

⁶¹Quoted in Julian P. Boyd, "Connecticut's Experiment in Expansion, The Susquehannah Company, 1753-1803," Journal of Economic and Business History, IV (1931-32), 67.

⁶²The Committee was appointed on 17 May 1786. Pennsylvania Archives, 2d Ser., XVIII, 109.

⁶³Boyd, "Attempts to Form New States," 261; Nevins, American States, 589.

Pennsylvania, now thoroughly alarmed, attempted to head off a crisis by passing some legislation. In September 1786 it erected the territory into Luzerne County and in March 1787 confirmed the claims of all Yankees who had held land prior to the Trenton decision. Both of these measures tended to undermine the new-state movement, and Franklin bitterly opposed them. Finally in September 1787 he ordered the half-share men to assemble under arms.⁶⁴ Riots and disturbances followed, continuing into the summer of 1788. The main incident involved the seizure of Timothy Pickering,⁶⁵ who had been sent by Pennsylvania to organize the new county and quiet the "wild Yankees."

At this point Pennsylvania, having no troops readily available, requested the aid of Congress. As already related, that body ordered a detachment of federal troops then marching to the Ohio to detour through the county. Their assistance was not, however, required. A proclamation issued by the state for the arrest of Franklin and others had brought the rioting to an end. On 11 August the executive council was able to report that Colonel Pickering had been released, that some of the leading rioters had been jailed, and that one of the most notorious, a man named Dudley, had died of wounds. This ended the new state movement for the

⁶⁴Boyd, "Attempts to Form New States," 262. The act of March 1787 may be found in Pennsylvania Archives, 2d Ser., XVIII, 660-64.

⁶⁵W. C. Ford and Hunt, JCC, XXXIV, 351, 408.

moment, though there was a revival of the activities of the Susquehanna Company in 1795.⁶⁶

The Hampshire Grants: the Yorkers

In September 1782 Vermont renewed an old quarrel with New York by attempting to extend its jurisdiction over New York adherents living in Windham County in the Hampshire Grants. When they resisted, it condemned several of them "to banishment not to return on pain of death and confiscation of estate," and fined others large amounts. New York, led by Governor George Clinton, immediately fallied to the defense of the Yorkers. First it attempted to get Congress to intervene, and that body on 5 December called upon Vermont to desist and threatened to send troops if she failed to comply.⁶⁷ However, the federal army, which was composed primarily of New Englanders, could not be relied on for such an undertaking, and on Washington's warning the project was hastily dropped.⁶⁸

Soon thereafter the New York legislature directed its delegates in Congress to obtain authority from that body for

⁶⁶Ibid., 351, 353-56, 408; Boyd, "Attempts to Form New States," 263.

⁶⁷W. C. Ford and Hunt, JCC, XXIII, 765-66, 769. A general discussion of the New York-Vermont conflict may be found in Nevins, American States, 579-583.

⁶⁸George Washington to Joseph Jones, 11 Feb. 1783, Fitzpatrick, The Writings of George Washington, XXVI, 121-24. See also the New York Delegates to the Governor of New York, 9 Dec. 1782, Burnett, Letters, VI, 557.

the state to raise five hundred standing troops. In the original directive to the delegates it was stated that the troops would be used to occupy the Western posts upon their evacuation by the British.⁶⁹ The purpose was subsequently expanded to include "the preservation of the fortresses on all the frontiers of this State, and the protection of its citizens," a phrase which could be construed to include the Yorkers in Windham County.⁷⁰

One writer has assumed that from the beginning New York intended to employ at least part of the five hundred men against Vermont.⁷¹ This was probably not the case. Any force sent from New York, as the same writer shows, would have to pass through either Massachusetts or Bennington County in Vermont. The former favored the Vermonters and could be expected to deny passage, and the latter had proved to be unsafe fighting ground for New York troops since their first invasion of Vermont in 1769.⁷² It may be noted in this respect that in the phase of the conflict now being considered New York did not make a single effort to send

⁶⁹Eliakim Persons Walton (ed.), Records of the Governor and Council of the State of Vermont (Montpelier, 1876), III, 278. Hereafter cited as Walton, Records of Vermont.

⁷⁰W. C. Ford and Hunt, JCC, XXVII, 379-81; Walton, Records of Vermont, III, footnote page 278.

⁷¹Editorial Comments of Walton in Records of Vermont, III, 277-79, 319, 323, 325.

⁷²Walton, Records of Vermont, III, 279, 315.

militia across either area. The state would hardly have sent standing troops, taken raw from the militia, to carry out an operation it would not entrust to the militia itself. A more likely interpretation is that New York utilized the requests to impress Congress with the seriousness of its intentions in an effort to force that body to intervene. Whatever may have been the purpose, the requests became entangled in the plans for a federal peace establishment and were rejected every time they were brought forward.⁷³

Meantime, Governor Thomas Chittenden and the Vermont authorities had refused to comply with the admonition of Congress. They arrested several Yorker leaders who returned to Windham County on the heels of the resolution of 5 December and ordered out troops to oppose the two companies of Yorker militia that took up arms in the ensuing altercation. At the last moment the matter was temporarily settled by a truce agreement.⁷⁴ In February of the following year (1783) the legislature undertook measures to re-form the army, which had been disbanded during the preceding session. It resolved that a military force be raised for the defense of the frontier in "the ensuing Campaign," a euphemism for the threat from New York, appointed a board of war consisting of eight militia officers, and accepted a committee report

⁷³See above pages 54, 56.

⁷⁴Walton, Records of Vermont, III, 252-53.

fixing the military requirement at five hundred men. Though the assembly ordered that a bill be drawn in accordance with the report, there is no indication that the men were ever raised.⁷⁵

By the early summer of 1783 it was clear to Governor Clinton that Congress did not intend to enforce its warning to Vermont. His only means of protecting the Yorkers lay in the militia. Since troops could not be sent from New York, for reasons already discussed, the entire job would have to be done by the loyal militia in Windham County. On 24 June he advised Colonel Timothy Church, Yorker militia commander in that county, to call out his regiment and meet force with force in case Vermont attempted to compel submission from the New York adherents. He tempered these instructions, however, with an admonition to avoid a military showdown if this could be done without sacrificing the safety of the Yorkers and their property. The letter contained several references to the possibility that Congress might soon settle the conflict.⁷⁶

Encouraged by Clinton's advice to Colonel Church and still expecting aid from Congress, the Yorkers declared their intention to resist any effort to execute the Vermont laws.⁷⁷ Meantime, during the October session of the Vermont

⁷⁵Ibid., 267-69.

⁷⁶Ibid., 280.

⁷⁷Ibid., 297.

legislature, the governor, the council, and the assembly met in grand committee four times to consider the growing emergency. During the course of these deliberations the committee ordered that two companies of fifty men each be raised from the militia to assist the civil power in suppressing the insurrection. The troops were to serve for six months unless sooner discharged. The committee also directed General Samuel Fletcher to hold his brigade in readiness to assist and instructed Colonel Benjamin Wait, the commander of the special force, to treat Yorkers who submitted with consideration rather than severity.⁷⁸

With both sides having set their courses, the conflict began in earnest. During November and December the New York adherents, operating in small parties, kidnapped two prominent Vermonters, one of them the former lieutenant-governor, and forcibly prevented the arrest of one of their own chiefs. The Vermont authorities retaliated by promptly jailing two influential Yorkers, William Shattuck and Charles Phelps, both of whom had been permitted to remain at large, though the first was under sentence of death for treason and the second under indictment for the same offense. Disconcerted by this move, sixteen leading Yorkers petitioned Vermont to halt such seizures and to restrain Colonel Wait's troops "from marching to the support of the government" until

⁷⁸Ibid., 298-99.

a compromise could be worked out.⁷⁹

Governor Chittenden rejected the petition, and the conflict continued. The showdown came in January. Throughout the month, the government sent out small groups of militia to arrest Yorker conspirators, if they may be called that. Angered by these raids, a party of about twenty Yorkers attacked the headquarters of the Vermont commissary-general in Brattleboro, wounded one officer, and carried off another. The next day the high sheriff and two hundred militiamen set off in pursuit. The posse found a large party of Yorkers assembled at Guilford apparently determined to resist. However, they fled without firing a shot as the posse approached.⁸⁰

A few days later, another large force was sent out to disperse some forty Yorkers who had gathered south of Guilford near the Massachusetts line. The Yorkers fired one volley, wounding a sergeant, and hastily retreated into Massachusetts as the Vermonters returned the fire.⁸¹ At about this time, Ethan Allen arrived at Guilford with three companies of reinforcements from Bennington County and promptly announced that if the town did not submit he would "lay it as desolate as Sodom and Gomorrah."⁸² These gentle

⁷⁹Ibid., 302-03.

⁸⁰Ibid., 303-05.

⁸¹Ibid., 305-06.

⁸²Howland E. Robinson, Vermont, A Study of Independence (Boston and New York, 1892), 240.

words appear to have completed the work of the posse. It soon marched back to Brattleboro, where it was dismissed, except for a small guard to conduct prisoners to Westminster for trial.⁸³

Throughout February parts of two companies were stationed in Guilford and neighboring towns. Though a party was sent into Massachusetts to seize Daniel Shepardson of Guilford, who had accepted a New York commission as magistrate, the primary mission of the force was to prevent the return of the Yorkers who had fled the posse. Toward the end of the month the assembly directed the discharge of all but twenty-seven men of the two companies, and this small guard was retained in service for only a few weeks longer.⁸⁴

The military phase of the conflict came to an end early in March with a final burst of action. On the fifth, the guard, commanded by Lieutenant Elijah Knight, fired on a Yorker lieutenant who was attempting to return to Vermont. Unfortunately, the volley hit and killed his traveling companion, Daniel Spicer of Bernardsville, Massachusetts, who had not participated in the insurrection. Knight, who feared the incident might bring the Yorkers pouring out of Massachusetts, got off a hasty letter to Chittenden and called on nearby towns for additional militia. When he began to

⁸³Walton, Records of Vermont, III, 306.

⁸⁴Ibid., 306-08, 311.

receive rumors of "an army coming from Massachusetts to avenge the death and reinstate the Yorkers" he hurriedly withdrew to Brattleboro and ordered out more reinforcements.⁸⁵

The assembly, which seems to have shared Lieutenant Knight's apprehensions, took strong measures to deal with the crisis. On the ninth it conferred upon General Fletcher full authority to call out such militia as he might think necessary from all the brigades of the state and dispatched him to Windham County to take charge. On the same day it instructed the governor to request Governor John Hancock of Massachusetts to grant warrants for the apprehension of Yorkers who had fled to that state. In writing Hancock, Chittenden charged that a small number of Massachusetts citizens had aided the Yorkers, and in response Massachusetts on the twenty-sixth issued a proclamation commanding its citizens to remain strictly neutral. Meantime, Knight's fears had proven groundless, for the army from Massachusetts did not materialize. Within a short time, Fletcher dismissed all the militia that the lieutenant had called up and by the end of the month it was possible to discharge the twenty-seven guardsmen.⁸⁶

When the New York legislature met in the spring of 1784 it had to face the fact that the state had been unable to protect its citizens in Windham County. The legislature

⁸⁵Ibid., 311.

⁸⁶Ibid., 312-14.

began to pelt its delegates in Congress with instructions apparently intended to obtain Congressional intervention. In March it ordered them to press Congress for a decision concerning jurisdiction in the Hampshire Grants, a matter which had been held in abeyance since early in the Revolution. In April and again in May it directed them to renew the state's request for authority to raise five hundred troops.⁸⁷ When Congress neglected to act, New York was forced to reluctantly concede Windham County and the Yorkers to Vermont.

⁸⁷Ibid., 316-18, 320-21, 323.

CHAPTER IV

FEDERALIST MILITARY POLICY

The adoption of the Constitution in 1788 and the formation of the new government represented only a partial victory for the nationalists. The old conflicts involving the division of powers between the central government and the states raged unabated. In the realm of military policy, the change intensified the anxieties of the anti-nationalists, for the Constitution had strengthened the military powers of the central government. It vested the right of command in the chief executive, who was much more capable of rapid and decisive action than the war boards and committees of the Confederation. It indirectly provided that federal armies should be commanded by officers named by the President, confirmed by the Senate, and commissioned in the name of the central government. No longer would the leaders of the regular troops of the United States be selected by the several states. Finally, and perhaps most important of all, the Constitution in conferring tax powers directly on the central government rendered the army more or less independent of the voluntary generosity of the states in meeting

requests for funds. The effect was to eliminate the possibility that the states might veto army measures by refusing to provide money.

By about 1793 formal political parties began to emerge from the embryonic alignments of the earlier years of the republic. The federalists embraced the military doctrines of the old nationalists and the Republicans those of the old anti-nationalists. The currents that determined American military policy thus continued to flow in the same directions but perhaps at somewhat greater speeds. From the first unmistakable appearance of the party system until the end of the period under consideration the Federalists maintained a majority in the Senate. The Republicans controlled the House during the Third and Fourth Congresses, and the Federalists maintained a precarious sway in that body during the Fifth and Sixth.

Federalist military policy called for the establishment of adequate standing forces and for the federalization of the militia. Though the public sentiment was still not ready for such measures, this is not to say that they were completely impracticable. The Federalists did succeed in pushing through a watered down militia bill in 1792,¹ and during the Indian crisis of 1790-94 the Congress, pressed by successive disasters on uncharted battlefields in the North-

¹The passage of this act is discussed in Chapter VI.

western forests, finally raised enough regulars to retrieve a cause that appeared almost hopelessly doomed. But the Federalists, who sometimes possessed the capacity to look down the gunbarrel at a fact, were finally forced to acknowledge that their policy despite its partial success was unpopular, and hence politically unsound.

The result of this realization was a brilliant improvisation by Alexander Hamilton, who devised the "provisional" army. This was a federal force to be organized and trained in time of peace and to be called up only as future contingences dictated. It was apparently designed to meet democratic fears of suppression and bankruptcy in that it would remain scattered, unembodied, and unpaid until the moment of need. The Hamiltonian concept, however, did not completely escape the basic political disability of standing troops, that is their federal character. Provisional armies differed little from regular armies in the cloudy mazes of Republican military ideology.

The Republicans favored complete reliance on the militia. Whatever the military necessity they opposed every measure to increase the standing forces. Their intransigency appears to have been entirely doctrinaire and completely divorced from reality. One suspects that rather than raise a single regular they would have fed every militiaman in the nation into the great Indian maw that had ground down on Harmar and St. Clair. Yet behind this unreal world of

doctrine lay a greater reality that only good Republicans could sense. Indians were no more dangerous than house cats, but regular armies were lions that first devoured the sustenance of the people and then the people themselves. Nor was the eye that could see the lion completely aberrant. During the French crisis of 1797-1800 the great beast for a fleeting moment stalked out of the inner jungle into the open where all could see him.

It was unfortunate that the battle of military principles had to be fought out during a period teeming with military threats. Until 1794 there was constant Indian warfare on the Northwest frontier and the Indian menace was never absent in the Southwest. American ships at sea were beset first by the Algerians and the British and later by the French and their Spanish allies. From 1797 to 1800 full scale war with France was considered a possibility, and during these years a naval war was actually fought. Meantime domestic disturbances were rife. The Whiskey Rebellion, a revolt of some magnitude, occurred in 1794, and Fries' Rebellion, a minor uprising, in 1799.

The history of the military legislation during the Indian troubles is a story of compromise and delay. Troop estimates were frequently cut to meet Republican objections, and armies were diluted with large numbers of militia to satisfy Republican principles. Most military acts were passed long after the military necessity had become apparent.

Men were then hastily raised and sent into action with little or no training. The tragic outcome in at least one case-- St. Clair's defeat--was a wilderness battlefield piled high with the dead. The strange mixture of Republican fears, ideals, and unworldliness that diluted every military bill was as deadly as the arrow and the tomahawk. Nor were the Federalists completely blameless. President Washington and Secretary of War Henry Knox themselves were not always able to use wisely the ragged and understrength armies that Congress permitted them.

When the whiskey rebels got out their guns and scythes, a large force of militia was sent against them.² The failure to use regulars disproved the flaming words of every anti-nationalist who had ever referred to the army as the suppressor of the people. There may be some reason to believe that the President in employing militia wished to avoid the Republican vilification that would have inevitably followed the appearance of federal troops on the scene. However, this is primarily an academic question, for the few regulars in service could not be withdrawn from the Northwest. In any event the army remained inculpable, and this outcome was almost as important as the crushing of the rebellion. Militia was also used against Fries though a few companies of regulars were

²The military measures taken during the Whiskey Rebellion are discussed on pages 380-84.

indirectly involved.³

The compromise and confusion that characterized military policy during the Indian troubles continued into the great French crisis. Each party presented a military program in line with its doctrines, and both programs--or major portions of them--were enacted. The Federalists obtained small immediate army increases, a "provisional" army, some special volunteer associations, and an "additional" army, only a part of which was ever raised. The Republicans obtained a detachment of militia that was to be held in readiness for the President's call. The efficacy of a system comprising so many different types of troops was open to serious question. Indeed, the job of keeping the enlistment roles straight must have been an extremely difficult task in itself.

The French crisis precipitated the most virulent party struggle in American history prior to the election of 1860. Large parts of the population, particularly in the Republican centers, had demonstrated their sentimental attachment to the principles of French democracy by the formation of Jacobin clubs. Republican editors denounced the administration and its policies in terms of unsurpassed bitterness and contumely. It was hardly surprising that many Federalists feared revolution on the French model with

³See below pages 384-86.

guillotined heads for the wealthy and social anarchy for all. Their military program was devised not only to meet the French threat but also the domestic danger, whether it may have been real or illusory.

In their turn, the Republicans feared the use of force to put down liberty and freedom. For years they had cried lion at every rustle in the brush. Now for once the lion was actually upon them. Many lost their voices as it skulked nearer, but a small band of devoted and intrepid men--actually only two or three--continued to sound the warning. They lashed out at what they viewed as Federalist efforts to suppress opinion, to overawe parliamentary resistance, and in the resulting milieu of fear to raise great armies for uses that could only bring ruin to democrats. Fortunately, the needs of French diplomacy, which dictated a settlement, and the good sense of President John Adams, who escaped the snares of the ultras in his party, put out the fuse an inch or two before it reached the explosive.

Naval policy is, of course, an element of military policy. As a part of the military programs of 1794 and 1797-1800 naval legislation was a favorite Federalist project. As usual the Republicans resisted to the full extent of their ability. They succeeded in paring down administration naval estimates, refused to give the incomparable frigates of the naval war credit for their successes, and denied that navies had any defensive value whatsoever. Nevertheless the

Federalists succeeded in laying the foundations of the American navy.

Initial Military Legislation and the First
Army Increases (First Congress)

When the new Congress met in its first session during the summer of 1789, its major task was to organize the government under the Constitution. In the military realm a war office had to be established and some interim provision had to be made for an armed force. Almost perfunctorily the Congress passed bills to accomplish both these purposes. In the Act of 7 August 1789 it set up the Department of War as an executive agency, provided it with a secretary and a chief clerk, and outlined their duties.⁴ In the Act of 29 September 1789 it laid claim to the standing troops of the Confederation, required them to swear fealty to the Constitution, and bound them to the federal articles of war, which for the moment continued to be those of the Confederation. The only material change lay in the fact that henceforth the officers would be appointed by the central government rather than the states.⁵

Under this law the new government came into possession of one regiment of infantry and one battalion of artillery. The total authorized strength of these units, which

⁴Annals of Congress, 1 Cong., 2158-59. Hereafter cited as Annals.

⁵Ibid., 2199-2200.

included the troops raised under the act of 3 October 1787 and the Massachusetts artillerymen of 1786, was 840 men, but they actually contained no more than about 670 at the moment. Since the men had been enlisted for only three years the terms of some were beginning to expire.⁶ Though the act made no provision for re-enlistments, it would be in force only to the end of the next session of Congress, a fact which presupposed additional legislation in the near future. Meantime, the act also authorized the President to call out the militia as might be necessary for the defense of the frontier.

Before the enlistments of the troops in service expired the rapidly developing Indian troubles made the first army increases necessary. In early 1790, as the second session of the Congress convened, Georgia appeared to be the main center of disturbance, but the entire frontier was restive. In his opening address on 8 January the President made only passing reference to military problems, but four days later he sent up a confidential report from Secretary Knox outlining the situation on the southern and western frontiers. So important was the subject considered that the secretary himself appears to have hand-carried the documents to the Senate and probably also to the House of Representa-

⁶American State Papers, Military Affairs, I, 5-6.
Hereafter cited as State Papers, MA.

tives.⁷

In the Senate all of this alarmed the extreme and dyspeptic democrat from Pennsylvania, William Maclay. "In now came General Knox with a bundle of communications," he wrote. "I thought the act was a mad one, when a Secretary of War was appointed in time of peace. The man wants to labor in his vocation."⁸ And indeed Maclay had some reason for apprehension, for the secretary's report stated that the Creeks had refused recent peace overtures. If they continued their forays on the frontier settlements an army of 5040 men at a cost of about \$1,152,000 for one year would be required for offensive operations to bring them to terms. Even if a war with these Indians did not materialize, the army should be augmented to 1680 men to protect the frontiers from Georgia to Lake Erie, to keep squatters off the public lands, and to facilitate the survey and sale of the lands.⁹

The House had appointed a committee on military affairs following the President's speech,¹⁰ and on 25 March it finally passed a bill for the defense of the Southwestern frontier. The content and legislative history of the measure

⁷Annals, 1 Cong., 2 Sess., 973, 1091.

⁸E. S. Maclay (ed.), The Journal of William Maclay, United States Senator from Pennsylvania, 1789-91 (New York, 1927), 171. Hereafter cited as Maclay, Maclay.

⁹American State Papers, Indian Affairs, I, 59-80. Hereafter cited as State Papers, IA.

¹⁰Annals, 1 Cong. 2 Sess., 1095.

are hidden behind the closed doors of that body¹¹ and the reticence of the Senate, which did not permit its debates to be reported until years later. Fortunately the choleric gentleman from Pennsylvania kept no secrets from his journal, particularly in the case of standing armies, which like all good democrats he abhorred. According to his account the bill provided for sixteen hundred men for three years.¹²

In the Senate, where the bill was under consideration for almost a month,¹³ the "flamers," as Maclay called those favoring standing troops, "blazed" away day after day. Their numbers included Pierce Butler and Ralph Izard of South Carolina, Rufus King and Philip Schuyler of New York, and Oliver Ellsworth of Connecticut. At first they drew "frightful pictures" of the distress in Georgia, but unfortunately James Gunn of that state arrived fresh from home in the middle of the debate. He denied the allegation that fifty Indians had been raiding the state, announced that all was at peace with the best prospects of continuing so, and declared that he should vote against the bill.¹⁴ With the ground thus cut

¹¹Ibid., 1476. When the bill was called up in the House on 25 Mar. the galleries were cleared. The only indication that it was passed on that day is found in the fact that it was received by the Senate on 26 Mar. Ibid., 995. Maclay, Maclay, 219.

¹²Maclay, Maclay, 219, 238.

¹³It was actually considered on ten different days. Annals, 1 Cong., 2 Sess., 995-96, 998, 1000, 1001.

¹⁴Maclay, Maclay, 233-34.

from beneath them, the proponents of the measure discovered that the people of Kentucky were carrying on "a dangerous and dreadful conspiracy" with the Spaniards. It would be perilous to give the frontiersmen arms for their own defense, said King, because they might turn them against the United States.¹⁵

However, all of the "flamers" were by no means on the one side. Richard Henry Lee of Virginia, one of the principals of the old Lee-Adams states' rights junto of the Confederation Congress, dusted off his famous set speech on the dangers of standing armies and entertained his listeners with a rendition of particular virtuosity.¹⁶ Maclay himself, a tenacious debater, made several fierce little speeches in the tenor of Lee's, "wipe/d King hard" for the aspersions he had cast on the Westerners, and demanded to see the information upon which the charges were based.¹⁷ To these attacks, Izard blandly replied that standing troops should not be feared and that he would like to have ten thousand of them,¹⁸ remarks that must have left Maclay empurpled and coughing.

On April 16, the Senate reduced the number of men from sixteen hundred to one thousand but immediately upped the figure to twelve hundred on the motion of Ellsworth. Maclay, who had voted for the reduction on the theory of the

¹⁵Ibid., 234.

¹⁶Ibid., 233.

¹⁷Ibid., 227, 234-35.

¹⁸Ibid., 239.

fewer the better, turned purple again. Ellsworth's motion was completely out of order, he wrote, and furthermore "No man ever had a more complete knack of putting his foot into a business than this same Ellsworth."¹⁹ Another crisis arose when the clause limiting the act to two years was struck, apparently because it conflicted with the enlistment term of three years. According to Maclay, the bill then called for a permanent standing army. As a result of the operation of the Mutiny Bill, which had to be renewed each year, he added, not even Great Britain had such a thing. The Constitutional clause limiting appropriations to two years had been designed to bring about the same effect in this country. The heavy-footed Ellsworth replied that there was a distinction between enlisting men for three years and appropriating their pay for three years.²⁰

On April 21 the Senate passed the bill as amended to provide twelve hundred men. The fact that no roll call appears in the Annals probably indicates heavy sentiment in favor of the measure. Under the rules, roll calls were recorded when requested by one-fifth of the members, and Lee and Maclay would undoubtedly have demanded one if they had been able to muster the necessary support.²¹ The House

¹⁹Ibid., 234-35.

²⁰Ibid., 236-38.

²¹Annals, 1 Cong., 2 Sess., 1001. Under the date of 21 Apr., Maclay wrote "A standing army was the avowed doctrine, and on the question Lee, Wyngate, and myself arose. I openly declared my regret that there were not

concurred in the Senate amendment two days later, and the act became law on 30 April.²²

The supporters of the measure had been severely embarrassed by Gunn's assertion that the Georgia frontier was quiet and likely to remain so. This statement reinforced the belief of Maclay and a few others that the Georgia danger had been put forward simply as an excuse for building up the army. We must have an army, sneered the Pennsylvanian, "for fear the Department of War should lack employment."²³ This was not an entirely fair criticism. The administration's estimate of the Georgia situation was based partially upon a letter from the Governor of Georgia to the United States Commissioners to the Creeks and a report of the commissioners themselves. The former, dated 4 October 1789, contained a return of the depredations of these Indians. Since the renewal of hostilities in 1787, they had killed, wounded or carried away 131 whites and 120 blacks. During the same period they had stolen 763 horses and 884 cattle, destroyed

enough of us to call the yeas and nays." Maclay, Maclay, 239. It is not clear, however, as to whether he was referring to the vote on his motion to restore the limiting clause or to the final vote on the bill.

²²Maclay, Maclay, 240. The bill is mentioned only once in the House proceedings in the Annals. This is in the entry for 25 Mar. already cited in footnote 11 above. The text of the act is in Annals, 1 Cong., 2222-25.

²³Maclay, Maclay, 233, and also 221.

387 hogs, and burned 89 houses.²⁴ The report of the commissioners, written on 20 November 1789, stated that the Indians had refused to make a treaty, that eight posts each garrisoned by one company of troops would be required for defensive protection, and that 4250 men would be necessary if offensive operations were decided upon.²⁵

Colonel Gunn's statements themselves were much more questionable than the administration's actions. Perhaps the Indians had been quieter than usual for a month or two before he left Georgia. However, such periods of comparative peace were not unusual, and they were always followed by new outbursts. Gunn was only the first of a long line of frontier Congressmen to disclaim the need for regulars to defend their own settlers. As it developed later, this curious stand was based upon the frontier preference for militia, an attitude that dove-tailed neatly with states' rights military doctrine. Gunn may well have had this fact in mind.

Harmar's Defeat (First Congress, Third Session)

Following the passage of the Act of 30 April 1790 the center of military activity shifted from Georgia to the

²⁴George Walton to the Hon. B. Lincoln, C. Griffin, D. Humphreys, Esqurs., Commissioners, & c., State Papers, IA, I, 76-77. The inclusive dates for the return are not given, but from the context of the accompanying letter the period apparently begins in 1787 and extends to 4 Oct. 1789.

²⁵The Commissioners to Secretary of War, State Papers, IA, 78-79.

Northwest. By July it had become clear that Governor Arthur St. Clair's effort to put an end by negotiation to the constant raids had failed. The administration, with the army newly strengthened and the frontier militia straining with eagerness, decided to carry the fighting to the Indians. General Josiah Harmar, the federal commander in the Northwest, was selected to command the major attack, which was to be directed against the Indian villages on the Maumee. Knox admonished him to take every precaution to insure success, to conduct the expedition in "the most perfect manner," and to move rapidly and decisively.²⁶

Late in September as Harmar reviewed his little army at Fort Washington, near the tiny settlement of Cincinnati, he must have wondered how one could take precautions and move rapidly with such "a motley collection of short-time soldiers." Many did not even know how to put flints in the hammers of their muskets, others had enlisted only for free transportation to the Ohio country, and almost all were clumsy and apathetic. The general was undoubtedly filled with misgivings as he ordered his militiamen forward about 24 September and followed a few days later with the handful of regulars.²⁷

²⁶James Ripley Jacobs, The Beginning of the U. S. Army, 1783-1812 (Princeton, 1947), 49-52. Hereafter cited as Jacobs, Beginning of U. S. Army.

²⁷Ibid., 53.

Meantime, back at Mount Vernon, the President was also visited by forebodings. Rumors blown out of the West by some ill wind caused him to wonder whether victory really marched with his commander. On 19 November he wrote Knox:

I expected little from the moment I heard he was a drunkard. . . . And I gave up all hope of Success, as soon as I heard that there were disputes with him about command.

The latter information is from report only; but the report of bad news is rarely without foundation. If the issue of this Expedition is honorable to the Concerters of it, and favorable to our Arms, it will be double pleasing to me; but my mind, from the silence which reigns, and other circumstances, is prepared for the worst. . . .²⁸

At the very moment that the great soldier's military intuition was thus working overtime, an express from Fort Washington was riding eastward with the news he feared. On October 19 one of Harmar's columns had been cut to pieces as it marched carelessly down a wilderness trail, and three days later a poorly conducted attack on a village had ended in a second disaster. The casualties of the campaign amounted to more than one-seventh of the total strength of the force.²⁹ A board of inquiry which met later did not, however, attribute the failure to either the bottle or the command troubles. It white-washed Harmar completely--his personal conduct was "irreproachable," the troops were properly organized, the order of march was adapted to the country, the battle plans

²⁸John C. Fitzpatrick (ed.), The Writings of George Washington (Washington, 1931-44), XXXI, 156.

²⁹Jacobs, Beginning of U. S. Army, 57-60.

were judicious, and so on. It did note that some of the general's orders were improperly executed and adduced pages of evidence reflecting on the behavior of the militia, which constituted almost eighty percent of the command.³⁰

On 8 December 1791, the President in his second annual address had prepared the way for later announcements by telling Congress that he had authorized the expedition but that the result was not yet known.³¹ By the following day rumors of defeat were circulating,³² and on the fourteenth the President sent up General Harmar's report, which had arrived the day before.³³ Maclay was more concerned about the implication of the affair than the heavy losses. The war had been undertaken without the consent of Congress, he wrote, and its purpose was to serve as a pretext for raising more troops.³⁴

His fears were realized on 24 January when the President transmitted a big bundle of papers from Knox including a plan for further operations in the Northwest with twelve hundred regulars, five hundred rangers, and thirteen hundred "levies" or volunteers, and a request for another regiment

³⁰The report of the board is in State Papers, MA, I, 20-36. The board's findings will be found on page 30 and criticisms of the militia on almost every page.

³¹Annals, 1 Cong., 3 Sess., 1729.

³²Maclay, Maclay, 339.

³³Annals, 1 Cong., 3 Sess., 1734, 1800. State Papers, IA, I, 104-06.

³⁴Maclay, Maclay, 339, 378.

of regular troops.³⁵ Three days later these documents were followed by another bundle, fortunately much smaller, describing more Indian depredations, this time on the Muskingum near Marietta.³⁶ On 11 February the House cleared the galleries and locked itself up, apparently to consider all these reports.³⁷ On the twelfth it sent a bill to the Senate adding the new regiment and making other provisions for the defense of the frontier.³⁸ As passed by that body, the measure finally became the act of 3 March 1791.³⁹

Since the House sat behind closed shutters and the Senate deliberated without the aid of its reporter, no information concerning the debates is available except a few words from Maclay. The amendments were longer than the bill, he would vote against the augmentation, and this army raised to fight Indians would be used "to awe our citizens into submission." Thomas Fitzsimons, a member of the House from Pennsylvania, had been overheard declaring that "one thousand

³⁵State Papers, IA, I, 107-21. The plan is on page 112 and the troop requirement on page 113.

³⁶Ibid., 121-22.

³⁷Annals, 1 Cong., 3 Sess., 1962, 1967. See also Howard White, "Executive Influence in Determining Military Policy in the United States," Reprint from the University of Illinois Studies in the Social Sciences, XII, Nos. 1-2 (1925), 100. Hereafter cited as White, "Executive Influence."

³⁸Annals, 1 Cong., 3 Sess., 1757.

³⁹Ibid., 1757, 1761, 1771, 1774, 1967.

men would avenge the insults offered to Congress." Maclay thought that in speaking of "insults" Fitzsimons had meant the opposition in the states to the excise tax.⁴⁰

The new act⁴¹ not only provided the new regiment (for three years) raising the strength of the army to 2128 men, but it also authorized the President to appoint a major general, to engage a body of militia horse, and to raise up to two thousand levies for six months. These last troops would be enlisted as volunteers, and the President would organize them into units and appoint their officers. General Emory Upton writes that the act thus provided an entirely new type of troops and laid the foundation for the volunteer system of Civil War fame.⁴² In case the new regular regiment could not be completed in time for the planned campaign, the act permitted the President to call out ordinary militia or raise more levies to meet the deficiency.

St. Clair's Defeat (Second Congress,
First Session)

Plans for the new campaign were pushed rapidly forward. On March 4, the day after the act became law, Governor St. Clair was appointed to fill the position of major

⁴⁰Maclay, Maclay, 384.

⁴¹Annals, 1 Cong., 2350-53.

⁴²Emory Upton, The Military Policy of the United States (Washington, 1917), 79. Hereafter cited as Upton, Military Policy.

general,⁴³ and on the twenty-first Knox sent him a letter of instructions. His command was to consist of the old 1st Regiment, which would be enlisted to full strength, the new 2nd Regiment, or as much of it as could be immediately raised, and about two thousand levies. Since some troops would remain at posts along the Ohio, the field force would contain about three thousand men. With this little army, St. Clair was to advance on "the Miami village," establish a strong post there, and garrison it with about twelve hundred men, which would be sufficient to curb the Indians of the area. If the Indians resisted this intrusion on their very hearths, as seemed likely, it was presumed "that disciplined valor would triumph over the undisciplined Indians." The force was to be prepared to move by 10 July.⁴⁴

All of this was more easily said than done. Delays and difficulties mounted rapidly. Many of the troops coming from the East, did not arrive at Fort Pitt until late in August, and low water held up their passage down the Ohio to Fort Washington.⁴⁵ Most of them did not look like good material from which to make heroes of the republic. According to one writer, they contained an unduly heavy proportion of poverty-stricken Irish immigrants, work-broken farm boys

⁴³Jacobs, Beginning of U. S. Army, 69.

⁴⁴Instructions to Major General Arthur St. Clair, 21 Mar. 1791, State Papers, IA, I, 171-74.

⁴⁵State Papers, MA, I, 37.

and apprentices, and men who seemed to have spent most of their lives in grog-shops, jails, and brothels.⁴⁶ There was also a shortage of arms and equipment, and a large part of the available stock of many essentials was damaged.⁴⁷ The problem of supplying the army in the wilderness was almost unsurmountable because of transportation difficulties, an inefficient quartermaster, and a crooked contractor.⁴⁸ Finally on 17 September, more than two months later than planned, the army, numbering less than twenty-three hundred,⁴⁹ led by an aging and gouty general, and composed of untrained and incompetent men, moved out into the forests to carry fire and terror to the Indians.

The events of the summer and fall bore an almost uncanny resemblance to those of the previous year. Again the President seems to have suffered an attack of forebodings brought on this time by the lateness of the fighting season.⁵⁰ The re-enactment of familiar events continued on 25 October, when he told Congress that the operation was underway. Two days later he sent up a characteristically large package of papers from Knox, reporting two "successful" campaigns of

⁴⁶Jacobs, Beginning of U. S. Army, 78-79.

⁴⁷State Papers, MA, I, 37.

⁴⁸Jacobs, Beginning of U. S. Army, 80, 119-20.

⁴⁹State Papers, MA, I, 37.

⁵⁰Jacobs, Beginning of U. S. Army, 86.

the summer, the minor operations of General Charles Scott and Lieutenant Colonel James Wilkinson.⁵¹ As Congress examined these documents, St. Clair, having just finished hanging two deserters and a murderer and ailing from a new attack of gout, was approaching the upper Wabash. On 4 November, the Indians fell upon his poorly guarded camp, butchered his army, and sent the survivors fleeing in disorder toward safety in the South. "Disciplined valor" had failed. Out of some 1400 men engaged on the bloody field, 657 were killed and 271 wounded.⁵² Fortunately, the 1st Regiment was in the rear pursuing some militia deserters and protecting a supply train, or most of it would probably have been hacked up too. As St. Clair commented:

I am not certain . . . whether I ought to consider the absence of this regiment from the field of action, as fortunate or otherwise. I incline to think it was fortunate; for, I very much doubt whether, had it been in the action, the fortune of the day had been turned; and if it had not, the triumph of the enemy would have been more complete, and the country would have been destitute of every means of defense.⁵³

On 12 December, the President reported the disaster to Congress.⁵⁴ Many members must have been puzzled and stunned.

⁵¹Annals, 2 Cong., 1 Sess., 12, 19, 146. The text of the report is in State Papers, IA, I, 129-35.

⁵²Jacobs, Beginning of U. S. Army, 96, 115.

⁵³State Papers, IA, I, 137-38.

⁵⁴Annals, 2 Cong., 1 Sess., 242. The text of the report is in State Papers, IA, I, 136-38.

Elias Boudinot wrote about a new express from the West, which confirmed the horrors--hundreds killed and wounded, those who could not run away left on the field to die, and female camp-followers butchered. "It is on the whole a most mortifying & perplexing affair, and I am at a loss to know, what steps are proper to retrieve it." The session would be prolonged, he thought, and filled with great debates.⁵⁵

Soon puzzlement gave way to criticism of the way the campaign had been planned and conducted. According to Timothy Pickering, the estimates of both the strength of the enemy and the quality of the federal troops had been erroneous. He wondered why experienced officers had made the mistake of leading such an obviously unfit army into the field. The original intent, he thought, had been to send a force so strong that the Indians would not dare fight. This force, however, had not been completed to full strength.⁵⁶

A committee of the House of Representatives appointed to investigate the affair concluded that the chief causes of the disaster were the delays in the passing of the Act of 3 March 1791, the delays resulting from gross inefficiency and mismanagement on the part of the quartermaster and the

⁵⁵J. J. Boudinot (ed.), The Life, Public Services, Addresses and Letters of Elias Boudinot, L.L.D., President of the Continental Congress (Boston, 1896), II, 81.

⁵⁶Octavius Pickering and C. W. Upham, Life of Timothy Pickering (Boston, 1867-73), III, 23.

contractor, and the "want of discipline and experience in the troops." The committee in its summary of the action also noted that the attack first fell upon some militia companies occupying positions in advance of the main body and that these units fled though the rest of the army.

"This circumstance threw the troops into some disorder, from which, it appears, they never recovered during the action. . . ." The committee also completely exonerated St. Clair,⁵⁷ a verdict that has not withstood the test of history.

The public was inclined to agree that much of the fault lay with Congress.⁵⁸ However, it would appear in retrospect that Washington himself must bear a heavy part of the responsibility. For a man who had complained so loudly about untrained troops during the Revolution, the President seems to have been strangely forgetful in 1791. How could men raised after 3 March be trained and sent hundreds of miles into a wilderness for a campaign to begin on 10 July? Even if Washington had thought these miracles could be accomplished through the agency of such poor magicians as St. Clair and Knox, who had lost much of his earlier driving force, he certainly should have delayed the operation for another year after midsummer had passed. It was time and

⁵⁷State Papers, MA, I, 36-39. The report was made on 8 Dec. 1796.

⁵⁸Jacobs, Beginning of the U. S. Army, 118.

poor military judgment that laid the piles of bones along the Wabash. Perhaps Congress in delaying to provide troops made the first mistake, but it was within the power of the President to have partially corrected it.

From a greater perspective, however, the fault was a larger one. Pickering was correct in his statement that the administration had underestimated the strength of the Indians. What had been needed was not two or three thousand men but five or six. Belatedly the President and Knox, who had never considered such a force as necessary in the Northwest, began to broaden their thinking. On 11 January 1792 they sent Congress the heaviest of all bundles of documents up to that time. Spread out over sixty-three pages of the State Papers, the reports cover the causes of the Indian troubles, the efforts that had been made to arrive at a peaceful settlement, and the military preparations that preceded the defeat. They attributed the disaster to the lack of sufficient good troops early in the year, to inadequate training, and to the lateness with which the operation got underway. They recommended another campaign and the raising of three additional regiments to make the strength of the army 5128 men.⁵⁹

On 25 January, after several days of secret discussion in the House, James Madison introduced a bill to give

⁵⁹State Papers, IA, I, 139-202. The plan will be found on pages 198-202.

the administration the augmentation it had asked for.⁶⁰ On the twenty-sixth, with the doors open for the first time on army debates, the committee of the whole took up the measure. The opponents of the new regiments called the Indian war unjust, claimed that militia was superior to regulars in frontier fighting, and ridiculed the contention that five or six thousand men were needed to put down a "handful of Indian banditti." Furthermore, they continued, 5128 regulars would cost more than one million dollars per year. Where was the money to come from? The excise was neither popular nor productive, and the impost was already as high as prudence dictated. A move to delete the regiments failed thirty-four to eighteen, and on 1 February the bill passed by the almost equally comfortable margin of twenty-nine to nineteen.⁶¹ About nine administration supporters voted against the measure and about eighteen for it. It would appear that some members of the government party distrusted the administration's war policy. The opposition split ten and ten.⁶²

In the Senate the new regiments barely escaped the scalping knife, being expunged on one day and restored on another with close votes in each case. After much loss of

⁶⁰Annals, 2 Cong., 1 Sess., 327-29, 337. The text of the bill is on pages 80-82 of the Senate proceedings.

⁶¹Annals, 2 Cong., 1 Sess., 337-343, 354-55.

⁶²White, "Executive Influence," 101 and footnote page 105. He calls them Federalists and Republicans.

time as both houses insisted upon minor changes, a conference committee finally ironed out the disagreements, and the bill became the "Act for making further and more effectual provisions for the protection of the Frontiers" of 5 March 1792. The act provided that the existing establishment--the two regiments of infantry and the battalion of artillery--be brought up to strength, that three additional regiments be raised for three years, and that one of these include a squadron (four troops) of dragoons in lieu of one of the battalions of infantry. It authorized the President to organize all five regiments and the artillery as he should judge expedient, transferring men from corps to corps. It also empowered him to call into service such cavalry as he might think necessary for the defense of the frontiers and to employ up to twenty thousand dollars' worth of friendly Indians for the same purpose. The cavalry might be raised for any period the President wished, and he would appoint its officers.⁶³

The Frontier War and Hamilton's Financial Program
(Second Congress, First Session)

According to the best estimates some \$675,000 would be required to put the act into effect. As the House began to look for these "additional supplies" it touched off one

⁶³Annals, 2 Cong., 1 Sess., 80-85, 88-94, 98-99, 428-30, 432-33. The text of the act is on pages 1343-46 of the reference.

of the most curious series of events in the history of American military and financial legislation. The sequence began on 7 March 1792 with a motion that the House call upon the Secretary of Treasury to report the best means of raising the funds. During the debate on that day and on the eighth Hamilton's friends vigorously defended the propriety and constitutionality of such a method of procedure. The opposition took the stand that it would interfere with the right of the House to originate money bills. If the procedure were adopted that body could do no more than approve or disapprove measures that had been originated by the Secretary. Fears of Hamilton and of "Ministerial management" lay behind this argument, as more than one speaker disclosed. The motion was passed by the close vote of thirty-one to twenty-seven.⁶⁴

By this time three elements of Hamilton's financial program--the Bank of the United States, the assumption and funding of the national debt, and the excise tax--had already been written into law. Meantime he had submitted earlier in the session (on 5 December 1791) a "Report on the Encouragement of Manufactures" calling for protective tariffs on many articles that could be produced in the United States.⁶⁵ The request from the House provided an excellent opportunity to further some of the principles recommended in the report.

⁶⁴Annals, 2 Cong., 1 Sess., 437-52.

⁶⁵Ibid., 227.

On 16 March he sent up papers outlining three ways in which the additional supplies might be raised.⁶⁶ The government's interest in the United States Bank might be sold, the money might be borrowed, or the import duties might be raised.

He advised against the first two solutions and pushed the third. The value of the bank stock could be expected to rise, and loans should be resorted to only in "great emergencies." On the other hand, he continued, an increase in the duties would not only provide the necessary funds, but it would also "tend to second and aid this spirit" of manufacturing then prevailing. It would also operate to restrain the excessive consumption of foreign products and thus prevent future embarrassment in the settling of trade balances. The report then outlined new schedules of specific and ad valorem duties with the latter being set at the high rates of ten and fifteen percent. These new taxes were to be permanent, and the proceeds were to be utilized first to pay the interest on the public debt, second to defray other existing appropriations, and last to support frontier defense.⁶⁷ This is to say that only the surplus would be applied to the purposes of the new army act.

Since this might be insufficient, Hamilton then recommended a temporary increase of two and a half percent

⁶⁶American State Papers, Finance, I, 158-161.

⁶⁷Ibid.

ad valorem on certain goods. The increase would be used for the prosecution of the Indian war, and it would lapse when the war had been brought to an end and all expenses relating to it had been liquidated. Meantime, the proceeds of this increase would have to be anticipated by a loan. In closing the report, he added in reference to the permanent increases "It will not have escaped the observation of the House, that the duties which were suggested in the Secretary's report . . . [on encouragement of manufactures] are, for the most part, included among the objects of this report."⁶⁸

A bill framed in accordance with the recommendation was introduced on 11 April. John Francis Mercer of Maryland raged to his feet and consumed one entire day of debate with condemnations of the measure. The House had asked the Secretary of the Treasury to devise ways and means for the defense of the frontier. It had gotten a plan calling for "a perpetual tax," a system of encouraging manufactures, "an entire provision for the public debt, past, present, and to come," and an increase of the sinking fund.⁶⁹

⁶⁸Ibid.

⁶⁹Annals, 2 Cong., 1 Sess., 349-54. The dating of Mercer's speech is difficult. It is entered in the Annals under 27 Jan., a day on which the military bill was considered. Yet it refers to the details of Hamilton's plan, which was not presented to Congress until 16 Mar., eleven days after the passage of the military act. White thinks the speech should have been entered under a Mar. date. White, "Executive Influence," 102. However, it seems appropriate to place it with the Apr. debate re Hamilton's

We have been officially, I suppose informed that the money for the War Department is almost expended; that the preparations for the Western expedition must stop, unless we pass the bill immediately; and thus with the tomahawk suspended over our heads we must give up to administration the dearest interests of the people, and sacrifice the most sacred rights of the Constitution.⁷⁰

The government party did not attempt to defend the bill against these just charges. They pointed out, however, that "The predominant feature of . . . [the bill] was its nationality," for it treated all states fairly. It laid duties on cotton and hemp that virtually amounted to exclusion. As a result those products of the South would always find a ready market for use in the manufactures of the North. After some amendment the bill was carried thirty-seven to twenty, and it passed the Senate with further amendments a few days later. Thus did one of Hamilton's fondest projects ride through Congress on the coat-tails of an army measure.⁷¹

The Republicans Attack General Wayne's Rear
(Second Congress, Second Session)

Whatever his motives in ordering the earlier operations, the President seems to have profited from the lessons of their failures. Now he painfully selected a new commander from a list of all general officers in the United States

recommendations. Mercer, who now represented Maryland, had represented Virginia in the Confederation Congress.

⁷⁰Annals, 2 Cong., 1 Sess., 350.

⁷¹Ibid., 569-72, 131-32. The text of the act is on pages 1364-70 of the reference.

except those too old or too ill to serve. His choice, General Anthony Wayne, did not completely please him--Wayne's reputation for economy was bad and he was "vain, easily imposed upon; and liable to be drawn into scrapes."⁷² The results were to prove that no one except the Indians could have profited from a different selection. On 27 December 1792 under authority granted him in the recent act Washington issued an executive order organizing the expanded army into a legion consisting of four sublegions each with its complements of foot, artillery, and horse.⁷³

Though St. Clair had marched off six months after the passage of the act authorizing his troops, Wayne was permitted plenty of time to prepare for the new campaign, principally because the administration was trying to negotiate a peace. Before he began his advance he spent one winter in camp near Pittsburg training his men and another at Fort Greenville on the borders of hostile country hardening them. They were composed of the familiar misfits, but this treatment appears to have turned them into excellent soldiers. In addition, they were better armed, clothed, supplied, and paid than St. Clair's men had ever been. In July 1794, the legion, which was greatly understrength, was reinforced by eleven hundred mounted volunteers from Kentucky.

⁷²Washington's "Opinion of the General Officers," Fitzpatrick, Writings of George Washington, XXXI, 510.

⁷³State Papers, MA, I, 40-41.

In August, Wayne and his troops crushed the Indians at Fallen Timbers.⁷⁴ The victory was a triumph of leadership, preparation, and regular soldiers, which made up the greater part of the army. A comparison of results with the failures of Harmar and St. Clair should have convinced the most seasoned defenders of the militia that the regulars were infinitely superior. But, of course, it did not.

Meantime, while Wayne had been preparing to fight Indians in Ohio, enemies in Philadelphia were sniping at his rear. On 28 December 1792, John Steele of North Carolina began a move in the House to take away more than half the strength of the army. His plan would retain the two old regiments to garrison the forts and use local militia to make about five expeditions per year against the Indians, instead of the "one solitary fruitless attempt" the regulars had been making. Steele's main objections to the present establishment were its expense and its ineffectiveness. He blamed the War Department on both counts. In four short years this "alarmingly expensive and useless Department" had imposed burdens on the people that had risen from \$137,000 in 1789 to an estimated \$1,171,719 for 1793. The latter sum was more than double the amount required to support the remainder of the government. Meantime these enormous

⁷⁴Jacobs, Beginning of U. S. Army, 124-175 passim. The information concerning the Kentucky volunteers is from Upton, Military Policy, 83.

expenditures had led only to "vain projects of folly and ambition, without a prospect of guaranteeing a peace." The truth was that militia were much superior to regulars in Indian fighting, and they cost less than a fourth as much.⁷⁵

Steele's speech led to long discussions⁷⁶ of the relative merits of regulars and militia. Militia knew the terrain, moved rapidly without trains and baggage, and had proven their worth at Bunker Hill, Cowpens, Trenton, and in many other actions. On the other hand a force of regulars with all its impedimenta creeping through the forests after Indians was like "an elephant in chase of a wolf." Another reason for the superiority of militia was that it was composed of substantial free-holders. The regulars who had been sent into the field had been collected "from stews and brothels and from the most unprincipled of their species." The Indians had despised them and "shot them down like wild turkeys." In another swipe at the administration it was noted that these troops had been given shoes that wore out in three days, uniforms that did not cover their bodies, and food unfit for dogs.⁷⁷

The government party viewed Steele's speech, and no doubt many of those that followed, as direct censures of the

⁷⁵Annals, 2 Cong., 2 Sess., 762-65.

⁷⁶The matter was debated on 28 Dec. and on 2, 3 and 5 Jan., Ibid., 762-68, 772-801.

⁷⁷Ibid., 764-67, 781-82, 796, 800.

administration and both houses of Congress. They defended the regulars, pointed to the disabilities of the militia, and explained away the disasters of Harmar and St. Clair as resulting from the use of inadequate numbers of raw and undisciplined troops. When the vote was taken, Steele's motion that a committee be appointed to bring in a bill to reduce the army was rejected thirty-two to twenty-six.⁷⁸

The Crisis of 1794 (First Session,
Third Congress)

The summer and fall of 1793 was marked by the appearance of new threats that rapidly developed into a first class military crisis. In June the British Government, then at war with France, began an attack on American shipping engaged in trade with France and the French West Indies. Soon hundreds of American vessels had been captured, others were ordered to heave to for boarding and search, and sailors were seized from the decks and impressed into the British service. By the time Congress convened on 2 December indignation against the British ran high in the shipping centers and throughout the East. If this were not enough trouble, the Algerian pirates had sent eight corsairs into the Atlantic to prey on our commerce.⁷⁹ All of these problems produced the adminis-

⁷⁸Ibid., 766-67, 775, 777-779, 788, 802.

⁷⁹John Bach McMaster, A History of the People of the United States from the Revolution to the Civil War (New York, 1901-14), II, 166-71.

tration's most formidable defense plan up to that time.

This new military program reached Congress piecemeal and by several routes. On 2 December in his address on the opening of the session the President pointed out the necessity of general preparations for defense and called for the procurement of additional arms and military stores.⁸⁰ On December 16 and 24 he sent up reports on the Algerian situation that suggested the need of naval forces.⁸¹ Other proposals calling for army increases and an embargo on foreign trade originated later with Hamilton. Meantime, it became clear that the Republicans had a program of sorts of their own. They supported the use of militia in lieu of additional regulars as a general preparedness measure and for the defense of the frontier. Many of them also favored drastic retaliation on British trade, and Madison early in the session (3 January 1794) introduced resolutions calling for increased duties on certain imports from Great Britain, restrictions on British shipping, and other discriminations.⁸²

House committees were soon at work on the parts of the program outlined by the President in his address and in the "Algerine reports,"⁸³ and by the first of April both the

⁸⁰Annals, 3 Cong., 1 Sess., 12.

⁸¹Ibid., 143, 148.

⁸²Ibid., 155-56.

⁸³Ibid., 154-55 (navy), 448-51 (fortifications), 467 (military stores and arsenals).

House and the Senate had passed acts providing:

(1) For the fortification of twenty-one principal ports and harbors from Georgia to Maine.⁸⁴

(2) For the procurement of six frigates and for the enlistment of crews to man them.⁸⁵

(3) For the establishment of several arsenals (three or four) and for the purchase of arms, ammunition, and military stores to the total value of \$340,000.⁸⁶

On 9 May a fourth act providing three hundred and fifty cannon to arm the seacoast works became law.⁸⁷ While most of these measures had aroused little opposition in the House, the committee of the whole had considered the Algerian reports on five different days before finally approving a preliminary resolution and referring it to a committee.⁸⁸

Meantime, on 8 March, as the House labored with these several matters, Hamilton outlined his own ideas in a brotherly letter to the President. The situation, he said, was so critical that vigorous measures should be devised to deter our enemies from attacking or provoking us. The more important ports should be fortified, the President should be given the authority to lay an embargo on shipping as he

⁸⁴Act approved 20 Mar. 1794, Ibid., 1423-24.

⁸⁵Act approved 27 Mar. 1794, Ibid., 1426-28. The act was to cease when peace was made with Algiers.

⁸⁶Act approved 2 Apr. 1794, Ibid., 1428-29.

⁸⁷Ibid., 1444-45.

⁸⁸The reports were considered by the committee of the whole on 24, 26, 30, and 31 Dec. 1793. The resolution was approved and the committee appointed on 2 Jan. 1794. Ibid., 148-49, 152-55.

might think necessary, and twenty thousand "auxiliary troops" should be raised.⁸⁹ The letter was written before the fortification bill had been passed, and the embargo was no doubt suggested as a less objectionable alternative⁹⁰ to Madison's proposals, which were completely out of line with the Federalist favoritism for Great Britain.

The auxiliaries, as Hamilton described them, would be a new species, a cross between regulars and militia, as yet unknown to American military history. They would be enlisted for two years, and if war broke out with any European power during that period they would be required to serve for four years upon the same terms as regulars. Meantime, however, they would remain unembodied except for forty days per year, which would be utilized for training. During this training period they would receive the same pay and rations as regulars. They would also be furnished with arms and accoutrements by the government with the proviso that the equipment be surrendered at the expiration of their enlistments. The great advantage of this new breed of dog and cat was its cheapness. Hamilton estimated that the

⁸⁹Letter of 8 Mar. 1794. Henry Cabot Lodge (ed.), The Works of Alexander Hamilton (Federal ed., New York and London, 1904), X, 64-65. Hereafter cited as Lodge, Hamilton.

⁹⁰This is also White's opinion, "Executive Influence," 109.

twenty thousand men would cost only \$350,000.⁹¹

Hamilton suggested that the President might want to give the plan "some Executive impulse," advice that Washington apparently ignored. Howard White notes that the administration adopted new legislative tactics at this point. Whereas formerly army increases had been openly advocated by the administration, they were now introduced by members of Congress with no indication of their real sponsorship.⁹² Thus Hamilton's proposal for auxiliaries as well as later proposals derived from it found their way into one or the other of the two houses in the form of resolutions presented by administration backers. For the first time the Republicans had a majority in the House, and as White continues, they bitterly resented what they called "executive dictation."⁹³

On 12 March Theodore Sedgewick of Massachusetts introduced several resolutions that might have been written by Hamilton's own pen. These proposed that fifteen thousand of the "auxiliary troops" be raised and that the President be authorized to lay the embargo. The resolutions relating to the auxiliaries departed from Hamilton's letter only in the five thousand man reduction in numbers, in an additional

⁹¹Lodge, Hamilton, X, 64-65.

⁹²White, "Executive Influence," 106-07.

⁹³Ibid.

provision concerning the officers, and in several minor changes. The officers would be appointed by the President, but Hamilton had probably intended this. The required service after the beginning of war was reduced to three years, the number of training days was set at twenty-four per year, and the pay for training was raised to fifty cents per day,⁹⁴ some five times that of regulars.

As Sedgwick explained, the purpose of the resolutions was to prepare the United States for war and for retaliation against the probable enemy's most vulnerable spot, its North American dominion. The auxiliary troops would provide an excellent striking force for this second purpose, and when they were available for a blow the enemy would no doubt treat us with more caution. The Republicans would probably object to such a force because of their fear of standing armies. He would like to point out that militia were of no use in "retaliation," that is in offensive operations. Their terms of service were too short, and in addition their cost in wages and wasted equipment was too high. Meantime, since the auxiliaries would remain scattered and unembodied unless war broke out, it was impossible that they should be a threat to the liberties of the people.⁹⁵

Though Sedgwick's plan was considered by the committee of the whole on six different days, the Annals do not

⁹⁴Annals, 3 Cong., 1 Sess., 500-01.

⁹⁵Ibid., 501-04.

record the debate. Republican opposition must have run high because on the last day the House approved a vague resolution that measures should be taken "to render the force of the United States more efficient." It referred the resolution to a select committee headed by Sedgwick,⁹⁶ which on 27 March recommended:

(1) An additional corps of artillery (eight hundred men) for seacoast defense.

(2) A detachment of eighty thousand militia, the troops to be apportioned among the states and held in readiness to march at "a moments warning."

(3) An additional force of men to be raised only after the outbreak of any war between the United States and an European power.⁹⁷

It will be noted that this report marked a complete break with the suggestions of Hamilton and Sedgwick. The dog-cat hybrid which Hamilton had called auxiliaries was apparently replaced by some dogs (the additional troops) and some cats (the militia detachment). There is no evidence that the committee intended the former to be anything other than regulars. The issue was thus clearly stated, for the report presented a choice between what the Federalists preferred (the regulars) and what the Republicans preferred

⁹⁶The days were Mar. 17 to 21 and Mar. 24. Ibid., 523-24, 526-28.

⁹⁷Ibid., 534-35. The report also recommended that measures be devised to bring the existing troops up to strength. However, a bill to encourage the recruiting service had already been reported on 24 Mar. It was lost on 6 May when the two houses disagreed on amendments. Ibid., 525-26, 528, 560, 88, 93, 642-43.

(the militia). The report added an element, the additional artillery, that Hamilton had not mentioned.

On 31 March the House set the number of the additional troops at twenty-five thousand, removed the proviso that they not be raised until after war began, and approved all the resolutions.⁹⁸ A week later Sedgwick's committee, to which the resolutions were referred, reported bills covering the artillerists and engineers, the detachment of militia, and the additional troops.⁹⁹ The first two of these were passed by both houses with several minor changes.¹⁰⁰ They provided for 764 additional artillerists and engineers and authorized the President to require the governors to hold eighty thousand militia in readiness. The act providing the latter would remain in effect for only one year and thence to the end of the next session of Congress.¹⁰¹

The third of the measures, which was much more controversial, was not called up until 19 May. On that day the section providing for the twenty-five thousand men was struck, and the bill was voted down.¹⁰² Two days after this defeat the President transmitted papers describing disturbed

⁹⁸Annals, 3 Cong., 1 Sess., 556-58.

⁹⁹Ibid., 561.

¹⁰⁰Ibid., 603, 86-87, 90-92, 642.

¹⁰¹Both acts became law on 9 May. Ibid., 1444-46.

¹⁰²Ibid., 709-10.

conditions on the Ohio--a party of British troops was thought to be encroaching on United States territory¹⁰³--and within a week a Senate select committee reported the bill in a second form giving the President discretionary power to raise up to ten thousand men during the recess of Congress.¹⁰⁴ James Monroe, then a Senator, commented wryly that the alleged British action had been seized as a pretext for pressing the increase and feared that the measure would pass. The decrease in the number of troops and the discretionary feature would make it more acceptable, and with the President's enormous influence it might even clear the House.¹⁰⁵

Part of Monroe's apprehensions were realized on 29 May when the Federalists pushed the measure through the Senate by a vote of twelve to eight.¹⁰⁶ The next day the Republicans in the House turned the discretionary feature

¹⁰³Annals, 3 Cong., 1 Sess., 103, 713. State Papers, IA, I, 480. On the previous day (20 May) the Secretary of State had complained to George Hammond, the British minister, that J. G. Simcoe, the Lieutenant Governor of Upper Canada, and three companies of British troops had marched to the rapids of the Miami to build a fort. Ibid., Foreign Affairs, I, 461-62.

¹⁰⁴Annals, 3 Cong., 1 Sess., 109, 111.

¹⁰⁵Letter to Thomas Jefferson, 26 May, 1794, Stanislaus Murray Hamilton (ed.), The Writings of James Monroe, Including a Collection of His Public and Private Papers and Correspondence Now for the First Time Printed (New York and London, 1898-1903), I, 297.

¹⁰⁶Annals, 3 Cong., 1 Sess., 112-13.

into a liability rather than an asset. As William B. Giles of Virginia put it, the bill ought to be entitled "A bill authorizing the President to pass a law for raising ten thousand men." According to Madison, the Constitution had wisely provided that one branch raise armies and another command them. If the President were given the power to perform the first function as well as the second, he might assemble troops for the sole purpose of building "influence." The Federalist work-horses, Fisher Ames of Massachusetts, Jonathan Dayton of New Jersey, and Sedgwick, defended the bill vigorously, but their efforts were unavailing. It was rejected fifty to thirty-two.¹⁰⁷

The Senate still, however, would not admit defeat. Its next opportunity came from the House in the form of a bill "for the more effectual protection of the Southwestern frontier." This was a Republican measure authorizing the President to embody up to ten thousand militia from the Southern States for offensive operations against the Creeks and Cherokees.¹⁰⁸ The Federalists of the upper chamber with some Republican help approved amendments that struck the militia section and substituted one authorizing an additional

¹⁰⁷Ibid., 735-39.

¹⁰⁸The bill was reported in the House on 20 May and passed without discussion on 29 May. Ibid., 710, 730.

regular regiment to be raised in the South.¹⁰⁹ The Republicans in the House had by now begun to view the whole affair as a giant conspiracy to force a large standing army on the people. As Giles commented, fifteen thousand men had first been proposed, next twenty-five thousand, then ten thousand, and now when all had failed this regiment of one thousand was brought forward.¹¹⁰ Most of the speakers opposing the amendments were from states with exposed frontiers, and each thought the militia was much superior to standing troops in Indian warfare. According to Thomas P. Carnes of Georgia, the regulars stationed in his state had performed no other service than to prevent the militia from pursuing Indian raiding parties across the line.¹¹¹ Following these attacks the House refused to concur with the Senate in the substitution by a vote of forty-two to twenty-six.¹¹²

The bill was lost when the conference committee failed to find any common ground.¹¹³ On the last day of the session (9 June) Rufus King, who had been one of the Senate conferees, made a final effort to put through the regiment. The bill he introduced provided that the troops be raised only if the President did not think it desirable to transfer

¹⁰⁹Ibid., 117, 123-25. The bill was passed by the Senate on 6 June. Ibid., 126.

¹¹⁰Ibid., 775.

¹¹¹Ibid., 775-78.

¹¹²Ibid., 779.

¹¹³Ibid., 128-29, 131, 781-82.

one of the existing regiments to the Southwestern frontier. Despite this discretionary feature, which the bill had lacked in its original form, the Senate, pressed by last minute business, rejected the measure on the second reading.¹¹⁴

Meantime the Congress had passed a thirty day embargo that stemmed from Sedgwick's original resolutions. However, the act departed from his suggestions in that it directly prohibited sailings instead of leaving the actual imposition of the restriction to the President. It was subsequently renewed for an additional month.¹¹⁵ In summing up the results of the session, the Federalists could thus list successes for all parts of their program except the additional auxiliaries or regulars. The Republicans had succeeded fairly well also. Though some of them had deserted the party ranks on occasion, the embargo was a step in the way of the commercial restrictions they desired. Furthermore it was applied by Congress, as they wished. They had also attained two other important objectives. They could take credit for dealing with the foreign threat in the provision of the militia detachment. And they had been able to stave off the persistent efforts of the Federalists to increase

¹¹⁴Ibid., 131-32.

¹¹⁵ Joint resolutions approved 26 Mar. and 18 Apr. 1794. Ibid., 1482-83. Late in the session, Congress did pass an act (approved on 4 June) permitting the President to "lay, regulate, and revoke" embargoes during the recess of Congress. Ibid., 1450.

the army.¹¹⁶

With the exception of a few poorly digested estimates concerning the Southwestern frontier, the Federalist troop requests from 1790 through 1793 were not only extremely modest but they were also keyed to real needs and dangers. Suddenly in 1794, however, there was a change. Though Hamilton and the administration privately discounted the possibility of a foreign war,¹¹⁷ troops were demanded in numbers many times larger than ever before. It was at this point that the close interrelationship between Federalist political and military philosophy began to emerge. A strong army could be employed to enforce the law and to suppress such dangerous dissidents as whiskey rebels, sans-culottes, and other dissatisfied economic and ideological groups.

The Army Continued (Second Session,
Third Congress)

By the time that the second session of the Third Congress convened on 3 November 1794, the measures of the administration had been marked with complete or partial success. The militia that had been sent against the whiskey insurgents was putting down the rebellion. John Jay was hard at work negotiating a settlement with Great Britain, and Wayne had

¹¹⁶White sums up in similar fashion, "Executive Influence," 110-11, 114.

¹¹⁷Hamilton, for example, assured Hammond, the British minister, that the United States would not go to war to defend its shipping.

crushed the Indians. In his opening address, most of which was devoted to the Pennsylvania affair, the President did not refer once to the trouble on the seas which had resulted in the defense program of the first session.¹¹⁸ Nor did his subsequent messages and reports seem as alarming as in the past. Wayne's army, he told Congress, should be brought up to full strength,¹¹⁹ and measures should be devised to prevent unruly settlers from encroaching on Indian lands.¹²⁰ "Harmony reign[ed]" between the United States and France, an envoy had been sent to Spain to complete certain discussions with that country, and the prospects for a settlement with Algeria were favorable. Nothing could be communicated on our relations with Great Britain until the outcome of Jay's negotiations were known.¹²¹

To many Republicans it must have appeared that the millennium had arrived or that it had at least approached close enough to permit a partial disbandment of the army. It took a House committee appointed on 8 December and

¹¹⁸Annals, 3 Cong., 2 Sess., 787-792.

¹¹⁹The President to the Congress, 25 Nov. 1794, Ibid., 796. State Papers, MA, I, 68.

¹²⁰The President to the Congress, 30 Dec. 1794, Annals, 3 Cong., 2 Sess., 807. The letter transmitted a report from Secretary Knox that suggested ways in which the control might be effected. Ibid., 1400-1402.

¹²¹The President to the Congress, 28 Feb. 1795, Ibid., 841-42.

composed entirely of Republicans--Henry Dearborn of Massachusetts, John Nicholas of Virginia, and John Smilie of Pennsylvania¹²²--only seven days to bring in a report calling for substantial military cuts. The success of General Wayne, the report said, made it possible to reduce the army to two regiments and the corps of artillery.¹²³ Such a demobilization, of course, would have destroyed the legion, both by the loss of troops and by the elimination of the cavalry. When the report was called up on 21 January 1795, Sedgwick, Murray, and other Federalists, refusing to believe that all military threats had disappeared, carried the House with them on a resolution to request the advice of the Executive on the number of troops required to defend the frontiers.¹²⁴

On the twenty-sixth the President sent up a report prepared by Timothy Pickering, the new Secretary of War, which advised against any reductions whatsoever. The victory in the Northwest, Pickering wrote, had not yet resulted in a general peace in that region. The defense of the Southwest Territory and Georgia, based upon a few regulars supported

¹²²Ibid., 968.

¹²³The report was rendered on 15 Dec. 1794. "Reports of Select Committees of the House of Representatives," I, 342-43, MS, National Archives, Washington, D. C.

¹²⁴Annals, 3 Cong., 2 Sess., 1122-25.

by the militia, had not been adequate. Finally, the sea-coast could not be left unguarded, and the fortifications being erected would absorb most of the artillerists and engineers.¹²⁵ Though this summary of the situation was not strongly drawn, it apparently convinced some Republicans of the dangers of premature disarmament and gave the Federalists the stimulus they needed to resist any reduction.

When the committee report was debated on 2 and 3 February, the Federalists had things their own way, presumably as a result of the opposition's reluctance to challenge the administration, which now found its prestige greatly enhanced by the success of Wayne. Dayton immediately proposed a substitute resolution which would continue the existing establishment for three more years. What they wanted, said the administration supporters, was the most convenient, effective, and inexpensive defense of the frontier. They denied that the threat in the Northwest had been completely eliminated and that the prospect of a treaty with Great Britain justified reductions. That nation was notorious for its violation of treaties.¹²⁶ Though several Republicans spoke they made no real effort to answer these assertions.¹²⁷ It thus surprised no one when the house rejected the report,

¹²⁵State Papers, IA, I, 547.

¹²⁶Annals, 3 Cong., 2 Sess., 1163-72.

¹²⁷Ibid.

adopted Dayton's substitute, and directed a new committee to prepare a bill continuing the existing army.¹²⁸

When the bill was brought before the committee of the whole on 13 February, the Republicans with their fears of standing armies resurging proposed that the troops be employed only for the defense of the frontier. Peleg Wadsworth of Massachusetts inundated this suggestion with sarcasm and ridicule. The militia of any county in New England could destroy the little army in an hour. "It had been said . . . that a party in the House wanted to employ . . . it as an instrument for executing the laws." He hoped it would always be used to prevent encroachments on the Indians and to put down insurrections but not for the ordinary enforcement of the law. "As to weakening the army for fear that it should enslave us . . . it was like a man blunting his axe for fear that he should cut his foot with it." After this attack, the amendment received only twenty-six votes,¹²⁹ and another Republican motion which called for automatic strength reductions on the making of peace with the Indians was defeated by a similar vote.¹³⁰ The next day the bill was passed without a roll call and after a few Senate amendments of a minor nature it cleared both houses and was signed into law

¹²⁸Ibid., 1164, 1172.

¹²⁹Ibid., 1221.

¹³⁰Ibid., 1222-23.

on 3 March 1795.¹³¹

Reductions (Fourth Congress, First Session)

By the time that the Fourth Congress convened in December 1795 the Indian war in the Northwest had been brought to a successful termination with a provisional treaty. Settlements had either been completed or nearly so with Algiers, England, and Spain. The formerly insurgent counties of Western Pennsylvania were tranquil, and throughout the country agriculture, industry, and business prospered. To use a military metaphor, there did not seem to be a faulty fuze in the whole ammunition dump. In view of the changed conditions, the President said in his opening address, Congress might want to review the military establishment. It should, however, remember that some difficulties with foreign powers had not been completely resolved and that the frontier posts soon to be surrendered by Great Britain under the new settlement with that country would have to be garrisoned.¹³² In a subsequent report of 3 February 1796 the administration outlined the military requirements for frontier defense and recommended that any decision to reduce the army be suspended for a month or two pending implementation of the treaties with Great Britain

¹³¹Ibid., 1233, 825, 827, 847, 1275. The text of the act is on pages 1515-19 of the reference.

¹³²Annals, 4 Cong., 1 Sess., 10-14.

and Spain.¹³³ On 14 March the Secretary of War in a second report held only that the army should not be reduced below its real--as opposed to its authorized--strength.¹³⁴

On 25 March a House committee, heeding both the President's suggestion that the army might be reduced and his advice that the reduction not be too large, brought in a report that seemed to fill both requirements. It stated the obvious fact that fewer men would now be required on the frontier, noted that the actual strength of the army was only three thousand, and recommended that the authorized strength be set at this number. The reduced establishment, it went on, should consist of the corps of artillerists and engineers as already constituted and four small regiments of infantry, the dragoons of the legion being omitted. It also proposed that the office of major general be reduced to that of brigadier general.¹³⁵

Except as to detail the report was likely to please the great majority of both sides, for the Federalists had probably feared that the reduction would be larger and the Republicans that it would be smaller. As it happened only Murray and Thomas Hartley of Pennsylvania openly opposed the reduction, and such thorough-going Federalists as James

¹³³State Papers, MA, I, 112-13.

¹³⁴Ibid., 114.

¹³⁵The text of the report is entered under the date of 11 Apr. 1796, Annals, 4 Cong., 1 Sess., 905-06.

Hillhouse of Connecticut and Robert Goodloe Harper of South Carolina favored it. The discussion, however, was marked by a flareup of party enmity. When Hartley urged all friends of the government and the Constitution to vote against the report, Giles hinted that the Federalists intended to use the troops against the people. "It was always better for Governments to rest upon the affections of the people than to be supported by terror," he said. Murray denied and ridiculed this charge. The militia, not the army, he pointed out, had been employed to quell the recent insurrection.¹³⁶

The Republicans for once did not fill the air with panegyrics for the militia. James Holland of North Carolina emphasized the sectional division on the issue. While the army was to be used on the frontier, representatives from that section wanted the reduction, but those from the sea-ports, where there was no danger, wanted an increase.¹³⁷ Though this irony was presumably directed against Murray, Hartley, and the Northern Federalists in general, it overstated their position. Indeed most of them had said nothing at all. On the other hand, Holland was no doubt correct in claiming that representatives from states with frontier problems did favor the reduction.¹³⁸

¹³⁶Ibid., 907-09, 913.

¹³⁷Ibid., 911.

¹³⁸Though there was no roll call on the reduction to back up this statement, states with Indian problems almost always preferred the militia to regulars. This point has already been noted on page 149 above, and it will be further developed in later sections.

The reduction hinged not only on the decreased need for troops but also on the desire to cut spending. Albert Gallatin of Pennsylvania, who was beginning his long fight against military expenditures, estimated that the troop cut would save \$600,000 a year.¹³⁹ The next day in a debate on the United State Bank he charged that the national debt had increased more than five million dollars under the administration. His figures showed that War Department expenditures had not been less than about twenty-five percent of the total budget in any year since 1792 and that in one they had approached forty percent.¹⁴⁰ With this attack in the wind, even the staunchest Federalists could not have been unaware of the political value of the monetary savings the reduction offered.

The committee of the whole approved the report without a roll call, and the House ordered that a bill be brought in. This was subsequently passed with amendments that added two troops of light dragoons. The Senate, which did not have to listen to Gallatin's preachments on economy, demanded that four troops of dragoons and the major general be retained and that the term of enlistment be set at five years instead of three.¹⁴¹ The House rejected the first two

¹³⁹Annals, 4 Cong., 1 Sess., 910.

¹⁴⁰Ibid., 923-930.

¹⁴¹Ibid., 913, 1025, 1264, 1293, 100, 1417, 1418.

demands but accepted the third after Samuel Smith of Maryland had noted that the soldiers stayed on as farm laborers after discharge. The Westerners who preferred the short term did so, he said, because under the longer one they would receive fewer farm hands from the East.¹⁴² Subsequently the Senate surrendered on the dragoons and the House on the major general.¹⁴³ With the passage of the act, which segregated the troops according to branch of service, the legion disappeared.¹⁴⁴

A Surprise Attack (Fourth Congress,
Second Session)

In the second session of the fourth Congress, action on military measures was influenced by the continued decline of the military threats of past years, by momentary lack of interest on the part of the administration, and by the growing emphasis the Republicans placed on economy. The frontier was quiet, the British had surrendered the Western posts, and only the attacks made by French cruisers on our ships trading with the West Indies disturbed the general tranquillity. With the military situation relatively stable and the act passed in the last session still new, the

¹⁴²Ibid., 1419-23.

¹⁴³Ibid., 102, 105, 108, 111, 1428-30, 1462.

¹⁴⁴The act was approved on 30 May 1796, Annals, 4 Cong., 2926-31.

President in his address to Congress hardly mentioned army affairs.¹⁴⁵ Thereafter, the administration was strangely silent as army measures were brought up in the House. Meantime a group of Republicans bent on saving money called for reductions in the army and in the military budget and gave the Navy as good a battle as any French frigate was likely to do.

The attack on the army was led by Gallatin and several of his closest followers. On 13 January 1797 a select committee appointed to recommend changes in the act governing the military establishment had rendered its report. Though the committee contained a Republican majority, the report, which was relatively innocuous, gave no hint of what was to come. The dragoons, it said, should be abolished, the office of major general should be reduced to that of brigadier general, and to compensate for the loss of the horse troops each infantry company should be increased by eight men.¹⁴⁶ Unfortunately the committee had been forced to work without any statement of military requirements from the administration, a fact which was to cause much difficulty in the debates to come.

¹⁴⁵Annals, 4 Cong., 2 Sess., 1592-97. He did say a few words concerning the need for a navy and for improved militia legislation.

¹⁴⁶Ibid., 1872-73. The committee had been appointed on 5 Jan., and the text of the report will be found under date of 23 Jan. Ibid., 1817-18, 1944.

Gallatin and his followers thought that much more substantial cuts should be made. The frontier was secure, they said, and the British withdrawal from the Lake posts had removed the major threat to continued peace. Meantime, our imminent occupation of these stations would simplify the defense problem throughout the Northwest. If we were to profit by these improved conditions we should no longer maintain a wartime army. Instead we should return to the establishment of 1792, which contained no dragoons, a few artillerymen, and only two regiments of infantry. In any event, the real defense of the frontier should rest upon the militia.¹⁴⁷

Furthermore, the financial situation was such that army reductions were mandatory. Armies cost too much, said Gallatin, and the House was reluctant to raise money. He was not at all sure that the direct tax bill then under consideration--or presumably any other revenue measure--would pass. If this were the case retrenchments would be necessary, and substantial savings could be made nowhere except in the military establishment. Before the Indian war the average military expenditure had been \$400,000 per year, during the war it had varied from about \$1,000,000 to

¹⁴⁷The Republicans began this line of argument on 23 Jan., when the report first became before the committee of the whole, and continued it as long as the subject was under consideration. See the comments of Williams, Ibid., 1952, 1954, 2068; Gallatin, Ibid., 1956-57; 2070-71; Rutherford, Ibid., 1961; and Nicholas, Ibid., 1959-60.

\$1,800,000, and since the war it had averaged almost \$1,300,000. The great difference between the averages of the prewar and postwar years certainly indicated that cut backs were in order, the conditions on the frontier being the same in both cases.¹⁴⁸

In answering these arguments, the Federalists were handicapped by the surprise nature of the attack and by lack of information from the administration. The challenge was so unexpected, Samuel Smith, the chairman of the select committee admitted, that he was not prepared to meet it.¹⁴⁹ Not until the last days of the debate was Smith able to obtain a list of the positions that would be occupied and the garrisons required to man them.¹⁵⁰ The House sensed that this new plan had been hastily prepared and doubted its efficacy. Gallatin with all the self-assurance of some practiced military planner announced that several of the posts with garrisons totalling a thousand men were unnecessary.¹⁵¹ Even William Findley, who had consistently supported administration military policies, said that the House "was groping in the dark. Every information which had been given, had rather been matter of opinion of individual members, and of the Secretary of War, than official; therefore, everyone was

¹⁴⁸Ibid., 1956-57, 1962, 1980.

¹⁴⁹Ibid., 1953.

¹⁵⁰Ibid., 2083.

¹⁵¹Ibid., 2085.

at liberty to exercise his own opinion."¹⁵²

Before the debate began it was almost a foregone conclusion that the House would accept the committee's recommendation to drop the dragoons. These troops had been employed in the Northwest to escort supply trains. Not only were they no longer required for such service, the supplies now being transported by water, but they were also the most expensive of all arms. However, resistance to their elimination rapidly developed when the select committee report was brought before the committee of the whole on 23 January. The Secretary of War, James McHenry, had belatedly informed Smith that the troops should be retained for employment in Georgia.¹⁵³ The army men, Hartley and Murray, and the Georgians, Abraham Baldwin and John Milledge, backed McHenry's stand.¹⁵⁴ However, they received little support, for the committee of the whole voted overwhelmingly to eliminate the horsemen.¹⁵⁵

On the same day the Republicans struck at the infantry when John Williams of New York moved that the regiments be reduced from four to two. It was at this point that Gallatin had criticized the House for failure to approve the direct tax bill. Several Republicans, including Williams,

¹⁵²Ibid., 2093.

¹⁵³Ibid., 1945.

¹⁵⁴Ibid., 1946, 1949-50, 1981-82.

¹⁵⁵Ibid., 1952.

also implied that the committee was misleading the House by recommending an army larger than it could prove the need for, a reference to the lack of information from McHenry.¹⁵⁶ The House, however, was not yet ready for such a drastic reduction, and the motion received only twenty-five votes.¹⁵⁷ On the following day (24 January) the committee of the whole approved the abolition of the office of major general but rejected the addition of the eight men to each company, as recommended by the report.¹⁵⁸ Both actions were victories for the economizers.

Encouraged by this minor successes, the Republicans returned to the main attack. As the committee of the whole prepared to rise, Holland moved that the number of regiments be reduced to three. Without discussion, the committee rejected this compromise solution by the narrow margin of one vote.¹⁵⁹ After the committee had reported to the House, Gallatin seized the opportunity implicit in the near victory by again moving the reduction to three regiments.¹⁶⁰ The long discussion that followed covered most of the ground already explored in the committee of the whole and a little new territory. A few voices--those of Robert Rutherford of Virginia and Holland--were raised in glorification of the militia, and the army men expressed amazement that frontier

¹⁵⁶Ibid., 1952, 1955.

¹⁵⁷Ibid., 1963.

¹⁵⁹Ibid., 1970-71.

¹⁵⁸Ibid., 1969-70.

¹⁶⁰Ibid., 1971.

gentlemen, such as Gallatin and Williams, were so set on making the reduction.¹⁶¹ They no doubt well knew that the answer was to be found in party doctrines and principles. When the motion finally came to a vote it carried forty-four to thirty-nine.¹⁶² Shortly thereafter Murray's motion to restore the dragoons was defeated sixty-four to eighteen, and the same select committee was directed to bring in a bill pursuant to the resolutions that had been approved.¹⁶³

On February 3 when the bill was called up, the Federalists launched a counterattack with a motion to strike the section providing for the reduction to three regiments.¹⁶⁴ After another long discussion¹⁶⁵ the committee of the whole approved the motion by another close vote, forty-two to forty-one, and the House on 7 February went along with the committee fifty to forty-four.¹⁶⁶ The bill as finally passed by both houses¹⁶⁷ left the army essentially the same, except

¹⁶¹Ibid., 1971-80.

¹⁶²Ibid., 1981.

¹⁶³Ibid., 1981-82.

¹⁶⁴Ibid., 2066. The motion was made by Joshua Coit of Connecticut, who sometimes voted with the Federalists on military measures and sometimes against them.

¹⁶⁵The debate on the motion also consumed part of 6 Feb., Ibid., 2066-74, 2079-89.

¹⁶⁶Ibid., 2094.

¹⁶⁷The House passed the bill on 8 Feb. and the Senate on 20 Feb. after an effort to restore the dragoons was voted down 17 to 15. Ibid., 2095, 1545, 1551, 1553, 1554.

for the abolition of the dragoons and the reduction of the major general. On 28 February the President vetoed the measure on the basis that the dragoons were a necessary part of the military establishment.¹⁶⁸ The House failed to override the veto in a fifty-five to thirty-six vote, and a new bill without the objectionable feature was reported and passed.¹⁶⁹

The debate on the measure reflected the rise of Gallatin as a dominant Republican leader. The old leader in the House, Madison, remained virtually silent, and indeed he voted with the Federalists for the passage of the bill after the infantry regiment had been restored. Gallatin disclosed himself as a man with a mission and with fresh ideas on military policy. His mission was the attainment of a blissful state of parsimony in army spending. Formerly the Republican abhorrence of standing armies had been based almost entirely upon the belief that they constituted a danger to the people. Gallatin virtually ignored this old argument and hammered away almost exclusively at their high costs.¹⁷⁰ Many Republicans followed his lead, and in future debates both he and they would continue to emphasize this

¹⁶⁸Ibid., 2328-29.

¹⁶⁹Ibid., 2330-32, 2352, 1567-70, 1572, 1573. The act became law on 3 Mar. 1797, Ibid., 2955.

¹⁷⁰White also notes this shift in emphasis, "Executive Influence," 120.

new line of attack.

Both the attack itself and the direction it took caught the Federalists by surprise. They suffered from beginning to end from the failure of the administration to provide firm military requirements upon which to base their arguments. According to White, the President's attention was concentrated on naval legislation, and McHenry simply did not keep a close watch on what was happening in Congress.¹⁷¹ Though these explanations may be valid they do not tell the whole story. There was an almost brand new law on the books (that of 30 May 1796) when the Republicans made their move. Since this law had followed the end of the Indian war, what reason did the administration have to expect further legislation only a few months later, particularly when the military situation had not undergone any appreciable change? Once the attack had begun, the problem of furnishing the Federalist leaders in the House with the information they needed was complicated by the fact that radical new troop dispositions for the occupation of the British posts were under study.

On the other hand the administration recovered its aplomb after the full danger of the threat had become apparent. The first vote on the reduction of the regiment was forty-four to thirty-nine for, the second fifty to forty-four

¹⁷¹Ibid., 118.

against. The army men thus picked up eleven votes, the gains coming not only from members who did not vote the first time but also from others switching their votes. The opposition total remained unchanged. It would appear that the influence of the executive had been brought to bear in some way or another.¹⁷²

At the same time that the economy-minded Republicans in the House were fighting the army they were also attempting to sink the navy. By February 1797 work on three of the six frigates authorized in 1794 had been discontinued in compliance with an act passed on 20 April 1796.¹⁷³

Construction was still underway on the United States at Philadelphia, the Constitution at Boston, and the Constellation at Baltimore. On 10 February 1797 a select committee brought in resolutions calling for the appropriation of funds to finish these last three vessels and equip them for sea. About \$172,000 would be required for the finishing alone, and it was estimated that the cost of manning the ships would be about \$220,000 per year.¹⁷⁴ McHenry in contrast to his inaction on the army bill had cooperated fully

¹⁷²White analyzes the vote in more detail, notes that three men switched, and points to the possibility that two of them may have been affected by executive influence, Ibid., 120-21.

¹⁷³Annals, 4 Cong., 2891.

¹⁷⁴Annals, 4 Cong., 2 Sess., 2111-13.

in the preparation of the report.¹⁷⁵

In the debate on the resolutions the Republicans argued that the costs were too great, that navies in general were too expensive, and that they were useless to begin with.¹⁷⁶ Gallatin said flatly that the United States could not afford a Navy. Nor did it need one, for our commerce though unprotected had increased rapidly despite the depredations of recent years. Actually, he went on, there was no connection between navies and the success of a nation's shipping industry. Russia and Sweden had large navies but little commerce; the United States had no navy and a large carrying trade. "There was a much more effectual way of securing the respect of foreign nations than by building a Navy; this was by applying all our resources to the payment of our Public Debt." When this had been discharged, we might begin to think of navies.¹⁷⁷

With words like these coming from a list of Republicans, including Nicholas, Dearborn, John Heath and John Page, both of Virginia,¹⁷⁸ and several others, the resolutions were in trouble from the beginning. The House finally

¹⁷⁵On 19 Jan. he had submitted information upon which the committee report was based. Ibid., 1913.

¹⁷⁶The House considered the matter on 10, 11 and 18 Feb. Ibid., 2111-51, 2200-08.

¹⁷⁷Ibid., 2128-30.

¹⁷⁸Ibid., 2116-17, 2119-21, 2123, 2133-34, 2143-47.

decided that the frigates might be completed but not equipped nor manned.¹⁷⁹ A few days later on 18 February it passed a bill providing the money to finish the ships and repealing that part of the original act concerned with their manning.¹⁸⁰ When the Senate returned the measure on 27 February with an amendment providing only for the suspension of the manning provision, Gallatin with the stated intent of killing the bill moved that further consideration be postponed to December. The motion was carried, forty-three to twenty-nine.¹⁸¹

¹⁷⁹Ibid., 2147-50.

¹⁸⁰Ibid., 2208.

¹⁸¹Ibid., 1556, 1560-62, 2326, 2329.

CHAPTER V

FEDERALIST MILITARY POLICY (CONTINUED)

The Federalist Military Program of 1797 (Fifth Congress, First Session)

Early in 1797 a new French crisis was in the making. The Directory had refused to receive the new United States minister, Charles Cotesworth Pinckney, and after threatening to place him under the jurisdiction of the police it had ordered him out of the country. After diplomatic intercourse had thus been suspended, the Directory had passed a decree partially contravening the treaty of amity and commerce of 1778. It also appeared to be committed to the task of undermining the American government by subverting the people. Meantime French warships and privateers preyed on American shipping, French magistrates and jailors mistreated American citizens, and new insults and injuries occurred almost daily.¹

On 25 March 1797, the President called a special session of Congress to report on the rapidly growing emergency

¹This summary of the situation is based upon the President's address to Congress on 16 May 1797. Annals, 5 Cong., 1 Sess., 54-56.

and to recommend defense measures. At about the same time, Alexander Hamilton outlined a comprehensive military program in a letter to James McHenry, the Secretary of War. The great military planner and hobbyist recommended:

(1) That a naval force of sloops and cutters be provided to convoy American shipping.

(2) That merchant ships be permitted to arm themselves.

(3) That "a provisional army" of twenty-five thousand men--that is, an army to be embodied as future developments might require--be formed.

(4) That additional artillery and cavalry be raised.²

In late April when McHenry solicited his advice as to the content of the President's opening address he again recommended these measures and added:

(5) That steps should also be taken to fortify the principal seaports.³

The idea of organizing troops to be embodied at some future time (point 3) had been invented by Hamilton in 1794, when he recommended the formation of the "auxiliary" force, and

²Letter of (?), Bernard C. Steiner (ed.), The Life and Correspondence of James McHenry, Secretary of War under Washington and Adams (Cleveland, 1907), 212-13. Hereafter cited as Steiner, McHenry. An abbreviated version of the letter appears in Henry Cabot Lodge (ed.), The Works of Alexander Hamilton (Federal ed., New York and London, 1904), X, 241-43. Hereafter cited as Lodge, Hamilton. In the Lodge version the date is given as Mar. 22 (?), 1797.

³Letter to McHenry, 29 Apr. 1797, Steiner, McHenry, 213-16. The President had asked the cabinet a series of questions concerning the address. Hamilton, after receiving these from McHenry, commented on most of them, and his military recommendations constituted only a small part of the entire reply. In this letter he did not specifically mention

it continued to dominate his military thinking.

McHenry, who was hardly a "military character," as the vernacular of the day went, relied heavily on the advice of his mentor. Adding a few words to Hamilton's second letter, he sent it to the President as his own report.⁴ President Adams himself, who pretended to no knowledge of military affairs, apparently incorporated McHenry's report directly into the speech. Thus Hamilton's five points became the backbone of the new military program the President recommended to Congress on 16 May. The program also included three additional elements that had apparently resulted from McHenry's additions:

(6) The preparation of the three frigates for service.

(7) The devising of some means of controlling the export of naval stores needed by France for the use of the ships preying on our commerce.

(8) The revision of the militia act.⁵

the provisional army, but he no doubt intended to include it under "arrangements which . . . will give the Government the prompt command of an efficacious force. . . ." Hamilton wrote a second letter a few days later (date unknown but before 14 May) which was more detailed but which was confined to non-military aspects of the speech. Ibid., 216-22.

⁴On 14 May 1797 McHenry wrote Hamilton that he had added to Hamilton's draft but had changed nothing. The President's speech, he continued, "extenuates nothing, recommends proper measures. . . . It is not, perhaps, precisely such a speech as you would have written--a little too plain." Ibid., 223.

⁵Annals, 5 Cong., 1 Sess., 57-58.

In the atmosphere of great urgency that prevailed, the House had no sooner wasted seventeen days and one hundred and seventy-five pages of the Annals arguing over its reply to the President's address than William Smith of South Carolina introduced eight resolutions in line with the administration program. He left out the militia but compensated by breaking point number one--the provision of ships for convoys --into two separate resolutions. One of these provided for the procurement of a "further naval force" consisting of an undesignated number of vessels, and the other empowered the President to employ the entire complement of ships, frigates included, for convoy duty. The resolution concerning the provisional army provided that it consist of an undesignated number of infantry regiments, one regiment of artillery, and one of cavalry, the troops not to be called into actual service until the President thought necessary.⁶

More than one session would be required to bring the fruit of this elaborate program to maturity. In the present session measures were presented as follows:

(a) A House bill to appropriate funds for the fortification of harbors.

(b) A Senate bill "for the protection of trade" comprehending the proposals for the completion of the frigates, for the further naval force, and for the use of convoys.

(c) A Senate bill to raise additional artillerists and engineers (no mention being made of cavalry).

⁶Ibid., 239.

(d) A Senate bill relative to export controls.

Meantime, the Republicans with the air of men loading a cannon only with powder because the noise was desirable and the ball unnecessary came up with a defense program of their own based on the militia.

When the fortifications bill was under consideration in the House, it was suggested that two hundred thousand dollars be set aside for the construction of the necessary works.⁷ While a majority of members were willing to vote some funds for this purpose, the Republicans and some Federalists, including Speaker Jonathan Dayton, fought to hold the appropriation to a minimum.⁸ The economizers, assisted by the widespread belief that the works planned were too few and too weak to have any real defensive value, eventually succeeded in cutting the figure to \$115,000.⁹

The passage of the measure was needlessly delayed by a long quarrel which pitted the union against several of the states. This arose when Dayton, an erratic and contentious man, moved that no funds be expended on sites not ceded to the United States. Though he admitted that the motion was

⁷Smith's resolution on the subject was approved and referred to a select committee on 5 June. The committee reported the bill on 10 June, and the committee of the whole and the House considered the matter on 12, 13, 14 and 15 June. Ibid., 241, 247, 292, 299-322.

⁸Ibid., 299, 300, 309, 322.

⁹Ibid., 306-11, 313, 323.

directed against New York, it developed that South Carolina, Georgia, and Massachusetts were also involved. After Gallatin finally pointed out that no state had ceded exclusive jurisdiction,¹⁰ the funds were appropriated with no state being debarred from the benefits. In its final form, the measure also permitted the states to devote money they owed the United States to fortifications, provided they ceded the sites. The vote on passage in the House was fifty-four to thirty-five, and the Senate approved the measure without a division.¹¹

The Senate bill for the protection of trade, which was received by the House on 16 June, provided for completing and manning the three frigates, empowered the President to procure up to nine additional vessels (sloops) of not more than twenty guns each, and authorized him to use the whole force to convoy merchant ships and protect the harbors and seacoasts. The bill had passed the Senate by the close vote of sixteen to thirteen after motions to delete the sections dealing with the additional vessels and with the convoys had been voted down.¹²

¹⁰Ibid., 299-316 passim.

¹¹Ibid., 319-24, 24. The act became law on 23 June 1797, Ibid., 3687.

¹²The bill was reported in the Senate on 6 June, considered on 7, 8, and 9 June and recommitted on the last of these days. It was reported the second time on 12 June, considered on the thirteenth, and passed on the fifteenth. Ibid., 18-22.

The Republicans in the House objected that the use of convoys on the high seas might lead to war, that the additional vessels were unnecessary, and that navies cost too much to begin with.¹³ Some Federalists agreed that the section relating to the convoys should be struck. The President, they said, already possessed the constitutional power to determine how the navy should be employed. John Nicholas of Virginia answered that the President could only direct operations in accord with broad military objectives laid down by Congress. After a thorough discussion of this conflict of powers, the House by the close vote of forty-seven to forty-five restricted convoy service to the territorial waters.¹⁴ The Republicans also succeeded--this time almost without debate --in replacing the section relating to the new vessels with one authorizing the President to employ the revenue cutters of the Treasury Department to protect coastal shipping.¹⁵

The further history of the House amendments was stormy. The Senate refused to accept them, and a conference committee was appointed. When the committee could not agree to a report, the Senate withdrew its objections to all the changes except that placing restraints on the convoys. The

¹³The House took up the bill on 22, 23 and 24 June. Ibid., 359-67.

¹⁴Ibid., 360-69, 374.

¹⁵Ibid., 359-60, 367-68.

House eventually receded from its insistence upon this.¹⁶ The act as finally passed on 29 June neither precluded nor authorized the employment of the frigates in escort duty, the supposition being that the lack of any restriction permitted their use as such. The operation of the act was limited to the end of the next session of Congress.¹⁷

The Senate bill for the additional artillerists and engineers, which was passed on 7 June, provided for 832 more of these troops for five years.¹⁸ These additional men were intended for use in the seacoast fortifications. In the House the Republicans, led as usual by Gallatin, Nicholas, and Giles, objected to the increase because of its cost (three hundred thousand dollars a year by Gallatin's estimate), because it was unnecessary, because the troops involved were too few to be effective in time of war, and because the militia should be used in the forts. They also looked upon the bill as only another effort to increase the peacetime establishment.¹⁹ After Giles remarked that the money might better be applied to some other object, presumably to naval defense, William Smith expressed the frustration that must have affected all defense-minded Federalists

¹⁶Ibid., 27-31, 392-93, 407-10.

¹⁷The act with a new title, "An act providing a Naval Armament," became law on 1 July 1797, Ibid., 3689-92.

¹⁸Ibid., 16-18, 326, 342.

¹⁹Ibid., 325-31, 341-48 passim.

as the session moved along:

When an increase of the navy was under consideration . . . gentlemen exclaimed, leave trade to take care of itself, and let us attend to the internal defense of the country; but now, when they [the House] are preparing for that, the same men say we are about to employ upon this object what ought to be employed for the protection of commerce. . . .²⁰

On 20 June the House rejected the bill fifty-seven to thirty-nine.²¹

The Senate bill²² for the control of exports sailed through the House seventy-four to eight (among them the Republican ultras Nathaniel Macon of North Carolina, Nicholas, and Abraham Venable of Virginia but not Gallatin and Giles).²³ It prohibited for a limited time the export of arms and ammunition, but it did not cover naval stores, which had been the object of the President's recommendation.²⁴ Those parts of the original administration program calling for the provisional army and the arming of merchant vessels elicited little interest. The Senate rejected a bill concerning the former,²⁵ perhaps the most important element in the whole program, and the House did not act on the question at all. Both Houses also voted down measures to permit the arming of merchant vessels. The Republicans in the House again feared

²⁰Ibid., 341-42.

²¹Ibid., 347-48.

²²Ibid., 16-17.

²³Ibid., 247-53, 266-67.

²⁴The act became law on 14 June 1797, Ibid., 2685-87.

²⁵Ibid., 23, 25.

that resistance on the seas might lead to war.²⁶

On 9 June while the Congress was busy with the matters discussed above, Thomas Blount of North Carolina submitted two resolutions which may be considered the Republican plan. The first of these called for the formation of another standby detachment of eighty thousand militia and the second for the purchase of an undesignated quantity of small arms for the use of the militia. These proposals, made at a time that other defensive measures were under consideration, were apparently intended to effect in themselves an adequate defense. Blount thus said that he would vote against any navy increase as only "internal defense" was necessary. The detachment, he continued, would provide for this, and he would go home satisfied that the proper measures had been taken.²⁷ The general attitude reflected by these comments was probably shared by the main body of the Republicans. They would propose innocuous measures and then return to the waiting arms of their constituents secure in the knowledge that they had seen their duty and done it.

Blount's remarks are interesting also for the distinction they make between internal and external (naval) defense. As the representative of an agricultural section, he did not think it desirable to extend the protection of

²⁶Ibid., 253-66, 268-81, 281-82, 22-23, 25, 31, 35, 57.

²⁷Ibid., 282-83.

the Union to trade and commerce--another point of view characteristic of the Republicans in general. William Smith, who was from Charleston, a port of considerable importance, was angered by such heresies. He answered sharply that the object at the moment was to defend commerce, even if doing so did cost more money than militia. The opposition, he said, opposed everything and proposed nothing that might involve expense.²⁸

The House approved the resolution concerning the detachment and referred it to a select committee. The bill subsequently reported by the latter aroused little opposition. Dayton and Samuel Sewall of Massachusetts pointed out that the measure could not be placed in operation without some expense, but the Federalists in general seemed content to let it ride through.²⁹ It would please the Republicans, and while it might do little good it was essentially harmless. The bill was passed, presumably without a record vote, on the twentieth, and the Senate approved it two days later.³⁰ Blount's second resolution was postponed pending receipt of an arms returns from the War Department.³¹ It was not acted upon for the remainder of the session.

²⁸Ibid., 283-84.

²⁹Ibid., 284, 332, 336-39.

³⁰Ibid., 341, 23-24.

³¹It was referred to a select committee on 17 June, and on 24 June the committee recommended that it lie over to the next session. It was, however, tabled on that day.

When the session came to a close on 10 July the Congress had put into effect about half of the President's military program:

(1) Fortification of the ports and harbors was to be resumed.

(2) The frigates were to be completed.

(3) They might be employed in convoy service.

(4) Controls were placed on the export of arms.

However, it had rejected the provisional army, the additional artillerists and engineers, and the further naval force, three of the most important elements, nor had it done anything about the arming of merchant ships. It had also provided for a detachment of militia, which no one seemed to really want but which few had opposed.

The debates in the House had been curiously subdued. The Federalists, who had the voting strength to do as they pleased, seemed apathetic and undecided. The Republicans, except possibly John Nicholas, who always said what he thought, were even less outspoken than usual. Evidence of the spurious amity that prevailed is to be found in the lack of Federalist charges of Jacobinism, in the absence of any hot-blooded discussions of the relative merits of militia and regulars, and in the failure of the Republicans to strongly press their economy drive of the preceding Congress.

There is no further mention of the matter in the Annals for the remainder of the session. Ibid., 332-33, 377-78, 466.

Perhaps both sides were moving slowly until they saw how the public reaction would go.

The President himself may have been partially responsible for these attitudes and for the failure of parts of his program. He too seems to have been undecided. Though he had called a special session of Congress to deal with the French situation, he had outlined the military program without making its enactment a matter of real urgency. Thereafter he sent Congress special messages describing conditions relating to France, England, and Spain, but none of these was accompanied by positive demands for military legislation in the fashion of Washington and Knox.³² One may wonder whether the President would have presented an extensive program at all if Hamilton had not been prodding McHenry.

The "Provisional" Army, the "Additional" Army,
and the "Jacobins" (Fifth Congress,
Second Session)

When the second session of the Fifth Congress convened on 13 November 1797, the President was calmly hopeful but by

³²A report on France and Spain, consisting of materials the President had referred to in his address, was sent up on 19 May 1797. One describing British, French and Spanish depredations on the commerce of the United States was communicated on 22 June. This had been prepared not on the initiative of the Executive but in compliance with a request of 10 June from the House of Representatives. Another of 3 July contained intelligence of delays in the running of the new boundary line between the United States and Florida and in the withdrawing of Spanish troops from United States territory, and of Spanish efforts to incite the Indians against the United States. Ibid., 64, 290-91, 357, 440-41. The texts of the several reports are in Ibid., 3057-94, 3115-27, and 3127-62.

no means overly optimistic. New envoys had been sent to France in an effort to renew negotiations, but the outcome of this extraordinary mission could not be foretold. Meantime, he continued, there had been no changes since the adjournment of Congress to "render inexpedient" the program of defense measures he had recommended at the opening of the preceding session. Indeed, increasing depredations on the seas had made its adoption even more necessary. However, he did not belabor the point, nor did he suggest additional measures except to hint that something more might be done to protect shipping.³³

Though both the Senate and the House appointed committees on defense,³⁴ little was done as everyone awaited word from Paris. Gallatin, now the acknowledged Congressional leader of the Republicans, thought the session would move along quietly unless the French "shall treat our commissioners very ill." The Federalists had a slight majority in the House, he added, and the Republicans were weak in speakers. Robert Goodloe Harper of South Carolina, one of the Federalist leaders, was a "bungler . . . very good-hearted, and not deficient in talents," an excellent speaker -- "but his vanity destroys him." Samuel Dana of Connecticut, another Federalist, was the best orator in Congress, and

³³Annals, 5 Cong., 2 Sess., 630-32.

³⁴Ibid., 475, 653. Both committees were appointed on 29 Nov.

Samuel Sewall of Massachusetts was the "first man" in the Federal party.³⁵

In the days to come, the Federalist ultras, led by Harper, Dana, Dayton, and John Allen of Connecticut were to turn on the Republicans with a ferocity unparalleled in American political history. Though the dreaded gentlemen from Connecticut, Dana and Allen, had the sharpest teeth, Harper bit the most frequently. As Chairman of the Ways and Means Committee and possessor of the fastest-moving tongue in Philadelphia, this "bungler," who began his checkered career in a Jacobin club and ended it writing anti-slavery tracts,³⁶ soon held the Federalist majority in his hand and bent the whole House to his will. The attacks of the Federalists and the disclosure of the XYZ dispatches virtually destroyed parliamentary opposition. Only Gallatin himself, Nicholas, and one or two others continued to speak out.

The quasi-optimism of November and December had begun to fade by the middle of January, and on the twenty-fourth of that month, the President, becoming increasingly apprehensive, asked the cabinet a series of questions concerning measures to be taken in case France rejected the mission.³⁷

³⁵Gallatin to his wife, 19 Dec. 1797, Henry Adams, The Life of Albert Gallatin (New York, 1943), 188.

³⁶Dictionary of American Biography, VIII, 285-86.

³⁷Letter to the Heads of Departments, Charles Francis Adams (ed.), Works of John Adams (Boston, 1850-56), VIII, 561-62.

Two days later McHenry as usual sent the queries on to Hamilton with a request for his advice.³⁸ In reply Hamilton counseled against a declaration of war, recommended a continued willingness to negotiate, and outlined another comprehensive defense plan.³⁹

The new plan contained most of the old elements--the arming of merchant ships, the procurement of twenty sloops of war, and the formation of the provisional army, its strength to be about thirty thousand men. It also proposed several additional elements:

(1) The last three of the six frigates should be completed.

(2) The President should be permitted in case of open rupture to procure up to ten ships of the line. These might be acquired from Great Britain, and provisional negotiations to that end might be opened now. The possibility of obtaining them by hiring a part of the navy, both ships and men, of Great Britain or some other maritime nation should also be considered.

(3) A force of twenty thousand regulars should be raised at once.

Hamilton also recognized the ineffective manner in which Adams had presented the defense program of the preceding year. "There has been latterly too much Epigram in our Official Stile." The new program and the related need for revenue, he continued, should be put forward with emphasis

³⁸Letter of 26 Jan. 1798, Steiner, McHenry, 291.

³⁹Ibid., 291-92. Date unknown but probably before 15 Feb.

and "allusions to great future possible dangers."⁴⁰ As in the past, McHenry followed Hamilton closely in submitting his own reply to the President, but he reduced the strength of the provisional army to twenty thousand and the strength of the regulars to sixteen thousand.⁴¹

The storm rapidly gathered in the following month and a half. On 5 March the President sent Congress advance information that the French were preparing to place new restrictions on neutral shipping. On the nineteenth he announced that the effort to reopen diplomatic talks had failed. At this time he again called attention to the continued applicability of his former defense recommendations (presumably those of the preceding session) and exhorted Congress with a lack of epigram that must have pleased Hamilton to adopt the necessary measures to protect commerce, to defend exposed areas of the country, and to fill the arsenals. On 3 April he sent up the "XYZ Papers," which had been in the decoding rooms for about a month.⁴² The clouds had finally burst.

On 9 April, McHenry was ready with recommendations for Congress. In general these were based on his earlier report to the President, and hence on Hamilton's letter, with

⁴⁰Ibid., 292-94.

⁴¹The report was dated 15 Feb. 1798. Ibid., 293 footnote and 295.

⁴²Annals, 5 Cong., 2 Sess., 1202, 1271, 1374. The text of the "XYZ Papers" is in Ibid., 3322-67.

several additions and changes. The twenty sloops should be procured, and the President should be given standby authority to acquire six ships of the line, or the same number of frigates, and six galleys or floating batteries. The army should be increased by one regiment each of infantry, artillery, and cavalry, and the President should be authorized to form a provisional army of twenty thousand men. About a million dollars more should be appropriated for fortifications, and a slightly larger amount should be devoted to the stock-piling of cannon, small arms, and other materiel.⁴³

A few days after the President announced the failure of the negotiations, a bill to provide the sloops was introduced in the Senate.⁴⁴ After he made public the XYZ Papers additional measures were reported, and new ones continued to be brought forward well into the summer. In general these proposals followed McHenry's recommendations except that the army increase was larger and the ships of the line were omitted. They included:⁴⁵

(1) A bill to provide the galleys--introduced in the Senate on 25 April.

(2) A resolution to provide additional artillerymen and engineers--introduced in the House on 9 April.

⁴³State Papers, MA, I, 120-21.

⁴⁴Annals, 5 Cong., 2 Sess., 529.

⁴⁵Ibid., 1312, 1383, 1384, 539, 540, 1784, 2114. These citations are listed in the same order that the bills are given.

(3) A resolution to provide funds for the purchase of cannon, arms, and ammunition--introduced in the House on 9 April.

(4) A bill for the protection of ports and harbors--introduced in the House on 10 April.

(5) A bill to establish the Navy Department--introduced in the Senate on 11 April.

(6) A bill to form a provisional army--introduced in the Senate on 13 April.

(7) A resolution to establish the Marine Corps--introduced in the House on 22 May.

(8) A bill to provide an additional army of regulars --introduced in the House on 6 July.

The Sloops

By far the most important of these measures were those dealing with the sloops, the provisional army, and the additional army. The first of these proposed that the United States acquire sixteen vessels of twenty-two guns each, that \$950,000 be appropriated for this purpose, and that the President be authorized to employ all the ships of the United States to convoy merchantmen. The Senate passed the bill almost without incident on 9 April by the heavy majority of twenty to seven.⁴⁶ In the long and bitter debate that followed in the House⁴⁷ the Republicans appear to have been confused and intimidated by the intelligence contained in

⁴⁶Ibid., 529-30, 532-35, 537-38.

⁴⁷The House considered the bill on 18, 19, 20 and 23 Apr. Ibid., 1440-1522.

the XYZ dispatches. Nicholas and Gallatin carried their shot-riddled flag almost alone through the detonations of Federalist oratory with only token assistance from Macon, Edward Livingston of New York, and several others. The Republicans' main body, never very articulate, had apparently taken to the foxholes. The immediate issues of the debate were soon overtaken by the rapidly developing party conflict. It approached treason to oppose the bill, fulminated the Federalist ultras. "Suppressors of opinion," answered Gallatin and Nicholas.

On the first day of the debate Nicholas made a long general attack on the bill that outlined the arguments the Republicans would employ again and again. He charged that the use of convoys would be ineffective, that the increase of the naval force would be too expensive, and that efforts to protect shipping would lead to war. Elaborating on the first of these points he maintained that the ships were too few to afford much protection. Furthermore they would have no legal right to fire on marauders unless they were attacked first. This was apparently to say that the convoys could not act to prevent the seizure of their charges as long as the United States remained neutral.⁴⁸

He then evaluated the situation in terms of "policy." While the actions of the French had been onerous and insult-

⁴⁸Ibid., 1440-43.

ing, it would be better to suffer these inconveniences for the moment than to touch off a war. So far French hostility on the seas had affected only our commerce. War would injure the whole Union. We should thus abandon the navy and make no effort to protect our trade. He denied that this would constitute submission to France. It was simply the best policy. He would, however, resist demands, such as those made by XY and Z, which required "real submission," and he would use the militia to defend our freedom and independence.⁴⁹

Harper, the Federalist chieftain, refuted Nicholas' contentions point by point, and ridiculed the idea that the convoys would be war hazards. If France should land troops in the United States, he said by way of comparison, any resistance we put up might also result in war. It was not a craven spirit but a willingness to risk getting both arms broken in order to break one of the enemy's that made nations great. Nicholas' desire to abandon the shipowners, he continued, would be tantamount to ignoring the interests of a whole section of the country and might lead to disunion. The sections of the United States that depended upon shipping would hardly "sit down tamely under their losses" while the general government refused them protection. "Such a refusal would destroy, if anything could destroy, the peace and union

⁴⁹Ibid., 1442-45.

of the country."⁵⁰

In another long speech Gallatin repeated most of Nicholas' arguments, made much of the "policy" of avoiding war, and advised against resisting the captures with force.⁵¹ By now the Federalists were becoming impatient with what they thought was obstructionism, and they turned on Gallatin like a pack of angry lions. Dayton had never heard such "tame and submissive language" in the House. The gentleman from Pennsylvania had not made himself familiar with the spirit of the Revolution. John Allen of Connecticut wanted the committee of the whole to sit until midnight so that members could express their indignation. David Brooks of New York and Samuel Sitgreaves of Pennsylvania spoke in equally strong terms, and Dana in a back-handed slap at Gallatin's foreign birth said that he was not surprised at Dayton's anger. That gentleman was a native American and had served as a soldier throughout the Revolution.⁵²

The next day Allen answered Gallatin in what may have been the most violent speech that had ever resounded through the chamber of the House. His basic arguments were that the obstructionist minority should yield without further ado to the patriotic majority in matters of defense and that the national interest, even the national existence, required resistance to France. He rebuked Nicholas and Gallatin for

⁵⁰Ibid., 1446-53.

⁵¹Ibid., 1466-72.

⁵²Ibid., 1473-74.

putting "policy" before the rights of commerce, assailed both for urging submission, and read a paragraph from the XYZ papers in which X had boasted of the "French party" in the United States. He thought this explained many things that had transpired in the House. "Were France herself to speak through an American mouth, I cannot conceive . . . [that we would hear more] than what we have heard from certain gentlemen to effect her purposes."

On every defense measure they brought forward "Constitutional questions, theories, doubts, nice distinctions, learned metaphysical disquisitions, and long speeches," to obstruct action. They chanted in our ear forever the "syren" song of "policy" to lull us to sleep, and "invited us to surrender the ocean . . . without one feeble effort of defense." Allen then polished up this real tour de force of vitriol, invective, and threat with the charge that "there are men in this country, in this House, whose hatred and abhorrence of our Government leads them to prefer another, profligate and ferocious as it is."⁵³

Harrison G. Otis of Massachusetts and Dana also attacked the Republican position, the latter like Allen hinting at treason and submission and calling for compliance with the will of the majority.⁵⁴ Nicholas decried all this abuse and

⁵³Ibid., 1476-88.

⁵⁴Ibid., 1488-94, 1501-05.

pleaded for tolerance and freedom of opinion.⁵⁵ Gallatin in winding up the debate for the Republicans charged that the Federalists were attempting to use fear as a weapon to force his colleagues to vote for the bill. They tell us, he continued, to show that we do not belong to the "French party" by agreeing to every extravagant proposition brought forward, by not opposing decisions of the majority, and by not criticizing the administration.⁵⁶

The committee of the whole approved Republican motions to delete the section giving the President authority to employ the navy in convoy duty and to reduce the number of sloops to twelve.⁵⁷ The Federalists raised no major objection to the first of these because in their view its primary effect was to leave the matter to the decision of the President. Harper and several other Federalists favored the second in the belief that the smaller number would obtain the largest vote.⁵⁸ After the committee had rejected Gallatin's amendment to limit the use of the convoys to the territorial waters,⁵⁹ the House on 23 April passed the bill forty-two to twenty-six.⁶⁰ On the following day the Senate

⁵⁵Ibid., 1494-1501.

⁵⁶Ibid., 1508-09.

⁵⁷Ibid., 1440, 1459, 1462, 1466.

⁵⁸Ibid., 1466.

⁵⁹Ibid., 1466, 1519.

⁶⁰Ibid., 1520-22.

agreed to the amendments.⁶¹

The Provisional Army

The Senate bill relating to the provisional army set off a debate in the House that was as long and bitter as any in the session.⁶² The bill authorized the President to raise twenty thousand provisional troops and to accept for service any number of special volunteer companies or associations. The time at which these new troops might be ordered up was left entirely to his discretion. He could begin recruiting the provisional forces whenever the public interest seemed to require. He could accept associations offering their services at any time during the three years following the passage of the act. He might call them to active duty at his discretion during the two years after acceptance. The bill also authorized him to appoint their officers.⁶³

In the House, strong Republican objections to several features of the measure forced the Federalists to send it to

⁶¹Ibid., 545-47. The act became law on 27 Apr. 1798. Ibid., 3722-23.

⁶²The bill from the Senate was received on 24 Apr., debated on 25 Apr., 8, 10, 11, 14, 16 and 17 May, and passed on 18 May. Ibid., 1525-42, 1631-1707, 1725-72.

⁶³The contents of the bill have been reconstructed from the debates, Ibid., 1631, 1703, and from "Report of committee on bill sent from the Senate 'An Act authorizing the President to raise a Provisional Army'." Folder 5 H 2 R 86.1, Rare Book Room, Library of Congress.

a select committee for changes.⁶⁴ According to the amendments offered by the committee on 4 May, the President should be authorized to raise the provisional troops only under certain well defined contingencies and their number should be reduced from twenty thousand to ten thousand. The contingencies included a declaration of war against the United States, invasion by a foreign power, or imminent danger of such an invasion. It would be left to the President to determine when the last of these conditions existed. To balance the cut in the troops, the committee recommended a new section authorizing the President to call out portions of the existing detachment of militia for short periods of training. The committee also added sections permitting the President to lend artillery to volunteer corps for training and to provide arms for volunteer or ordinary militia called into the Federal service.⁶⁵

The section dealing with the provisional troops was unconstitutional, said the Republicans, because it delegated part of the military responsibilities of Congress to the executive. The power to determine when armies should be formed was a part of the general power to raise armies. Under the

⁶⁴Ibid., 1525-42. The bill was committed on 30 Apr., Ibid., 1561.

⁶⁵Ibid., 1594. "Report of committee on bill sent from the Senate 'An Act authorizing the President to raise a Provisional Army'." Folder 5 H 2 R 86.1, Rare Book Room, Library of Congress.

contingency covering danger of invasion, they went on, the entire matter would still be left to the determination of the President. With heavy-handed sarcasm, Gallatin remarked that he expected next to hear of "provisional taxes, to be raised if the President shall think fit."⁶⁶ The Federalists pointed out that Congress had already made such a delegation of power in authorizing the President to call out the militia for frontier defense. Otis, with the air of a man not accustomed to splitting legal hairs or even ropes, added that a time of great danger was no proper time for "nice Constitutional scruples," anyhow.⁶⁷

The Republicans thought the associations were unconstitutional for a variety of reasons. As Gallatin and Joseph Varnum of Massachusetts noted, the Constitution named only two types of troops, regulars and militia, and the volunteers were neither. They resembled the regulars in that service was voluntary, in that their officers would be appointed by the President, and in that they would serve continuously, not in rotation like the militia. On the other hand, they resembled the militia in that they would remain unembodied except when they were ordered out. As in the case of the provisional army, Congress would have no control over the time that they might be called into service.⁶⁸

⁶⁶Ibid., 1526-27, 1538-39, 1638.

⁶⁷Ibid., 1637, 1644. Also 1529-30.

⁶⁸Ibid., 1704, 1725-26, 1742, 1737.

The President in employing them would not be limited by the constitutional restrictions relating to militia. He could call out the associations "war or no war, insurrection or no insurrection, whenever he pleases." Finally, giving the President the authority to appoint the officers would greatly increase executive powers at the expense of the states.⁶⁹ The Federalists let most of these arguments go unanswered, but many of them, preferring to fight Republican fears of standing armies rather than the Constitution, would admit when pressed that the troops were essentially--though not quite entirely--regulars.⁷⁰

The Republicans denied that there was any military need for either the provisional troops or the associations. It was absurd to think that France might invade the United States. That nation was too heavily engaged in Europe, its military and political objectives lay in Europe, and it did not have the means to undertake a task that had been too much for England, a vastly stronger maritime power. The associations were particularly valueless in that young men could tender their services by joining one of the ordinary independent companies.⁷¹ The Federalists pointed to the force the French were collecting to invade England and hinted

⁶⁹Ibid., 1737, 1705, 1760.

⁷⁰Ibid., 1704-05, 1733.

⁷¹Ibid., 1632-33, 1726-27, 1756.

that it might be employed against the United States in event of an European peace, and they were practically certain that a French force from Haiti would be sent against the South.⁷²

As the debate revealed, the Federalists feared internal disturbances above all else. France, said Harper, always struck at her enemies from within and was even then "subverting the most ancient Governments in the world." According to Otis and Nathaniel Smith of Connecticut the French might attempt an invasion to foster revolution and the replacement of the present administration with one more to their liking.⁷³ Other Federalist fire-eaters, moving in to the kill after the manner of Allen in the debate on the sloops, criticized the "stubborn spirit of opposition" that existed among the Republicans, charged that Gallatin's principles were identical with those of "the furious hordes of Democrats [the French]" which threatened this country with subjection," and pointed to the number of spies floating around.⁷⁴

On the other hand, Republican fears of suppression had been particularly aroused by certain characteristics of the associations. They thought that these units would inevitably be composed almost entirely of Federalists. As

⁷²Ibid., 1531, 1677-78. Also 1642, 1688, 1696.

⁷³Ibid., 1530, 1642, 1700.

⁷⁴Ibid., 1534, 1676-77, 1700.

Gallatin put it, only the wealthy could afford membership because of the high cost of arms and uniforms. Furthermore the organizations would be entirely subservient to the President. He would appoint the officers, and he could call up any number of units he wished and employ them for any purpose he wished.⁷⁵ Here no doubt lay the practical roots of the Republican constitutional scruples concerning the associations.

Gallatin also charged the Federalists with instituting a "system of alarm" designed to show danger and disaffection where none actually existed. Having thus created fears, he went on, the Federalists had then brought forward a whole series of unconstitutional measures, including proposals for alien and sedition bills as well as the present bill, the purpose of all of which was to control opinion hostile to the majority in Congress.⁷⁶ The Federalists did little to assuage these Republican apprehensions,⁷⁷ and Harper gave what was perhaps the strongest and clearest statement of Federalist intentions. Gallatin's past experience with volunteers (in the Whiskey Rebellion), he said, no doubt accounted for that gentleman's present aversions. Volunteers were indeed dangerous to the liberties of the

⁷⁵Ibid., 1728-29.

⁷⁶Ibid., 1744-46.

⁷⁷Ibid., 1738-39, 1741, 1747-51, 1758.

sedition, and they might well put a "hook in the nose" of those who wished to overthrow the government.⁷⁸ A moment later, he added:

Whenever an Executive Directory shall be sitting, and a day shall have been fixed for assassinating the aristocrats, or all those who do not concur in the principles of French democracy, then he should wish this force to be turned against these persons. He believed, however, this time was far off, and he believed the formidable nature of this force would effectually prevent its arrival.⁷⁹

The committee of the whole beat down by narrow margins a series of Republican attempts to kill or cripple the section dealing with the provisional troops. These included motions to strike the whole section, to strike the contingency relating to invasion, and to reduce the number of men to five thousand. It did, however, limit the time during which the President might raise the troops to the recess of Congress. After similar attacks on the associations, including an effort to label them as militia, had also been defeated, the House on 18 May passed the bill, fifty-eight to forty. The Senate subsequently concurred in the several House amendments.⁸⁰

The act as it finally became law provided not only for the provisional army of ten thousand and the volunteer associations but also for a lieutenant general, a staff, and

⁷⁸Ibid., 1747.

⁷⁹Ibid., 1749.

⁸⁰Ibid., 1631, 1682-85, 1689, 1699, 1702-03, 1758-59, 1768-77, 559-61.

a suitable number of major generals, all to be appointed when the President deemed it necessary.⁸¹ A supplementary measure passed a few days later exempted the associations from service in the ordinary militia, authorized the President to sell or lend them artillery and small arms, and permitted him to begin appointing officers for the provisional troops.⁸²

The Additional Army

The additional army proposal sailed through the House with considerably less opposition as the Republicans licked their wounds and the bad news from France continued. The new measure added two companies to each of the four eight company infantry regiments of the existing establishment, and provided for twelve additional regiments of ten companies each and for six additional troops of dragoons. This augmentation amounted to a four hundred percent increase in the regular infantry and a three hundred percent increase in the regular cavalry. Though Nicholas moved to strike the twelve regiments and insert eight he could carry only twenty-eight votes as against forty-three for the opposition. The bill was then passed sixty to eleven. Nicholas, Gallatin, and many other Republicans who had wanted only eight regiments

⁸¹The act became law on 28 May 1798, Ibid., 3729-33.

⁸²The act of 22 June 1798, Ibid., 3743-44.

now voted for the whole number. This additional army was to remain in effect until the differences with France had been settled.⁸³

Each of the six remaining proposals in the Federalist program also resulted in legislation. The Senate bill for the galleys, which provided ten of these floating batteries at a cost of eighty thousand dollars, went through the House without debate or amendment.⁸⁴ The bill for an additional regiment of artillerists and engineers was discussed briefly. The Republicans disclaimed the need for the increase, objected to its costs, and feared that the new troops would become a part of the permanent establishment. They received another few rounds of Federalist wrath for their trouble, and the bill was approved without a roll call.⁸⁵ The measures appropriating funds for stockpiling (\$800,000),⁸⁶ setting aside money for the fortification of ports and harbors (\$250,000),⁸⁷ establishing the Navy

⁸³Ibid., 2114, 2129-32, 604-05, 609, 611, 613-14. The measure became law on 16 July 1798, Ibid., 3785-86.

⁸⁴Ibid., 548-50, 1558, 1560, 1563, 1567. The measure became law on 4 May 1798, Ibid., 3727.

⁸⁵Ibid., 1383, 1402-12, 1413, 1415-25, 1427, 542-45. The measure became law on 27 Apr. 1798, Ibid., 3723.

⁸⁶Ibid., 1384, 1414, 1426, 1427-40, 543, 549, 551. The measure became law on 4 May 1798, Ibid., 3726.

⁸⁷Ibid., 1384, 1394-1402, 540, 548, 550. The measure became law on 3 May 1798, Ibid., 3725-26.

Department,⁸⁸ and forming the Marine Corps (with 720 privates)⁸⁹ were all passed with only brief or token discussion.

The Congress also passed a bill to provide arms for the militia. This measure, no doubt an outgrowth of the resolution offered by Blount in the first session, required that the federal government purchase thirty thousand stands of arms and that the President offer these for sale to both the state governments and to individual militiamen. It also provided that any of the arms remaining unsold at any time might be issued to militia called into the federal service. Four hundred thousand dollars were appropriated to pay for the arms.⁹⁰

The "Expansible" Theory and the "Eventual Army"
(Fifth Congress, Third Session)

There had been little ostensible change in the French problem when the third session of the Congress met on 3 December 1798. In his address the President spoke of the "ultimate failure" of our efforts to negotiate with that country. He praised the successes of the small navy, urged that it be increased, and called for a general build up of

⁸⁸Ibid., 539, 541, 1545-1554. The measure became law on 30 Apr. 1798, Ibid., 3724-25.

⁸⁹Ibid., 1784-85, 1835-36, 1855, 570, 601, 2132. The measure became law on 11 July 1798, Ibid., 3774-76.

⁹⁰Ibid., 1701, 1772-73, 1877, 1927-33, 1938-39, 597. The House passed the measure by the overwhelming vote of 55 to 17, and the Senate approved it without a tally. It became law on 6 July 1798, Ibid., 3752-53.

defense measures.⁹¹ On 18 and 21 January, he sent up communications, including a report from the Secretary of State, which seemed to confirm the impossibility of dealing with France at the conference table.⁹² Meantime, the clause in the law of the last session relating to the provisional troops had expired with the meeting of Congress and the law establishing the detachment of militia would die with the end of the session.

Under these dark auspices McHenry had again busied himself with military plans. Throughout the fall he had been communicating even more frequently than usual with Hamilton, now the second ranking general in the provisional army. As in the past Hamilton was erupting ideas like grape-shot from the muzzle of a fieldpiece. In a letter of 9 October he wrote that he was working on a new system for the organization of the army,⁹³ and in December, following conferences with Washington, he outlined a comprehensive military

⁹¹Annals, 5 Cong., 3 Sess., 2420-24.

⁹²Gerry to the Secretary of State, 1 Oct. 1798. Ibid., 3464-3531. (The citation includes many related documents.) The Secretary of State's report is in Ibid., 3531-58. The former was transmitted on 18 Jan. 1799 and the latter on 21 Jan. 1799.

⁹³Hamilton to McHenry, 9 Oct. 1798, Steiner, McHenry, 344-45. Unfortunately the letter gives no hint as to what Hamilton had in mind.

plan in two letters.⁹⁴ The first of these suggested:

(1) That the wartime strengths of army units be fixed at figures considerably larger than the peacetime strengths. Thus infantry regiments should be increased from 600 privates to 920 privates on the outbreak of war, dragoons regiments from 432 to 920, and artillery regiments from 832 to 896.

(2) That a corps of two thousand riflemen be raised.⁹⁵

There is, of course, no way of knowing for certain whether Hamilton or Washington was actually the father of the expandable feature in the first recommendation. However, Hamilton had broached a similar idea in the report of the military committee of 1783.⁹⁶ His mention of a new system of organization in the recent letter to McHenry (that of 9 October) suggests that he may have been thinking of the matter again. The letter was undoubtedly written long before the conference with Washington. The second of the two December letters recommended:

(3) That all the officers of the additional army be appointed and all the men be raised without delay.

(4) That the maximum military requirement to meet any threat be set at fifty thousand men including forty thousand infantry, two thousand rifles, four thousand horse, and four thousand artillery.

⁹⁴Though both letters were signed by Washington, Lodge, the editor of Hamilton's works, attributes the drafts to Hamilton, and the content of each bears Hamilton's unmistakable imprint.

⁹⁵Washington (draft by Hamilton) to McHenry, 13 Dec. 1798, Lodge, Hamilton, VII, 22-38.

⁹⁶See pages 46-47 above.

(5) That arms and materiel be provided for such a force at once.⁹⁷

In a later letter of the same month, which was addressed to James Gunn, a Senator from Georgia, and a copy of which was sent to McHenry, Hamilton added several additional elements to the plan:

(6) Two companies should be added to the existing cavalry regiment.

(7) The provisional troops should be renewed and increased so that they together with the regulars would total fifty thousand men.

(8) Plans should be made to draft the men necessary to complete the fifty thousand in case of invasion.⁹⁸

It will be noted that this eight point program contemplated no immediate augmentation other than the riflemen and the cavalry. Though the additional army was to be called up, it was already covered by legislation. All material increases requiring legislation--points (1), (4), and (7)--were provisional or "eventual" in nature. The increases would be effective and the troops would be raised only upon some future contingency.

On 24 December McHenry sent the President a program of his own which was obviously based upon Hamilton's suggestions. The additional cavalry should be raised, the

⁹⁷Washington (draft by Hamilton) to McHenry, 13 Dec. 1798, Ibid., 6-22. The two letters bore the same date.

⁹⁸Letter of 22 Dec. 1798, Steiner, McHenry, 360-61. This letter may also be found in Lodge, Hamilton, VII, 45-47. Steiner does not give the date that the copy was sent to McHenry, and Lodge makes no mention of the fact that it was so sent.

provisional army should be renewed with its strength increased to at least twenty thousand, and the organization of the army should be modified to provide the greater unit strengths in wartime. It might be desirable to raise the corps of riflemen. All military preparations, including the procurement of supplies, should "contemplate" a force of fifty thousand men. While he omitted Hamilton's recommendations concerning the completion of the additional army and the draft, he added one concerning the volunteer associations. The President should be given authority to organize these units into regiments, brigades, and divisions.⁹⁹

McHenry's program, which the President transmitted to Congress on 31 December,¹⁰⁰ and the President's own recommendation in the address to Congress for navy increases formed the basis of Federalist action during the session. Meantime the Republicans had reformed their lines, partially as a result of the Virginia and Kentucky resolutions. They

⁹⁹Annals, 5 Cong., 3614-27. The similarity of two of McHenry's recommendations--those concerning the additional cavalry and the provisional army--to Hamilton's plan is obvious, but the historical connection is more tenuous than one might wish. It seems unlikely that Hamilton's letter, written on 22 Dec., could have reached McHenry in time to form part of a report rendered only two days later. However, the two men very likely exchanged thoughts by some informal or unrecorded means prior to 22 Dec. In any event, Hamilton's direct connection with the renewal of the provisional army is implicit in the fact that Senator Gunn, to whom the letter was written was chairman of the committee reporting the relevant bill.

¹⁰⁰Ibid., 3614.

were further heartened in mid-January by another resolution of the Virginia General Assembly attacking Federalist smear tactics, condemning policies that might lead to "a war of aggression," and inveighing against standing armies.¹⁰¹ They countered the Federalist program with an effort to continue the militia detachment of 1797 and debated measures more thoroughly than they had in the last months of the previous session. Normalcy soon seemed to have returned when Gallatin again could be heard expounding the doctrine of economy first and defenses second.

Meantime the President reported an apparent improvement in the French situation. On 18 February he told the Senate that France seemed to be ready to receive new American envoys and nominated William Vans Murray as a plenipotentiary to Paris.¹⁰² On 25 February he took an even more optimistic view of the renewal of negotiations and added two more plenipotentiaries, Oliver Ellsworth and Patrick Henry,¹⁰³ (later replaced by W. R. Davie.) Despite the increase in Republican opposition and in the President's hopes for peace, Federalist voting strength was able to see most of the military program through Congress.

The Federalists in implementing the administration program brought forward measures covering the more important

¹⁰¹Resolution of 10 Jan. 1799, Virginia Acts, Dec. 1798 Sess., 33.

¹⁰²Annals, 5 Cong., 3558-59. ¹⁰³Ibid., 3560.

points:

(1) The "eventual army" bill, which in effect continued the provisional troops and the associations, the former on an enlarged basis.¹⁰⁴

(2) A bill adding strong naval units.

(3) A bill increasing the strength of the regiments and adding several small units to the army.

The eventual army bill, which originated in the Senate,¹⁰⁵ would permit the President in case of war or imminent danger of war to raise twenty-four regiments of infantry, three regiments of cavalry, a regiment and a battalion of riflemen, and a battalion of artillery. The bill also limited the number of volunteers the President might accept in the associations to seventy-five thousand men, and apportioned them among the states, thus precluding the formation of a sectional force. It further permitted him to organize the associations into regiments, brigades, and divisions and to employ them in all cases in which the ordinary militia might be employed.¹⁰⁶

The Republicans again attacked the constitutionality of the volunteers and of the clause permitting the President to raise the eventual regiments at some future time. They denied that there was any military necessity for the increase,

¹⁰⁴This was the bill reported by Gunn's committee. See footnote 99 above.

¹⁰⁵Annals, 5 Cong., 3 Sess., 2209, 2217, 2221-24.

¹⁰⁶Ibid., 2926.

proclaimed that it would cost too much, and insisted that the militia was the cheapest and most effective means of defense. They also made much of the fact that the invasion prophesied in the previous session had not occurred.¹⁰⁷ The Federalists made their usual replies to these arguments, and on at least one occasion levied the customary charge of treason.¹⁰⁸

Republican motions in the committee of the whole to strike the sections dealing with the eventual regiments and the associations and to prevent the immediate appointment of the officers for the former were voted down by sizeable majorities. However, the committee adopted another Republican amendment deleting a clause restricting the employment of the associations to their own and adjacent states.¹⁰⁹ After the committee had risen, the House approved a Federalist motion to limit to three months the time that the volunteers could be required to serve outside their states, rejected another Republican motion to prevent the immediate appointment of the officers, and passed the bill fifty-four to forty-one. The Senate subsequently concurred in the House amendments.¹¹⁰

¹⁰⁷Ibid., 3022, 3025-26, 3030-32, 3037.

¹⁰⁸Ibid., 3034-35.

¹⁰⁹Ibid., 3022, 3077, 3038, 3042-43.

¹¹⁰Ibid., 3043-44, 2236-37. The act became law on 2 Mar. 1799, Ibid., 3933-36.

The bill for the augmentation of the navy, which originated in the House,¹¹¹ embraced the major naval recommendations that Hamilton and McHenry had put forward in the previous session. It provided for the immediate building of six ships of the line and six sloops. The former were to be armed with not less than seventy-four guns each and the latter with not more than eighteen guns each. It was estimated that these vessels would cost a total of \$2,400,000, and the bill appropriated \$1,000,000 for immediate use. It was this heavy expenditure that was primarily responsible for the great length of the debate, which consumed three days.¹¹²

The discussion followed much the same pattern as earlier naval debates. Gallatin at his best when the dollar might be made the main issue painted a picture of economic horror in two long speeches. He cited figures to show that a "perpetual land tax" would be required to support and maintain the present navy and that any increase would have to be paid for out of money borrowed at eight percent. He then attempted to demonstrate that with the additional ships the excess of expenditures over revenue through 1802 would be \$17,500,000.¹¹³

He added to this drawing some depressing representa-

¹¹¹Ibid., 2815.

¹¹²The measure was considered on 7, 8, and 11 Feb. Ibid., 2823-83.

¹¹³Ibid., 2823-32, 2859-71.

tions of defensive futility, sectional conflict, and military ambition. French naval losses¹¹⁴ and changes in French policy, not the efforts of the present navy, had been primarily responsible for the decreased attacks on our shipping. The new navy would be virtually useless because it could never expect to stand against the great fleets of England. Though farmers paid a large proportion of the costs of naval protection, they profited little from our carrying trade. Most of the gains went to Northern merchants, who first imported articles and then exported them to other parts of the world. Give the Federalists their Navy, he went on, and they will soon join a new coalition against France and engage in all kinds of international military adventures.¹¹⁵

Gallatin's long speeches and the shorter ones of Nicholas and Joseph Eggleston of Virginia changed few votes.¹¹⁶ They were answered by Harper, Otis, Samuel Smith, and Josiah Parker of Virginia,¹¹⁷ head of the Naval Committee, who usually voted with the Republicans on military measures. The committee of the whole voted down Gallatin's motion to strike the six ships of the line and rejected John Williams' motion to strike the sloops. The house then beat

¹¹⁴Presumably a reference to the French defeat in the battle of the Nile, 1 Aug. 1798.

¹¹⁵Annals, 5 Cong., 3 Sess., 2823-32, 2859-71.

¹¹⁶Ibid., 2851-55, 2857-59.

¹¹⁷Ibid., 2836-51, 2874-83, 2832-36, 2871-74.

down Nicholas' renewal of Gallatin's motion by fifty-four to forty and passed the bill by fifty-four to forty-two. The Senate approved the measure without amendment or division.¹¹⁸

The last of the three bills set the war strength of the regiments at the figures McHenry had recommended and provided for the raising of some additional regulars--a battalion of artillery, two companies of cavalry, and a battalion of riflemen. Though the bill, which originated in the Senate,¹¹⁹ reached the House on 11 February, it was not brought before the committee of the whole until 26 February, only five days before adjournment. In the closing rush there was little time for discussion, and the measure was hastily pushed through. The act, as it became law, omitted the battalion of artillery and contained Gallatin's proviso precluding any actual additions of men or units until war should break out or Congress should specifically direct.¹²⁰

¹¹⁸Ibid., 2823, 2856, 2883, 2218, 2225. The act became law on 22 Feb. 1799, Ibid., 3804-05.

¹¹⁹The bill was introduced in the Senate on 19 Jan. 1799 and passed on 11 Feb. 1799. Ibid., 2204, 2217. The material on the bill is meager. The strengths that it set for the regiments are inferred from the act and from the lack of any indication that the House amended these features. The fact that the increase of the strengths of the regiments was to be made at a future time may be inferred from the short description of the bill. Ibid., 3018. However, Gallatin's amendment, which will be mentioned later, indicates that the increase as the bill came from the Senate was not necessarily tied to the outbreak of war.

¹²⁰Ibid., 3018-19. The act became law on 3 Mar., Ibid., 3963-70.

On 21 February, while the eventual army bill and the bill to increase the war strength of the regulars were still before the House, the Republicans presented a resolution to continue in force for another year the eighty thousand man detachment of militia.¹²¹ Several Federalist leaders including Sewall, Otis, Dayton, Dana, and Allen brought forward many objections to the measure. If the bills before the House were passed it would be unnecessary. The operation of the existing law had been completely unsatisfactory. No detachments were required in New England, where the militia was always ready to march. Detachments served no purpose in the South, where the troops were for the most part unarmed. Posing as the protectors of the general militia, they also claimed that the detachments functioned to prevent the main body from holding itself in readiness and thus reduced its efficiency.¹²²

The question, as Gallatin and Nicholas saw it, was whether the associations and "eventual" regulars in the other bills were to replace the militia in our military plans.¹²³ According to the Pennsylvanian, the Federalist claims that active militia service was a vexatious burden, most of the weight of which fell upon the poorer groups,

¹²¹Ibid., 2956.

¹²²Ibid., 2975-78, 2981, 2983.

¹²³Ibid., 2975, 2979-80, 2982.

were directed at such an end. If, he continued, they established the opinion:

that to be a militia-man is a mere duty, and not a right; that it is a heavy duty, from which they might be easily relieved, in the first place by volunteer corps, in the next by regular troops. . . . they [the Federalists] will in a short time, introduce a standing army as a substitute for the militia.¹²⁴

The Republicans also denied that the existing detachments had been inefficacious and declared that the strength of the militia could be brought to bear only through the use of such detachments.¹²⁵

After these arguments, the resolution was agreed to forty-eight to forty, presumably with some Federalist aid, and a bill was subsequently reported and passed without debate.¹²⁶ The Senate amended the measure to permit the President to form the detachments only in the South if he so wished.¹²⁷ As Otis explained the amendment to the House, the upper chamber had attempted to please both the Southern gentlemen, who wanted the detachments, and the Northern gentlemen, who did not. The former, far from being pleased with either this gentle sarcasm or with the action of the Senate, condemned the amendment as making "an invidious distinction" between the South and other sections. The House then rejected the amendment, and the Senate refused to

¹²⁴Ibid., 2979.

¹²⁵Ibid., 2977-82.

¹²⁶Ibid., 2985, 3021.

¹²⁷Ibid., 2240-41.

consider the bill further until the next session.¹²⁸

The Final Federalist Military Philosophy
(Sixth Congress, First Session)

By December 1799 a French settlement appeared to be in the offing. The President with an air of cautious optimism told Congress that it was yet too early to abandon the defense system. He did, however, suggest that economies might be effected in all branches of the public service, presumably including the military.¹²⁹ Meantime, the Republicans in anticipation of the end of the French troubles readied an attack on the additional army, and not even McHenry held out real hopes that substantial army reductions could be avoided. His report of 4 January, which will be discussed below, might as well have been sent under a flag of truce because it pre-saged the full surrender of the army men.

The session was marked by the resurgence of Republican anti-militarism in its most virulent form. John Randolph of Roanoke, serving his first term in the House, made the sharpest doctrinaire attack on standing armies since Gerry's famous speech in the Confederation Congress. In return for his trouble, he was manhandled at the theatre the following night by some marine corps officers, or so he claimed. After a long and inconclusive investigation of this affair, the

¹²⁸Ibid., 3052-54, 2241.

¹²⁹Annals, 6 Cong., 1 Sess., 188-90.

House voted down a motion to censure the officers.¹³⁰ Michael Lieb of Pennsylvania, another new congressman, introduced a bill to curb unspecified military interferences at elections, and the measure actually passed the House, only to be rejected by the Senate.¹³¹ Four Republican ultras, including Randolph, bitterly but unsuccessfully opposed the presentation of a medal to Captain Thomas Truxton following the action between the Constellation and La Vengeur, a French ship-of-war.¹³²

McHenry's report, which did not reach Congress until after the efforts to reduce the army were underway,¹³³ marked a major turning point in the military philosophy of the nationalists. Since 1783 their objective had been a large standing army or, after the mid-1790's, a large provisional army. Now they reluctantly gave up these traditional ideals and adopted a new approach to the defense problem. Tacitly acknowledging that the anti-nationalists had won the long battle, McHenry, who usually reflected the opinions of the Federalist leadership in Congress, admitted that the United

¹³⁰Ibid., 372-73, 377-88, 426-507.

¹³¹Ibid., 522-23, 527, 625-26, 108-09, 119, 151. The text of the bill may be found in "House Bills and Resolution," 6 Cong., 1 Sess., 18 Feb. 1800, in House of Representatives Library, Washington, D. C.

¹³²Annals, 6 Cong., 1 Sess., 640-42, 122.

¹³³The report was dated 5 Jan. 1800, and the President transmitted it to Congress on 13 Jan. Ibid., 370.

States was not likely to keep up large regular forces in the future, presumably because of public attitudes. This being the case, he continued, such small forces as it maintained should be made as efficient as possible, fortifications with men to man them should be maintained on the avenues of approach, and training institutions should be established to make possible the rapid enlargement of the army in time of danger.¹³⁴

. . . military science, in its various branches, ought to be cultivated with peculiar care; in proper nurseries; so that . . . a competent number of persons may always be prepared and qualified to act as engineers, and others as instructors to additional troops, which events may . . . require to be raised. This will be to substitute the elements of an army to the thing itself, and will . . . tend to enable the Government to dispense with a large body of standing forces. . . .¹³⁵

To serve as this nursery he recommended the establishment of a military academy conforming in organization to those of France. It should consist of a school of fundamentals in which would be taught the basic sciences necessary to the mastery of the military arts and three schools of practice--one for artillerists and engineers, one for cavalry and infantry, and one for the navy. The students should be selected from the cadets of the army regiments, from young men desiring military careers, and from the officers and non-commissioned officers of the army. The length of training should be two years in all of the schools except that of

¹³⁴Ibid., 1398.

¹³⁵Ibid., 1398-99.

cavalry and infantry in which it should be one year.¹³⁶

In order to make the small army itself more efficient and to insure the better defense of the seaboard, McHenry recommended that the two regiments of "artillerists and engineers" (each regiment was made up of the two branches) be reorganized to provide a regiment of horse artillery, one of foot artillery, and one of engineers. The work of artillerymen and military engineers was so different, he said, that separation was necessary to maximum efficiency. Horse artillery, he continued, was the weapon par excellence for coast defense because of its great mobility. At the time, highly mobile tactical horse artillery was a relatively recent innovation in Europe; and, as McHenry noted, the French practice was to fire the pieces without detaching the trails.¹³⁷

He also suggested that the volunteer associations be made a permanent part of the military system, and that the militia "be considered as an essential arm of our defense," something the Federalists had not considered it.¹³⁸ The long report, which contains an erudite summary of the development of horse artillery from the time of its inception in

¹³⁶Ibid., 1399-1404. ¹³⁷Ibid., 1404-09.

¹³⁸Ibid., 1409-10, 1412. In a subsequent report of 31 Jan. (communicated to the House on 13 Feb.) he covered much the same subjects and commented on the difficulties of properly training militia and on the ineffectiveness of militia due to poor training. These last comments, which were not consistent with the first letter, were apparently intended as arguments for the military academy. Ibid., 1416-23.

the days of Frederick the Great, bears all the marks of the Hamiltonian style and inspiration. It should be given its real place as the final military philosophy of Federalism, a philosophy of coast defense, "nurseries," volunteer associations, small and highly mobile regular forces, and grudging reliance on the militia.

On 19 March, the House committee on defense presented a bill to place McHenry's recommendations concerning the military academy and the artillery into effect. However, the measure aroused opposition among the Republicans because of its costs, and in late April it was postponed until the next session.¹³⁹ Meantime some more momentous events had been transpiring on the floor of the House. On New Year's Day, 1800, Nicholas presented a resolution that would repeal the clauses of the additional army act providing for the twelve extra regiments of infantry and the six extra troops of dragoons.¹⁴⁰

In the debate that followed, the Republicans pointed to the absolute need for economy and alleged that the troops concerned were utterly useless because their numbers were too few to meet any real threat. They also attempted to disprove the possibility that the disbandment would wreck the negotiations then under way in France.¹⁴¹ The Federal-

¹³⁹Ibid., 634, 690-91. ¹⁴⁰Ibid., 227-28.

¹⁴¹Ibid., 250, 267, 287-88, 293-94, 297-98, 321, 350.

ists maintained that defense was more important than small savings, that the continuing possibility of invasion made the retention of the troops necessary, and that any major relaxation of the defensive program of 1798 would render the success of the negotiations doubtful. However, they early showed a willingness to compromise by moving to what John Marshall of Virginia called the "middle ground." Some of them at least would accept a plan whereby the additional troops already enrolled under the act would be retained but no more enlisted.¹⁴²

Though Nicholas and Gallatin drew some more of their depressing pictures of the nation's finances,¹⁴³ the debate was highlighted by Republican eulogies of the militia and attacks on the regulars.¹⁴⁴ As previously mentioned, Randolph made the most bitter of the latter. The regulars he said were useless, unconstitutional, and so expensive that not even a nation as wealthy as Great Britain could afford them without sending "her laborers supperless to bed." They destroyed the "military spirit" of the people by reserving military matters for professional soldiers. They had brought about the downfall of every free state and "rivetted the

¹⁴²Ibid., 252-54, 259-60, 263-64, 274, 292, 301-07, 318-19, 323-24, 336-40, 364-65.

¹⁴³Ibid., 247-49, 278-80, 358.

¹⁴⁴Ibid., 279-80, 310-12, 321-22.

fetters of despotism" on the people.¹⁴⁵ They irritated Americans, who

. . . feel a just indignation at the sight of loungers, who live upon the public, who consume the fruits of their honest industry, under the pretext of protecting them from a foreign yoke. They put no confidence, sir, in the protection of a handful of ragamuffins . . .¹⁴⁶

It was these dispassionate words plus several hundred more like them that brought on the alleged attack in the theatre. The Federalist deprecated the worth of the militia and defended the regulars,¹⁴⁷ and Harper and James A. Bayard of Delaware again attacked the loyalty of the Republicans.¹⁴⁸ The resolution was then voted down sixty to thirty-nine.¹⁴⁹ The belief that a solution acceptable to both sides might be found apparently led some Republicans to join the majority.

Following the defeat of the measure the committee on defense brought in a compromise bill suspending enlistments under the additional army act until the next session unless war should break out or the President should discover an imminent threat of invasion. Most of the debate resulted from Randolph's effort to add an amendment which would consolidate the twelve skeleton regiments (only thirty-four

¹⁴⁵Ibid., 296-300.

¹⁴⁶Ibid., 298.

¹⁴⁷Ibid., 275, 292, 305-06, 316, 340-41.

¹⁴⁸Ibid., 257, 260, 262, 325-26, 329-35.

¹⁴⁹Ibid., 369.

hundred men had been enlisted) into several full regiments and discharge the officers left over.¹⁵⁰ It developed that the Federalists had become separated into two camps. The larger group, which clustered around Marshall, favored the bill as the true middle ground but opposed the amendment. The latter, they thought, by discharging the officers and eliminating some of the regiments would prevent the rapid resumption of recruiting in case events took some bad turn.¹⁵¹ The second group, composed of several die-hards and containing none of the more influential Federalist leaders, stood against any reduction whatsoever.¹⁵²

After the Randolph amendment had been voted down by a sizeable majority, the die-hards took their stand on a motion that further consideration of the bill be postponed until December. The motion fell by the enormous majority of eighty-two to ten, and the House then passed the bill without a tally.¹⁵³ Thereafter the Senate accepted it by a vote of twenty-one to ten.¹⁵⁴

By late spring, though there had been no ostensible

¹⁵⁰Ibid., 370, 375, 389. The bill was debated on 17, 22, and 23 Jan. Ibid., 376, 389-403.

¹⁵¹Ibid., 392-96.

¹⁵²Ibid., 389-92, 401-02.

¹⁵³Ibid., 401-04, 425.

¹⁵⁴Ibid., 45. The act became law on 20 Feb. 1800, Ibid., 1438.

change in the French situation,¹⁵⁵ many Federalists appear to have joined the Republicans in thinking that the additional army was no longer necessary. The denouement came rapidly during early May. When an unimportant military bill came down from the Senate, Harper himself moved an additional section authorizing the discharge of all the extra troops except the engineers as soon as the French negotiations proved successful. This was subsequently changed by the Senate to set a definite date, 15 June 1800, for the disbandment. The act as finally passed contained a clause protecting the old establishment--the first four infantry regiments, two regiments of engineers, and two companies of light dragoons--from any reduction.¹⁵⁶

When the second session of the Congress convened in Washington (for the first time) the President hoped, and apparently thought, that the efforts to reach an understanding with France would be successful. The temporary army, he told Congress, had been discharged in compliance with the act of the last session. He recommended, however, that the navy be placed on a peace basis and maintained as a defensive

¹⁵⁵The commissioners to Paris did not even open negotiations until 7 Apr. 1800, and their first report that this had been done was dated 18 Apr., hardly early enough to have influenced the actions of the Congress prior to 7 May when the move to disband the troops got underway. Ibid., 1144-45.

¹⁵⁶Ibid., 691, 713-15, 182, 716. The act became law on 14 May 1800, Ibid., 1530-31.

measure peculiarly adapted to the American strategic position. The House in its reply to the President's message agreed that the navy constituted the first line of defense of the United States.¹⁵⁷ Both houses subsequently passed an act to place into effect the President's recommendation.

This measure authorized the sale of all ships and vessels of the navy except nine frigates, including the Constitution and the Constellation. It directed that six of the vessels retained be kept in constant service during peacetime and that the remainder be laid up at convenient ports. The act also authorized a peacetime officers' establishment consisting of nine captains, thirty-six lieutenants, and one hundred and fifty midshipmen. The strength of the peacetime crews of the six vessels kept in commission was set at two-thirds of the present, or wartime, strength.¹⁵⁸

¹⁵⁷Annals, 6 Cong., 2 Sess., 723-24, 790.

¹⁵⁸Ibid., 1034, 1056-59, 1062, 759, 1075. The act became law on 3 Mar. 1801, Ibid., 1557-59.

CHAPTER VI

THE UNIFORM MILITIA ACT

Following the adoption of the Constitution new efforts were made to reform the militia. The influences that determined the outcome were much more complex than they had been in the past. The twin detriments to clear thinking--the militia myth and fear of regulars--continued to play their customary roles, but the more complex frame of government, the development of the party system, and the crisis in Europe added new dimensions to the problem. Though Congress passed a uniform militia act in 1792, almost everybody realized that it contained many defects. As a result, the reformers continuously proposed amendments and new bills.

Under the Constitution control of the militia no longer rested unequivocally in the hands of the states but was shared by the general government. The arguments over this matter, which were to consume so many hours in later years, had begun in the Philadelphia Convention. One group had favored giving the national government complete authority, another had advocated leaving full control to the states, and still a third had stood for some compromise

between the two extremes. As happened so frequently in the convention, the moderates had prevailed, and a compromise solution had been adopted.¹ The central government, that is the Congress, was empowered "to provide for organizing, arming, and disciplining [training] the militia and for governing such part of them as may be employed in the service of the United States." The Congress was also authorized to call out the troops to "execute the laws of the Union, suppress insurrections and repel invasion." To the states were reserved the rights to appoint officers and to conduct the training of the militia in accordance with the regulations prescribed by Congress.

Questions concerning the division of authority dominated almost every debate on militia matters in the early Congresses. From the beginning there were two interpretations of the meaning of the clauses, one favoring states' rights and the other national authority. The nationalists assumed that the federal power to organize the militia included the power to determine its composition and to make exemptions. They believed that the Congress could require

¹Howard White, "Executive Influence in Determining Military Policy in the United States," Reprinted from the University of Illinois Studies in the Social Sciences, XII, Nos. 1-2 (1925), 17-18. Hereafter cited as White, "Executive Influence." See also Gaillard Hunt and James Brown Scott (eds.), The Debates in the Federal Convention of 1787 Which Framed the Constitution of the United States of America, Reported by James Madison, A Delegate from the State of Virginia (International Ed., New York, 1920), 421, 424-27, 435, 451-56, 472, 565.

militiamen to provide their own arms and equipment and that federal officers might be appointed to supervise training in the states. They also took the position that Congress could delegate to the President such of its responsibilities as the authority to call out troops to put down insurrections. The anti-nationalists contested each of these stands.

Aside from the difficulties of interpretation the militia clauses contained several practical defects. The division of training responsibilities with the general government providing the field manuals and the state governments drilling the troops could hardly lead to efficiency. The manuals would probably be good, particularly as long as such capable men as von Steuben were around to prepare them, but the drill instructors might leave something to be desired. In any event, uniformity of training would seem to depend as much upon close federal supervision of the type the nationalists desired as upon federal regulations.

The reservation to the states of the right to appoint officers had little to recommend it. Despite the criticisms of secondary writers, however, it is doubtful that delegation of the power to the federal government would have been a better solution at the time. It is inconceivable that the understaffed War Department of Federalist and Republican days could have coped with the enormous task of filling the some twenty-five thousand appointments on the basis of merit. The job was too taxing for the states in their own more limited

spheres, and for this and other reasons many of them permitted the troops to elect their own leaders. Though this method has been frequently maligned, it was admirably suited to the realities of the situation. After the old soldiers of the Revolution and professional competence had faded away together, the sole remaining criteria for officer selection were leadership abilities, interest in military affairs, and willingness to undertake the extra work and responsibility. These qualities were precisely the kind that the men of an organization were qualified to recognize and appreciate.

This is not to say that the election method was an ideal solution or that it always produced good officers. It could have been vastly improved, for example, by a constitutional provision precluding candidates from standing drinks on company election days. However, it was geared to the times and the nature of the problem. It was probably to be preferred to the method employed by the federal government when it got its chance in the Provisional Army of 1798-1800. One's politics rather than his military capabilities were apparently all that counted at that time. When the names of several Republicans were struck from an appointment list, even Hamilton was driven to complain,

We are very attentive to the importance of appointing friends of the government to military stations, but we thought it well to relax the rule in favor of particular merit, in a few instances. . . . It does not seem advisable to exclude all hope and to give appointments too

absolute a party feature.²

Party stands on militia matters did not become well-defined until some time after the Second Congress. They thus played little part in the passage of the federal act of 1792, but in succeeding years they helped determine militia policy. The federalists thought that a large standing army was essential to give strength and stability to the government. It was almost axiomatic that they should also stand for a strong and highly federalized militia. They thus consistently advocated the interpretation of the militia clauses in favor of the general government. However, as one writer has shown, they concentrated their efforts upon obtaining the standing army, and expanding it as needed, in the hope that the government would never have to rely on anything else.³ As a result their many attempts to federalize the militia were in practice more feeble than might otherwise have been expected. Meantime, the inefficiency of the state troops provided the party with another argument for building up the standing forces.

The Republicans thought that it was dangerous to permit the general government to control any troops whatsoever. They had opposed the creation of standing forces and

²Letter to James McHenry, 6 Feb. 1799, B. C. Steiner, Life and Correspondence of James McHenry, Secretary of War under Washington and Adams (Cleveland, 1907), 368.

³White, "Executive Influence," 91.

now they fought against the extension of federal control over the militia. They necessarily took the position that the militia clauses should be construed so as to protect the powers of the states. Meantime, as advocates of the militia myth, they held the militiamen in high veneration and viewed them as more than adequate substitutes for federal troops, which they dreaded above all else. In the foreign crises of 1794 and 1797, for example, they favored the raising of large detachments of militia as an alternative to more regulars.

The Republican addiction to the militia myth may require some investigation. There undoubtedly were some Republicans in Congress so doctrinaire and cotton-headed that they could have gone to the nearest hilltop, watched a battalion of regulars clean up a division of militia, and immediately made speeches extolling the militia as being always superior to regulars. However, the Republican delegations also contained able and perspicacious men, such as Albert Gallatin of Pennsylvania and John Nicholas of Virginia, the main party spokesmen during the political crisis of the late 1790's. How could men such as these, and the moderate and reasonable Republicans in general, have accepted the validity of a legend so fragile that it collapsed into matchsticks of wishful thinking and half-truths at the slightest unbiased examination? The answer may well be that they did not accept it but simply used it as a weapon in their struggle against

standing troops.

By about 1794, if not earlier, the Republicans had become firmly identified as the party standing for economy in government, and this gave them additional reasons for favoring the militia over the regulars. The former cost almost nothing, and the latter had begun to absorb a heavy percentage of the national expenditures. At times it appeared that this Republican preoccupation with economy overrode all other considerations. The militia was good because it was cheap, and the regulars were bad because they were expensive. Thus did the Republican military and economic policies support and reinforce each other.

While Federalist doctrine was unequivocal, the attitudes of the Republicans contained at least one serious internal contradiction. They wanted to make the militia the primary if not the sole reliance in time of danger. However, their fear of increased federal control caused them to oppose every measure brought forward to improve it. It is true that these were all Federalist bills, but the Republicans never presented one of their own. Perhaps they realized that it was impossible to make reforms within their own terms of reference based on states' rights. Or perhaps their opposition to reform was due to the basic unreality of their military thought. If the Federalists envisioned the citizen soldier as a kind of Cincinnatus, well-versed in fighting techniques, the Republicans saw him as a pink-cheeked

Rousseauan shepherd boy, armed for the moment with a musket instead of a crook. The picture would have been spoiled by anything so mundane as training and discipline.

As related in the last chapter, the French Revolution and the wars that followed dug an enormous emotional chasm between the two parties. In doing so they gave the Republicans new reasons to favor the militia over the regulars. Charged with sans-culottism and silenced by the threats of Federalist lions such as Robert Goodloe Harper, their vague and doctrinaire fears that the power of the government might be turned loose against democrats became real and pressing. Such powers would be less dangerous if they rested upon the militia, which was partially subject to the states and which in some sections was composed of their own ideological brothers.

Another factor influencing Republican attitudes was the success of the French armies in the War of the First Coalition (1792-97). For the moment it seemed that the superiority of the militia had finally been proved for once and all. Had not the French militiamen swept aside the standing armies of Austria and Prussia and caused even the Hapsburg Emperor to tremble? Fortunately Harper was able to demolish this new-born militia myth during a debate in January 1800. The French, he said, actually used a system of conscription that was almost identical to the impressment employed by the British. They seized the conscript by force,

carried him off in handcuffs if he resisted, and required him to serve as long as needed. Furthermore, they placed the men so obtained in regular regiments and subjected them to the most severe discipline. The French soldier as a result was to all intents and purposes a regular.⁴

Meantime, throughout the 1790's, the indifference to militia activities that had been so prevalent during Confederation days continued unabated. Large components of the troops in many states were unorganized, officers frequently neglected to call musters, and derelictions often went unpunished.⁵ Despite these conditions, public support for militia reform was virtually non-existent except for a few months during and after military crises. Though these momentary revivals of interest produced many amendatory state laws, they apparently did not penetrate to the halls of Congress.

The Knox Plan of 1790 (Second Session,
First Congress)

In January 1790 the President sent Congress a revised version of the Knox militia plan of 1786.⁶ The proposal retained the characteristic feature of its prototype--the

⁴Annals of Congress, 6 Cong., 1 Sess., 341-42. Hereafter cited as Annals.

⁵See below pages 333-35, 392-94, 404-06.

⁶Letter of 21 Jan. 1790, John C. Fitzpatrick (ed.), The Writings of George Washington (Washington, 1931-44), XXX, 512.

division of the troops into the advanced, main, and reserved corps--but several changes had been made in the interest of economy. The annual encampments of the advanced corps, which had formerly been set at forty-two days per year for all men in the age group, were now reduced to thirty days for the eighteen and nineteen year olds and to ten days for the twenty year olds. The use of new and refined figures for the total militia population indicated that the strength of this corps would be about 32,500 rather than 45,000. The effect of the reductions in training time and in numbers was to lower the estimated annual cost from \$735,000 to \$385,000. The federal government, not the remainder of the militia as in the original plan, would bear this expense.⁷

The President himself had apparently suggested most of these revisions,⁸ but the administration does not seem to have pushed the plan in the House while it languished on the agenda of the committee of the whole for some three months. Finally toward the end of April, this committee was discharged from further consideration of the matter, and the whole militia problem was referred to the committee on national defense.⁹ For several years thereafter the Knox plan

⁷American State Papers, Military Affairs, I, 8-13. Hereafter cited as State Papers, MA.

⁸Henry Knox to the President, 18 Jan. 1790, State Papers, MA, I, 6.

⁹Annals, 1 Cong., 2 Sess., 1544.

disappeared from Congress as interest shifted to Washington's own preferred type of organization based upon the light companies.

It has been said that references in the Knox plan to the possible use of the militia in domestic disturbances partially accounted for its failure in 1790.¹⁰ This opinion may well be viewed with caution. Everyone knew that revolt would cause the government to defend itself, and only some three years earlier the project for federal intervention in Shays Rebellion had drawn widespread support. Furthermore, in the spring of 1790, the bitter party split and the Republican fears that force might be used against them were still beyond the horizon and their approach could hardly be clearly anticipated. Furthermore Congress was willing throughout the early 1790's to vote regular troops in much larger numbers than had been raised by the Confederation. Though these troops were destined for use on the frontier, they would have raised more apprehensions of federal repression than a plan to make the militia more formidable.

In a letter of January 1790, General Benjamin Lincoln analyzed the reasons the plan would be opposed in Massachusetts:

Though it would make ours the strongest militia in the world, the people will not adopt it here, if I know Massachusetts. The expense, pay of officers, no pay of

¹⁰John McAuley Palmer, America in Arms (New Haven, 1941), 43-44.

men, the burden on masters, calling the youth indiscriminately, disfranchisement for a time in certain cases, officers excluded from actual service, subjection to a draft for a service of three years, &c., will be magnified here, and damn the bill.¹¹

It will be noted that these comments contain references to several economic features of the measure. It would cost too much, masters would suffer losses while their apprentices attended encampments, and the men would receive no pay. Lincoln also hints strongly that officers of the existing militia--those who would be deranged into the relatively inactive main and reserved corps--could be expected to oppose the reorganization. The reference to disfranchisement apparently refers to the fact that men at the encampments might not be able to vote in certain elections. Most of these objections probably operated in all sections of the country and served to prevent action on the plan. In this regard one of the most important, the loss to apprentice masters, would have a direct counterpart in agricultural areas in that parents would be deprived of the use of their sons.

The Boudinot Bill (Second and Third
Sessions, First Congress)

Toward the end of the second session the House committee on national defense, which was headed by Elias

¹¹Francis S. Drake, Life and Correspondence of Henry Knox, Major General in the American Revolutionary Army (Boston, 1873), 104.

Boudinot of New Jersey, former President of the Confederation Congress, reported a bill based on Washington's suggestions of 1783.¹² The bill defined the militia, provided for the light companies, and contained several features intended to make the militia uniform in all the states. It also extended federal authority by giving the central government sweeping control over the training and employment of the troops. This bill, often referred to as the Boudinot Bill, established the line of development in the direction of Washington's principles rather than those of von Steuben or Knox. It provided the essential framework of the militia legislation passed two years later.

The bill¹³ defined the general militia as consisting of all free and able-bodied male citizens of the several states between the ages of eighteen and fifty (later reduced to forty-five).¹⁴ It in effect divided the power to make exemptions between the general government and the states and listed those to be excused from service by the former. These included most members of all three branches of the govern-

¹²Annals, 1 Cong., 2 Sess., 1658.

¹³Except as otherwise indicated, the description of the bill in this and the following paragraphs is based upon "A Bill more effectually to provide for the national Defense, by establishing an Uniform Militia throughout the United States," Broadsides Portfolio 218, No. 12, Rare Book Room, Library of Congress. A copy of the bill may also be found in the Maryland Gazette (Annapolis), 29 July 1790 and 5 Aug. 1790.

¹⁴Annals, 1 Cong., 3 Sess., 1805.

ments of the United States and the states; conscientious objectors; professors, school-masters, and students; and mariners, former Continental officers, and certain post office employees. The division of the exemption power was contained in a clause excusing from service such persons as the state legislatures might wish. A surprising feature was that almost all persons receiving exemptions would be required to pay an annual federal tax of two dollars "to be applied toward the support of the civil government" of the United States.¹⁵ The bill also required that all persons subject to service provide their own arms and equipment.

The section relating to the light companies required that all militiamen between the ages of eighteen and twenty-five be separately enrolled and organized into companies by themselves. These companies would constitute the light infantry and riflemen (grenadiers were later added)¹⁶ of each regiment or battalion. The bill also provided for the formation of at least one troop of horse and one company of artillery in each brigade (later changed to division)¹⁷ but not exceeding one of each per regiment. All of these units--

¹⁵The exceptions were ministers, professors and other teachers, students, and mariners.

¹⁶"Amendments to the Bill, entitled, 'An Act more effectually to provide for the national Defense, by establishing an Uniform Militia throughout the United States,'" Broadside Portfolio 218, No. 8, Rare Book Room, Library of Congress.

¹⁷Ibid.

light companies, artillery, and horse--would be required to attend six musters per year. Members of the ordinary militia would rendezvous only twice a year.

It will be noted that these provisions made a distinction between the light companies and the artillery and horse, which were the traditional special arms. The latter were made a part of the general militia system, of which they had formerly been more or less independent, and their proportions with respect to the ordinary militia were established. Though there was nothing in the bill to preserve their customary privileges, such as the right to draw up regulations for their own use, their character as volunteer organizations was continued. Service in these corps could not be made obligatory until the public assumed their expenses, which were much greater than those of the infantry.

The establishment of the muster requirements and the ages of liability were only the first steps in the effort to make the over-all system more uniform. Other features of the bill directed to the same end included provisions standardizing individual arms and equipment, setting up a standard system of tactical organization, and prescribing uniform court-martial procedures and penalties. While the bill did not specify the use of a particular training manual, as the completed act was to do, it required the field and staff officers "to introduce uniformity in the manoeuvres and discipline of the regiment."

All of these provisions leading toward uniformity represented the extension of the federal authority. Another and more important extension is found in a section setting up federal troop inspectors. The President would appoint one or more of these officers for each state,¹⁸ and the central government would pay their stipends. They would supervise training, inspect arms and equipment, prepare strength returns, and generally serve as super adjutant generals. Though their reports would be submitted directly to the President, copies would be sent to the governors of the states. The work of the inspectors would have brought the central government into direct and intimate contact with the troops far beyond what appears to have been contemplated by the militia clauses. Indeed the responsibilities of these officers were so sweeping that almost the only essential function left to the state adjutant generals was the transmission of orders from the governors to the tactical units.

Even more significant was the section requiring the governors to order out troops on federal requisition and to march them wherever their services might be required. These provisions not only proceeded from the militia clauses themselves but they also dramatically illustrated the extent to which the Constitution had broken with American military tradition. In Confederation days, the Congress could do no

¹⁸The inspectors for each state would be chosen from the citizens of the state.

more than request the states to provide troops. Furthermore, the states had exercised the right to determine where their forces should be employed.

The bill had been introduced so late that it was not brought before the committee of the whole until early in the following (the third) session. At that time many of its provisions, including the light companies and the federal inspectors, came under heavy attack. The clause providing that the companies be composed of younger men, it was said, would not only work against the economic interests of certain groups, but it would also deprive the militia of the services of many Continental veterans. Furthermore, it would be difficult, if not impossible, to assemble the men from their scattered homes to form the companies. Though the clause was defended by several speakers, including James Madison, it was finally struck without a roll call.¹⁹ The companies would then be taken from the militia at large.

Strangely enough no one pointed out in so many words that the provisions relating to the inspectors would infringe the rights of the states. According to Boudinot the officers were nothing more than advisors to keep the President informed of militia matters, an opinion hardly consistent with the wording of the clause. As such advisors, he continued, they should be federal appointees. Jeremiah Wadsworth of

¹⁹Annals, 1 Cong., 3 Sess., 1813-14.

Connecticut, who seems to have gotten lost among the shell-holes of the middle ground, thought that they should be federal officers but that they should be governed by the state laws. However, the general opinion favored making them state officers, if for no other purpose than to avoid distrust on the part of the state governments, and this was done.²⁰

The use of the militia by the federal government also claimed the attention of the committee. Here two problems had to be considered: the requirement in the bill that the states respond to federal requisitions, sending their troops wherever directed, and the need to add some new provision giving the President standing authority to make such requisitions. The requirement was struck from the bill, but unfortunately any discussion that may have preceded the vote is not recorded in the Annals.²¹ A suggestion that the new provision be added met with quick and somewhat contradictory objections. The authority could be conferred only by special act of Congress, but such an act (that of 30 April 1790) was already in effect. Since that act pertained only to the defense of the frontier, it seemed that something should be done to cover insurrection and invasion from other quarters, such as Europe. But the matter was dropped for the moment.²²

²⁰Ibid., 1818-19.

²¹Ibid., 1817.

²²Ibid., 1817, 1820.

Unsuccessful efforts were made to change or delete many other clauses and sections. It was objected that the bill contained too many exemptions and that the charge on exempts was an "absolute poll tax." It was unconstitutional, said several speakers, because it was levied on certain classes rather than upon the population as a whole.²³ A motion to strike federal Congressmen from the exemption lists was defeated as being a threat to the independence of the legislative branch. It was argued that a designing President might prevent Congress from assembling by calling the members to military duty.²⁴ An amendment requiring that the federal government provide arms for poor militiamen was changed to lay the responsibility on the states and then rejected.²⁵ A motion to eliminate the federal fines was also lost.²⁶

When the report of the committee of the whole was brought before the House, the battle of states' rights was fought out over the exemption clause. Though this portion of the debate was not clearly reported, the nationalists apparently thought that the power to make exemptions should be exercised by Congress alone and the anti-nationalists that it should be shared by the states. The nationalists argued that Congress had already in effect made exemptions in setting the militia ages and that this was completely

²³Ibid., 1817-18.

²⁴Ibid., 1809-12.

²⁵Ibid., 1806-08.

²⁶Ibid., 1817..

consistent with its right to organize the militia. To divide the power, they added, would blend and confuse the authority of the general government with that of the states. According to the anti-nationalists, the militia was--or should be--composed of the men designated by the states. It followed that any infringement of the right of the states to make exemptions would strike at their power to determine the composition of the troops. The outcome of all this talk was a minor victory for the anti-nationalists. The division of the power already in the clause was retained, and the wording was slightly modified in the favor of the states.²⁷

Another states' rights argument occurred on a motion to exempt militiamen from civil processes on days of rendezvous. This was opposed on the basis that the states had an "exclusive right" to regulate the times of musters and that Congress had no authority to determine that militiamen should not be liable to arrest at such times. Boudinot replied that the power of Congress to discipline the militia included "every incidental power to carry that idea into effect." The motion was carried.²⁸ The House also tentatively accepted an amendment preserving the rights of

²⁷Ibid., 1821-27. The modification consisted of the removal of state officials from the list of federal exemptions. This in effect permitted the states to determine which of their officers should, and which should not, serve.

²⁸Ibid., 1820.

independent companies chartered or incorporated by the states.²⁹

At this stage the original bill had been thoroughly mangled. The provision that the light companies be formed of the younger men had been struck, and the federal inspectors and the regulations governing federal use of the troops had been deleted. On 24 December, the House, having completed the last of the hatchet work, handed a new select committee headed by Wadsworth the job of putting the pieces back together.³⁰ A few days later several constitutional purists who thought the Congress had no right whatsoever to define the militia attempted to send some glue along in the form of special instructions to the committee. The bill, they said, should be prefaced by a clause stating that the militia would consist of such persons as the states might enroll. A motion to this effect received only eight votes.³¹

The Wadsworth Bill (First Session,
Second Congress)

On 4 January 1791 the Wadsworth committee presented a bill³² which appears to have incorporated the several changes made by the House. It also contained new provisions providing that the muskets of the militia be gradually converted to the same caliber and that the President rather

²⁹Ibid., 1828.

³¹Ibid., 1837.

³⁰Ibid.

³²Ibid., 1840.

than the governors arrange the troops into divisions, brigades, and so on.³³ Though the committee had returned this revised bill only eleven days after receiving the old one, the First Congress adjourned less than a month later. The bill was presented in substantially the same form on 21 November 1791 to the first session of the Second Congress.³⁴ The committee of the whole considered the bill on four different days between 21 February 1792 and 2 March 1792.³⁵ Unfortunately the Annals report the debate in detail for only one of these occasions. From the limited information available it appears that the main arguments devolved about the right of Congress to define the militia, to require that militiamen arm themselves, and to give the President the responsibility of imposing the federal organization on the troops.

The clause designating those to be enrolled, said Jonathan Sturges of Connecticut, considers "the militia of

³³Annals, 2 Cong., 1 Sess., 421-22. Palmer writes that the "originals of the Boudinot Bill and the other bills" were destroyed by fire in 1814 but that he was able to find copies of them in contemporary newspapers in the Library of Congress. Unfortunately he does not cite the newspapers. America in Arms, footnote page 46. The present writer found an "original" pamphlet copy of the Boudinot Bill in the Rare Book Room in the Library of Congress (see footnote 13 above), but an assiduous search in the contemporary newspapers did not reveal the Wadsworth Bill. An effort has been made to reconstruct the essential features from the debate in the Annals.

³⁴Annals, 2 Cong., 1 Sess., 200.

³⁵Ibid., 418-24, 430, 432-33.

the several States, as the militia of the Union . . . [but] the Constitution considers it as belonging to the respective States. . . ." Therefore the states alone should define the militia and provide for exemptions, and Congress should limit itself to "forming, arming, and arranging in a particular way, those materials [those men] which are furnished by the militia laws of the several states."³⁶ According to James Hillhouse, also of Connecticut, Sturges had gotten everything into reverse order. Congress was empowered to define the militia and to organize it into tactical units. Only when these functions had been completed could the states exercise their reserved powers.³⁷ William Vans Murray of Maryland added in support of this argument that the Constitution could not have referred to the existing militia, for many of the states had neither militia nor militia laws.³⁸

At this point Wadsworth himself, apparently thinking of the mutilation of the Boudinot Bill, remarked that the subject had already been handled in such a manner as to provide "an inadequate, defective system" and that he no longer had much interest in the fate of his own bill. However, the nationalists were able to carry their point, for a motion to strike the clause was voted down without a roll call.³⁹ Thus the basic question of who should designate the member-

³⁶Ibid., 419-20.

³⁷Ibid., 419.

³⁸Ibid., 420.

³⁹Ibid.

ship of the militia was finally resolved for all time in favor of the Union. This was a crucial victory, particularly in that the anti-nationalists may well have had the best of the constitutional arguments.

When the arms question was under consideration, Thomas Sumter of South Carolina presented the most extreme states' rights view of the militia yet to appear. Congress had no militia powers, he said, until after the troops had been called into the federal service. Then it might organize them into tactical units and provide them with arms. Meantime it had no authority to put them to the expense of arming themselves. The remarks of Nathaniel Niles of Vermont were more cogent. The requirement that the militia arm itself, he said, would operate as a capitation tax. However, it would not meet the Constitutional standards that such taxes be assessed "only in a certain way," that is presumably in an equitable way. Valid arguments such as this had no effect, and the attack on the most ancient of all militia principles failed when a motion to strike the arms clause was voted down.⁴⁰

The anti-nationalists followed Sumter's line of argument in opposing the clause making the President responsible for arranging the militia into tactical units. He could exercise no such power until after the troops had been

⁴⁰Ibid., 420-21.

ordered out. The proponents of the clause argued that the Constitution in giving the central government the power to organize the troops had necessarily included the power in question. The clause, they also said, was necessary to uniformity, a rather weak argument since the bill outlined the type of organization to be employed in any event. A motion to strike was carried, and the clause was replaced by one leaving the matter to the state legislatures.⁴¹

The House itself finally took up the bill on 5 March, removed the clauses establishing the number of musters, the standard fines, the court martial procedures, and the money equivalent.⁴² The following day it approved the measure by a vote of thirty-one to twenty-seven.⁴³ Two months were to pass, however, before the bill finally became law. On 12 April it was back in the House with a Senate amendment permitting the President to call out the militia as he might think necessary to execute the laws of the Union, suppress insurrections, and repel invasions.⁴⁴ This amendment together with the provisions of the Act of 30 April 1790 authorizing the President to use the militia on the frontier would have given him standing authority to act in any con-

⁴¹Ibid., 422-23.

⁴²These removals may have occurred while the bill was still in the committee of the whole. Their deletion is not reported in the Annals but is inferred from a comparison of the bill with the act as finally passed.

⁴³Annals, 2 Cong., 1 Sess., 435-36.

⁴⁴Ibid., 552.

ceivable emergency.

A part of the House objected bitterly to the implication that it might sometimes be necessary to use troops against the people in putting down insurrections. The debate on the amendment consequently took on a roar portending the discussions of later years when Harper and his followers were to level the big guns of Federalism on everyone in sight. Proponents of the amendment noted that such a power was already vested in the governors of the states. If this were proper, and no one seemed to object to it, why should it be highly improper to give the same authority to the President? Furthermore, what was a militia for, if not to support the government and the law?⁴⁵

It was "an insult to the majesty of the people," said John Steele of South Carolina to assume "that it may be necessary to execute the laws at the point of the bayonet." The purpose of the militia, said another, was to permit the states to protect themselves from the encroachments of the central government. Elbridge Gerry, perhaps the foremost fearer of regular armies in all of North America, now began to look with apprehensive eyes at the militia. The amendment lodged a dangerous and unwarranted power in the Executive, he pontificated in his usual illuminating fashion.⁴⁶

Murray saved the situation by pointing out that

⁴⁵Ibid., 553.

⁴⁶Ibid.

Congress might cover the matter in a separate bill. Such a measure, he said, should closely define the emergencies in which the President might employ troops, preserve the supremacy of the civil power, and give the judiciary its rightful role. Following this sensible analysis of the problem, the House rejected the amendment by a thirty-seven to twenty-four vote, and appointed a select committee to bring in a special bill to replace it.⁴⁷ The Senate accepted this method of handling things, and the Wadsworth Bill with all its changes finally became the Uniform Militia Act of 8 May 1792.⁴⁸

Meantime on 17 April, three weeks before the Uniform Militia Act had become law, the select committee mentioned above had reported a bill⁴⁹ granting the President authority to call forth the militia:

(1) to resist invasion or threatened invasion by any foreign nation or Indian tribe,

(2) to put down insurrection against the government of any state (on request of the state legislature or in its recess of the governor),

(3) to combat opposition to the laws of the United States "by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals . . ."

In the last case the President could not act until certain judicial procedures had been completed, and before sending troops against any domestic foes he was required first to

⁴⁷Ibid., 554-55.

⁴⁸Ibid., 583.

⁴⁹Ibid., 557.

issue a proclamation ordering those concerned to disperse within a limited period. Under all three of the listed circumstances troops might be sent from one state to another. Any militiaman refusing to obey orders issued under the act might be fined not exceeding one year's pay, and officers were also made subject to discharge. The act would continue in force for two years and thence to the end of the next session of Congress.⁵⁰

As might have been expected, the measure aroused much resentment, and most opposition speakers found the section dealing with enforcement of the laws particularly objectionable. Harsh laws, said John Page of Virginia, should be repealed, not forced upon the people. According to Abraham Clark of New Jersey the section was aimed at crushing all opposition to the excise law "so that if an old woman was to strike an excise officer with a broomstick . . . the militia is to be called forth to suppress an insurrection."⁵¹ After these and other bitter words, the bill was passed with only minor modifications.⁵² It was re-enacted in 1795⁵³ and thereafter became a permanent part of our militia legislation.

⁵⁰Annals, 2 Cong., 1370-72.

⁵¹Annals, 2 Cong., 1 Sess., 575.

⁵²Ibid., 576-77, 580. It became law on 2 May 1792.

⁵³The Act of 28 Feb. 1795. Annals, 3 Cong., 1508-

Throughout its long legislative history, which began with the Boudinot Bill and ended with the passage of the emasculated Wadsworth Bill, the Uniform Militia Act had been an administration measure. However, the President's efforts to preserve its more important features were hardly vigorous. In his first annual address to Congress (8 January 1790) he said only that "A free people ought not only to be armed but disciplined; to which end a uniform and well digested plan is requisite. . . ." ⁵⁴ His subsequent addresses before the passage of the act were equally vague. In none did he refer specifically to the bill itself, nor did he send Congress any special messages relating to it. As one writer has put it, the President's interest in militia legislation was real, but it was subordinated to a greater interest in the development of the regular establishment. ⁵⁵

Nor did the debate on the act develop into a party struggle. This may be attributed partially to the administration attitudes and partially to the fact that party alignments were still in an embryonic stage of development. Though there is considerable disagreement as to whether the parties existed as such at the time, one writer has attempted to analyze the final vote along party lines. According to his findings the Republicans divided almost equally with ten

⁵⁴Fitzpatrick, The Writings of George Washington, XXX, 491.

⁵⁵White, "Executive Influence," 87, 90.

favoring the bill and eleven opposing it. The Federalists split less evenly, twenty-one for and sixteen against.⁵⁶ Such divisions would seem to indicate that either party organization or party militia doctrines had not become fixed.

The "Notorious" Uniform Militia Act of 1792

The formal title of the new act was "An act more effectually to provide for the National Defense, by establishing an uniform Militia throughout the United States." In the entire history of American military policy no other legislation has lived longer or been more thoroughly condemned. Between its passage and 1801 and probably for years thereafter efforts were made in almost every session of Congress to replace it with a more effective measure. Yet these invariably failed, and for more than a hundred years the act was the sole basis for the organization of the American militia.

As the act, scalped of many of its most constructive features, came out from under the tomahawks of the House, it

(1) defined the militia as all free, white, able-bodied male citizens between the ages of eighteen and forty-five, exempted certain federal officials and others, and permitted the states to exempt whomever they might wish,

(2) required each militiaman to arm himself and standardized arms and equipment for the entire militia,

(3) provided a standard system of tactical organization and required that the states adopt it to the extent that convenience permitted,

⁵⁶Ibid., 93.

(4) required the formation of a "light company" of grenadiers, riflemen, or light infantry in each battalion without reference to age groups or obligatory service,

(5) required the formation of volunteer companies of cavalry and artillery in the divisions and established the proportions of these units to the infantry,

(6) required the states to use a federal manual--von Steuben's regulations--in the training of their troops,

(7) gave the task of supervising training to brigade inspectors appointed by the states, rather than to federal inspectors as originally proposed.⁵⁷

These several features will be explained in more detail in the following chapter. On the debit side, the act set no training requirements, made no provisions for standard penalties, and outlined no procedures for mobilization. Nor did it contain any measures for enforcement.⁵⁸ Indeed, in this respect it resembled the legislation of the Confederation, for the states could ignore it without penalty if they wished.

The extent to which the act departed from Washington's original plan for the light companies, as outlined in the "Sentiments" of 1783, requires some investigation. The measure did not require that they be armed by the public, that they be organized into "particular battalions," nor that they undergo heavy training, all of which he had thought

⁵⁷Annals, 2 Cong., 1392-95. With respect to paragraph (4) in the text above, the act does not actually refer to the grenadiers, riflemen, and light infantry as "light companies."

⁵⁸Ibid.

necessary. It did not make service in the units obligatory, but he certainly had not insisted upon this. On the most significant point of all, it did not prescribe that they be formed from the younger men. However, as previously related, it is not entirely clear, that he had intended to limit membership to this group.⁵⁹

To view the matter in greater perspective the essential element of Washington's original plan, and indeed of all the early reform plans, was that some kind of select corps be formed from the militia at large. This the act provided both in the light companies and in the formerly independent arms--the artillery and the cavalry--which were now brought into the general militia system. In practice the light companies frequently became elite volunteer organizations and thereupon assumed much of the traditional status and efficiency of the artillery and cavalry. In other cases they either remained unorganized or took their character from the ordinary militia. It would seem that the main difference between what Washington had wanted in 1783 and what he actually got in 1792 lay in this unorganized or untrained component and in the lack of positive training requirements.

The unhappy results of the act⁶⁰ cast strong doubts on the over-all efficacy of Washington's original plan. It

⁵⁹See above pages 104-05.

⁶⁰See above footnote 5.

seems extremely doubtful that a select force of the size and type he had contemplated could have been formed, trained, and kept up under the circumstances of the times. The public was so indifferent and the heavy training program so burdensome that stronger compulsion than he or anyone else thought feasible would have been required. To be added to the difficulties was the lack of arms, which no one seems to have considered. A smaller select corps such as that suggested by Hamilton or by von Steuben might have been made to work.⁶¹

Two of the most sweeping contemporary criticisms of the act were made by men easily competent to judge its weaknesses, Secretary of War Knox and Hugh Williamson of North Carolina, who had been active in the military deliberations of Congress during Confederation days. Knox in a letter to the Speaker of the House of Representatives criticized the omission of penalties for men not arming themselves, the lack of provisions to insure that the militia responded to the call of the President, and the failure to bind militia in the service of the United States to the federal military code. As might have been expected he also condemned the failure to provide a more adequate select corps.⁶² Williamson called the act the "shadow of a law." Its effect, he

⁶¹See above pages 105-09.

⁶²Letter of 10 Dec. 1794, Annals, 3 Cong., 1396-99.

continued, was to say that the states might have a good militia or none at all, as they pleased.⁶³

Though Charles Carroll of Carrollton, a member of the Maryland Senate, did not argue the military merits of the select corps principle, he thought that the act comprehended too many men. The mustering of the entire age group between eighteen and forty-five would be a "serious evil" resulting in much wasted time and drunkenness. Good soldiers could not be made out of this great mass by a few days training per year, and he doubted that the act intended to prepare the ordinary militia for fighting. The object of Congress, he thought, had been to provide "fencibles" (the light companies) capable of defending the nation from internal and external attack.⁶⁴

Other contemporary criticisms of the act will appear below in the discussion of the efforts to amend it. In later years military writers, particularly General Emory Upton and his whole school of followers, added their salvos to the bombardment. Upton wrote that the execution of the law "depended wholly on the voluntary and concurrent action of the States without which a 'uniform militia throughout the United States' would be impossible." He also criticized not only

⁶³Annals, 2 Cong., 2 Sess., 799.

⁶⁴Kate Mason Rowland, The Life of Charles Carroll of Carrollton, 1737-1832, with His Correspondence and Public Papers (New York and London, 1898), II, 185, 191-92.

the requirement that the men furnish their own arms but also the omission of federal penalties to enforce the requirement once it had been put in the act.⁶⁵

While these objections may have been valid, Upton also took the position that the act intended to convert the militia into "an army of the first line."⁶⁶ Since he did not mention the light companies at all in his discussion and referred to the artillery and cavalry only in passing, it may be assumed that he had the general militia in mind. If this were the case, his opinion did not correspond to the facts. All of the several reform plans relegated the general militia to a completely secondary position, and there is nothing to indicate that anyone, not even the Republican zealot with his ideal of the shepherd boy soldier, seriously considered making it the first line of defense.

A later writer, Brigadier General John M. Palmer, states that by the time the act was passed every constructive feature had been cut out of it. It no longer contained the provisions for federal inspection and supervision, and the "essential principle of the separate organization and training of the younger men . . . [had been] eliminated." Indeed he contends that the act by sanctioning the old "phony" militia made "our military system worse than it was

⁶⁵Emory Upton, The Military Policy of the United States (Washington, 1917), 85.

⁶⁶Ibid., 84-85.

before the bill was introduced."⁶⁷

Later Efforts to Reform the Militia (1792-1801)

Between 1792 and 1801 the question of further militia reform was considered in every session of Congress except one. In the two sessions following the passage of the Uniform Militia Act the interest of Congress in the subject was more or less perfunctory.⁶⁸ By early 1795, however, the defects of the act had become well known, and the military crises of the preceding year--the troubles with Great Britain and Spain and the Whiskey Rebellion--had begun to focus attention on the need for improvement. Samuel Smith, who had commanded part of the Maryland contingent in the whiskey affair, charged in the House that a number of his troops had put the ball before the charge in loading and that some had not known how to "lay a gun over their shoulder." The militia of the Southern States as a group, he added, was totally worthless, and the officers "durst not . . . have marched them against an enemy, during the late insurrection, if it had not been for a general idea that there would be no resistance."⁶⁹

In response to these dangers and weaknesses a new

⁶⁷Palmer, America in Arms, 50-51.

⁶⁸Annals, 2 Cong., 2 Sess., 701-02, 708-10; Ibid., 3 Cong., 1 Sess., 527; State Papers, MA, I, 66.

⁶⁹Annals, 3 Cong., 2 Sess., 1069, 1214-15.

bill providing for the division of the militia into two components, one a select corps, was reported midway in the second session of the Third Congress.⁷⁰ Since favorable action was not forth-coming, either then or later, the bill was reintroduced in each of the following four sessions. The measure, which constituted a greatly simplified version of the Knox plan, defined the militia as comprising all men between twenty and forty years of age and divided it into two classes:

the select corps--those under twenty-five years

the reserve corps--those over twenty-five years

The former would receive twenty days training per year,⁷¹ and it would be armed at the expense of the United States.⁷²

The usual arguments were brought forward both in favor of the select principle and in opposition to it. The Republicans thought that the measure would cost too much, that it would be better to have an army with some older heads, and that the training encampments would corrupt the morals of the youth. They also claimed that the militia did not need the special training involved. If they once got sight of an enemy, they would rapidly learn all they needed to know. The Federalists answered that the bill would

⁷⁰Ibid., 1214.

⁷¹Ibid., 1214, 1219.

⁷²Annals, 4 Cong., 2 Sess., 1685. The essential elements of the bill have been reconstructed from the debates. This point appears in one of the later discussions.

replace the "loose, deranged, uncertain" troops with one hundred thousand well-trained and well-armed young men. They denied that a few hours near an enemy's position would make good soldiers and asked the gentleman who had mentioned morals "whether he is more moral than he was twenty-five years ago? It is the old that corrupts the young." They also criticized the operation of the present act. Militiamen had been observed going to musters in a most unsoldierly manner "with sticks, canes, and whips, and not one firelock among four of them."⁷³

After several days of such futile discussion, the committee of the whole was discharged from further consideration of the bill,⁷⁴ presumably because the session was drawing to an end and because so much opposition had been expressed. The measure was also thoroughly debated in the second session of the Fourth Congress. The Republicans called the select corps unrepblican, charged that these units would destroy the self-supporting and thus highly desirable volunteer companies, and raised the same kind of constitutional objections they had brought against the Boudinot and Wadsworth bills.⁷⁵ Both sides also expressed

⁷³Annals, 3 Cong., 2 Sess., 1214-20.

⁷⁴Ibid., 1236.

⁷⁵Annals, 4 Cong., 2 Sess., 1679-82, 1684.

their opinions of the efficacy of the militia under the existing law.⁷⁶

All of these being familiar arguments, the debate was primarily interesting for the unusual proposal made by John Williams of New York. Since both the old act and the new bill were faulty, he said, an entirely new principle, "the legionary system," should be adopted. The troops of each brigade district should be divided by lot into three classes--infantry, artillery, and cavalry. Each class should then be made responsible for raising, equipping, and supporting, a company of its own arm, and these companies should be combined into legions. The classes themselves would be exempted from the usual musters and training. However they would be made subject to heavy fines for failure to keep up their units. In order to insure uniformity, the federal government might provide arms at the expense of the classes.⁷⁷

The plan may have been so novel as it appears on first examination. Two of the features, the legion organization and the abandonment of the universal obligation to serve, bore a remarkable resemblance to von Steuben's plan. The original Knox plan, it will be remembered, had required that the members of the two corps of older men pay the training expenses of the advanced corps. Perhaps Williams had

⁷⁶Ibid., 1677-79, 1680-82, 1685.

⁷⁷Ibid., 1688-90.

put together these several parts of the older schemes to make a new, and not unworkable, whole. But whatever may have been the origin of his ideas, the proposals drew little support.

Meantime the committee of the whole returned to the bill before it, struck the select corps feature by a large vote, and reported to the House. That body refused the committee leave to sit again and referred the matter to a new select committee.⁷⁸ For the remainder of the session nothing constructive was done. The bill was again reported in the first and second sessions of the Fifth Congress and apparently also in the first session of the Sixth Congress.⁷⁹ As in the past its proponents in the debates found themselves following battle trails that ended in morasses of objections and indifference. The bill was never brought to a vote.

⁷⁸Ibid., 1690-91, 1825, 2099, 2223-24.

⁷⁹Annals, 5 Cong., 1 Sess., 340-41; Ibid., 5 Cong., 2 Sess., 785, 1384-86; Ibid., 6 Cong., 1 Sess., 523, 688.

CHAPTER VII

STATE IMPLEMENTATION OF THE UNIFORM MILITIA ACT (UMA)

After the passage of the federal statute, the states acted with unusual rapidity to implement it with laws of their own. The legislatures of six states, Connecticut, Georgia, Kentucky,¹ New Hampshire,² New Jersey,³ and Virginia, passed new laws in the fall or winter sessions of 1792. Those of four, Delaware, Massachusetts, New York, and Pennsylvania, waited only until the spring or summer of 1793, and of three, Maryland, North Carolina,⁴ and Vermont, until the

¹Kentucky passed three acts. The act of 24 June 1792 imposed the Federal organization of divisions, brigades, regiments, etc., on the militia. That of 28 June 1792 provided for the general regulation of the militia as thus organized. The latter was replaced with a new act on 10 Dec. 1792. The discussion will be based on the first and the third of these.

²New Hampshire passed companion acts also. That of 27 Dec. 1792 organized the militia into divisions, etc., and that of 28 Dec. 1792 provided for its regulation. Both will be used in the discussion.

³New Jersey passed a brief act on 30 Nov. 1792 and a supplementary act on 5 June 1793. Both will be used.

⁴North Carolina passed a brief act in Dec. 1793 and a supplementary act on 18 July 1794. The last contains much more detail and will form the basis of the discussion.

fall or winter of the same year. By the summer of 1794, South Carolina and Rhode Island had joined the list, making it almost complete. Tennessee, the remaining state, followed the North Carolina law until it passed its own in 1798.⁵

While these new laws brought some sameness to the militia simply by imposing the federal system of tactical organization on the diverse systems of the states, they contained wide variations in many essential features. Several of them did not even conform to very explicit statements in the federal law establishing the ages of militia obligation. While some of these variations represented outright violations of the Federal statute, the greater part of them

⁵The acts referred to in this paragraph (and used as the basis of discussion throughout this chapter except where otherwise indicated) may be found in the session laws or in collections as follows:

Acts and Laws of the State of Connecticut, 1792
Oct. Sess. (date of act not given), 423-30.

Delaware Laws, 1793 June Sess. (18 June), 199-217.

Horatio Marbury and William H. Crawford (eds.), Digest of the Laws of the State of Georgia, 1775-1889 (Savannah, 1802), 14 Dec. 1792, pp. 348-356. Hereafter cited as Marbury and Crawford, Digest.

Kentucky Acts, 1792 June Sess. (24 June), 37-38,
and 1792 Nov. Sess. (10 Dec.), 5-15 (Microfilm Collection of State Records, Library of Congress, Kentucky, B 2, Reel 1, Unit 1).

William Kilty (ed.), The Laws of Maryland (Annapolis, 1800), II, Nov. (day not given) 1793, Chap. 53.

Acts and Resolves of Massachusetts, 1792-93 (re-
printed by Wright and Patten Printing Co., 1795), 22 June 1793, pp. 380-403.

existed within its flexible framework. In either case they reflected one or another of several factors: the mild insistence of the states upon what they regarded as their own rights, the normal historical persistence of traits of the old system, the variation of social organization from region to region, and the immediate military necessities as they varied from the seacoast to the frontier.

For example, at least two of the states, New York and Rhode Island, prefaced their laws with arguments concerning the division of the militia powers between the central government and the states. As they put it in identical words, the Constitution delegates to Congress the power to

New Hampshire Laws, 1792 Nov. Sess. (27 and 28 Dec.), 436-51.

New Jersey Laws, 1792 Oct. Sess. (30 Nov.), 824-28, and 1793 May Sess. (5 June), 850-66.

Laws of the State of New York, 1789-96 (re-published by the Secretary of State, 1887), 9 Mar. 1793, Chap. 45, pp. 440-50.

North Carolina Laws, 1793 Dec. Sess. (Dec., date unknown) and 1794 July Sess. (18 July), 1-8.

James T. Mitchell and Henry Flanders (eds.), The Statutes at Large of Pennsylvania from 1682 to 1801 (Harrisburg, 1896-1915), XIV, 11 Apr. 1793, 454-81.

Rhode Island Acts and Resolves, 1794 Mar. Sess. (Mar., date unknown), 14-25.

Benjamin Elliot and Martin Strobels (eds.), The Militia System of South Carolina, Being a Digest of the Acts of Congress Concerning the Militia, Likewise of the Militia Laws of this State (Charleston, 1833), 10 May 1794, Appendix, 18-32. Hereafter cited as Elliot and Strobels, Militia System of South Carolina.

provide for organizing, arming, and disciplining the militia and reserves to the states the rights to appoint the officers and to train the forces according to the Congressional regulations. These considerations rendered it necessary that the states make "provisions in the premises," a project that the two states undertook with more than a little enthusiasm.

The persistence of old traits in the state laws encompassed here or there almost all features of the system. The old Connecticut law, for example, did not provide for separate regimental and battalion organizations, nor did the new one. The effects of variation in social and political organization can be seen in the central role delegated to the towns in the laws of New England, where the selectmen helped determine exemptions and supplied poor militiamen with arms. Nowhere else did civil officials exercise such important functions in the militia life of their communities. The influence of military necessities is found in such features as the sectional emphasis placed on cavalry and artillery. Tennessee, where the Indians were a constant threat, provided itself with plenty of horse and no cannon. Along the coast, where seaborne attack was a possibility, most

Tennessee Acts, 1798 Dec. Sess. (10 Dec.), 3-26.

Laws of Vermont, 1792-93 Sess. (29 Oct. 1793), 19-47.

A Collection of All Such Acts of the General Assembly of Virginia, of a Public and Permanent Nature as Are Now in Force (Richmond, 1803), 22 Dec. 1792, pp. 282-90. Hereafter cited as Collection of Acts (Virginia).

states preserved a balance between the two arms.

While these several influences may account for many of the differences in the laws, the differences themselves have more interest for present purposes than their causes. The discussion which follows will be confined to a comparison of the laws feature by feature in order to determine the range of variation in each case. Such an analysis is rendered difficult by the lack of standardized terminology and by the problem of evaluating the significance of omissions. In comparing certain fines relating to muskets and musters, for example, one comes across the following types of phrases: "neglecting to provide himself with arms," "appearing at muster without arms," "neglecting to appear at muster with arms." The difficulty here is that the last phrase, which was quite popular with the lawmakers, sometimes appears to cover not only the other two but also the additional offense of not appearing at all, arms or no arms. This is only one of many cases.

The question of omissions cannot be solved by assigning an arbitrary conventional meaning to a term at the possible peril of a relatively inconsequential error, such as might be done in the example just discussed. What is to be understood if one of the laws mentions light infantry, grenadiers, and rifles but is completely silent on the subject of artillery and horse? In this regard it should be pointed out that the laws of four of the states include in their

prefaces verbatim quotations of the federal act and that five more contain broad references to it. In these cases is it to be assumed that any omissions of the federal requirements, such as those relating to artillery and horse, are covered by the fact that the federal act is written into the state law or cited by it? Such an assumption would appear more valid if the state laws in all other respects followed the federal act without significant deviation, which they do not. In the analysis which is soon to follow this kind of difficulty will be dealt with by adhering to what is actually stated in the state portion of the law. If dragoons and artillery are not mentioned it will be assumed in the absence of other evidence that they were not intended. And so for other omissions.

The Militia Obligation

The federal law, it will be remembered, placed the militia obligation on a certain age group with the intent that the vast majority of the members of the group actually serve. While it provided for the exemption of a few, it did not contemplate the use of a money equivalent that might exempt large numbers. To have done such would have debased the obligation to little more than an excuse for a head tax. At the same time the law did not forbid the customary use of substitutes and fines in lieu of personal service. These practices, however, tended to function on a random rather

than a systematic basis, and their high costs limited their application to a very small group.

While several states may have exempted larger numbers than the federal act intended, their fault was one of degree that only partially invalidated the obligation. Only one state, New Jersey, played so loosely with the principles involved as to destroy their underlying philosophy. Though it tacitly placed the militia obligation on the same group as the federal act, its law provided first for the formation of volunteer companies of light infantry, grenadiers, artillery, and horse. Only after this process had been completed did it require that the general militia, the remaining part, be enrolled and organized into units. However, it permitted anyone wishing to escape service in these standing units to receive exemption on payment of \$3.00 per year, a fee treated throughout as a tax, not as a militia fine.

While many with loose funds joined the expensive volunteer companies, particularly if they also possessed a martial bent, men in moderate circumstances must have found it desirable to take advantage of the tax feature. This can be inferred from a comparison of the cost of exemption and that of arms and equipment. A stand of arms plus the other articles required cost from about fifteen to eighteen dollars by conservative estimate. A prospective militiaman could by paying such an amount to the state in exemption fees escape all the inconveniences of service and the possibilities of

finances for some five or six years. Men over thirty-eight years had everything to gain, and younger men probably found it easier to make the small annual payments than to put up the larger sum at one time.

While the standing companies thus were exposed to blight, there are indications that the volunteer militia effloresced. These are found in the fact that under the supplementary act of 1793⁶ New Jersey's authorized proportions of artillery and cavalry were exceeded by those of no other state.⁷ Such high proportions, of course, reflect large needs, which in turn reflect to some extent the popularity of the two arms. It would appear that the combined effect of the method of enrollment and the money equivalent was partially to shift dependence from the general militia to the volunteer militia.

Rhode Island also adopted the money equivalent but in a form that did not materially affect the over-all character of its forces. It listed those entitled to exemptions but left them off the company rolls only on the payment of an annual tax of twelve shillings. Thus only a limited and specified few could take advantage of the feature, and they comprised a class that received outright exemptions in most states.

The Age of Obligation

Most states followed the letter of the federal law

⁶See footnote 3 above.

⁷See below page 340.

in making the age group from eighteen to forty-five years subject to obligatory service, but there were several notable exceptions. New Hampshire in its original law specified that those from eighteen to forty should serve, and three years later it reduced the lower limit to sixteen.⁸ Vermont specified those from sixteen to forty-five but provided that the name of no one under eighteen should be included on the annual return, a copy of which went to the President. Several states that adopted the federal age range excluded certain age groups as a matter of exemption. Massachusetts exempted those over forty, and Delaware and Pennsylvania excused those under twenty-one from attending musters and arming themselves.

In evaluating these deviations from the ages prescribed by the federal law it is necessary to remember that in this period of expanding population, the number in each age group varied inversely with the age of the group, which is to say, the younger the group, the more its members, and vice versa. Considering this fact, New Hampshire's addition and subtraction probably had little effect on the total number enrolled. Vermont's provisions, of course, added men. The other three states lost sizeable numbers. On an unadjusted basis, Massachusetts lost 5/27 or almost one-fifth of its total force as figured using the federal age limits. If this fraction were corrected for longevity factors (the

⁸New Hampshire Laws, 1795 June Sess. (18 June), 526.

inverse proportion) it would still amount to say an eighth or ninth. Delaware and Pennsylvania on straight line reckoning lost a ninth, a fraction which would be appreciably increased by correction. Their case is particularly significant because the group concerned contained those most fitted for training and service.

Exemptions

In the exemption lists of the states is to be found one of the broadest spectrums of variation in the laws. Considering the lists of all the states, the persons exempted may be arranged into some eleven main categories, such as state officials, local officials, essential civilians, and the like, comprising a total of forty-four specific occupational groups. At one end of the spectrum South Carolina exempted forty of these groups and New York and Massachusetts thirty-three each. At the other end Maryland exempted only three, ministers, conscientious objectors, and invalids. The other states exempted varying numbers between these limits with the average for all, including those named above, being nineteen.⁹

Length of list, of course, affords no accurate

⁹The totals for the occupational groups are approximate. They do not include federal exemptions repeated in the state laws, and they have been adjusted to give the most valid comparisons. Thus, for example, such entries as "Quakers, Shakers, Moravians, and Menonists" have been counted as one, "conscientious objectors," rather than four.

measure of the total number of persons involved. Some entries, such as "judges of superior courts," cover only a few individuals, while others, such as "ministers" or "former military personnel," cover many more. Although the nature of the problem makes it impossible to work out the total number of persons exempted by any single state, this would hardly be necessary in any event. For the totals represented by the exemption lists appear inconsequential when viewed against those involved in the age exemptions of Massachusetts, Pennsylvania, and Delaware, and the money equivalent of New Jersey. Thus in a comparison based upon total numbers, these states would appear at the top, and the remaining states would follow at a distance. In this regard it is estimated that tens of thousands were exempt in Massachusetts and Pennsylvania and many thousands in New Jersey and Delaware. Those exempt in the other states, including South Carolina with its long list, probably amounted to only a few thousand each.

The distribution of exemptions by profession is interesting, but since it is not particularly germane to a comparative analysis of the present type only a few selected groups will be mentioned. Ministers were exempt in all states, the only group to be so favored, and in most of the New England states other church functionaries, such as elders, deacons, churchwardens, and "teachers" of the congregation, were also exempt though there was some variation from state

to state. State legislators were not required to serve in eight states, sheriffs in eight, and justices of the peace in seven. College professors, college students, and schoolmasters, appear on the lists of twelve, ten, and nine states respectively. In the military category, former officers, usually both Continental and militia, received exemptions in eight states. Iron and glass workers were exempt in New York; forge and furnace workers at mines in South Carolina; and iron workers, lead workers, and firearms manufacturers in Kentucky. South Carolina added the workers at the Santee Canal in 1795.¹⁰

Conscientious objectors, usually Quakers but sometimes including Shakers, Moravians, Dunkards, and Menonists, or various combinations of these, were exempt in twelve states. Delaware, Kentucky, South Carolina, and strangely enough Pennsylvania were the states that neglected to place them on the lists. The failure of Pennsylvania was no doubt related to the shifting political fortunes of the Quaker plutocracy, the resentment it had aroused by its failure to pass a universal militia act during the French and Indian War, and the refusal of all but a small minority¹¹ of the Quakers to serve in the armies of the Revolution. During

¹⁰Elliot and Strobel, The Militia System of South Carolina, Appendix, 43.

¹¹Allen Nevins, The American States During and After the Revolution, 1775-1789 (New York, 1924), 252.

the Revolution itself the state imposed heavy taxes on Quakers in lieu of military service,¹² and thereafter its militia acts were silent on the subject of Quaker exemptions.

Almost all exemptions except those of men over forty-five were conditional. The status of former military personnel usually depended upon the length of their prior service and sometimes upon their not being offered ranks in the militia equivalent to their old ranks. In four states the exemption of conscientious objectors hinged upon the payment of annual taxes, in two it extended to musters but not to actual service, and in one it included actual service only if the person concerned furnished a substitute. In most of the New England states the exemption of one or more of such categories as doctors, millers, schoolmasters, and ferrymen was left to the discretion of the selectmen of the towns. In Rhode Island some groups which were exempt from the ordinary infantry were required to serve in "senior class" companies. In North Carolina, South Carolina, and Tennessee all exempts were required to turn out in case of insurrection, invasion, or other alarm, and in Delaware and Pennsylvania those between eighteen and twenty-one had to attend under the same circumstances.

The matter of exemption was not the only thing that determined the strength of the militia, for several states

¹²Ibid., 254.

required persons who were not covered in the federal act, or who were specifically excluded thereby, to perform service. Both Georgia¹³ and South Carolina subjected aliens to duty except when the United States might be at war with their countries. South Carolina, however, omitted citizens of France, who were exempt by treaty from all personal service. South Carolina also required "free persons of color," who were not liable under the federal act, to turn out with the regiments as "fatigue men" and subjected them to the same fines as privates for failure to attend. Many states placed the obligation on transient citizens of other states provided they had resided within the state a specified period of time.

Maintaining the rolls and keeping track of exemptions were continuing functions of company commanders after the original enrollment had been completed. Young men had to be added to the lists when they reached the minimum age, and older men had to be dropped as they passed the maximum. Almost invariably the responsibility of proving age, either below the minimum or above the maximum, was placed upon the individual militiamen. Most of the laws required those moving from one company beat to another to report to the local militia commander within a specified period under penalty of heavy fines. In some states they were required to take with

¹³In the supplementary act of 17 Dec. 1793, Marbury and Crawford, Digest, 357.

them certificates of service prepared by their old commanders. Since few or none of the laws contain similar provisions relating to loss of exemption status, it was perhaps felt that a defeated politician, a discharged ferryman, or a recovered invalid would come immediately under the eyes of the company commander, no change in residence being involved.

Tactical Organization

The UMA directed that the militia in each state be organized into divisions, brigades, regiments, battalions, and companies. Except for the division, it also prescribed the number of sub-units each of these was to contain, four regiments per brigade, two battalions per regiment, and five companies per battalion. It should be pointed out, however, that these proportions were not intended as absolute requirements but as guides to be followed as far as convenience permitted. In general, the states established all of the several types of units required, but there were several omissions. Massachusetts and Tennessee neglected to provide for divisions and Connecticut, Massachusetts, New York, and Tennessee for battalions. The variations concerning the composition of units were greater, with some states adhering to the standards, some neglecting to set requirements, and some going their own ways, as reflected in the following table:

TABLE 1

VARIATIONS IN THE COMPOSITION OF MILITIA UNITS
FROM STATE TO STATE

	brigs./div.	regts./brig.	bns./regt.	cos./bn.
UMA		4	2	5
Conn.	2	4 or 5	<u>no bns.</u>	<u>no bns.</u>
Del.	no data	2, 3 or 4	2	4
Ga.	2	4	2	5
Ky.	2	4	2	5
Md.	no data	4	2	5
Mass.	<u>no divs.</u>	4	<u>no bns.</u>	<u>no bns.</u>
N. H.	2	4 or 5	2	5
N. J.	no data	4	no data	5
N. Y.	no data	no data	<u>no bns.</u>	<u>no bns.</u>
N. C.	2 or 3	no data	2	5
Pa.	no data	2 to 8	2	4
R. I.	4	3,4,7 or 8	2	no data
S. C.	4 or 5	no data	2	5
Tenn.	<u>no divs.</u>	no data	<u>no bns.</u>	<u>no bns.</u>
Vt.	no data	4	2	5
Va.	4 or 5	no data	2	no data

(Note: two of the states having no battalions, Connecticut and Massachusetts, placed ten companies in each regiment. The composition of the regiments in New York and Tennessee is not known.)

It will be noted that the divisions of Rhode Island, South Carolina, and Virginia contained about twice as many brigades as those of the other states for which figures can be given. In the case of Rhode Island the actual difference in strength was even greater than this ratio suggests. That state contained only one division, and it consisted of the four brigades listed in the appropriate column. These brigades and hence the division contained twenty-two regiments, whereas the divisions of almost all the other states contained only eight, and at the most ten, regiments. Pennsylvania might have had divisions more nearly comparable to those of Rhode Island, but unfortunately the brigade/division ratio for that state is not known.

The most numerous variations appear in the regiment/brigade ratio. It is likely that in the aberrant cases the departures were considered necessary to take care of odd, or left-over, regiments or to compensate for the unequal distribution of the militia population. Only the second of these considerations could apply to Pennsylvania and Rhode Island, who went the furthestest afield, and it is doubtful that it justified the liberties they took. The distribution of population in, say, Georgia and Vermont probably varied as much or more than in the former states, and they did not violate the federal proportions.

The basic unit in the whole organizational system was, of course, the company, which according to the federal

law was to have a strength of sixty-four privates. Eight states adhered to this figure. Three, Delaware, Pennsylvania, and Tennessee, set minimum and maximum company strengths of forty and eighty privates each; and five, Kentucky, New York, Rhode Island, Vermont and Virginia, did not touch on the matter. However, Virginia in a supplementary law of 1793 established a requirement for not more than one hundred nor less than fifty rank and file.¹⁴

Rhode Island, as already noted, established in addition to the ordinary infantry a special class of troops, the "senior class," composed of a portion of the infantry ex-empts. These troops were organized into regiments and companies and made subject to the same regulations as the infantry, except that they were not required to meet for training as frequently.

The tactical units were directly associated with political and territorial subdivisions. Generally speaking, battalions and sometimes regiments were related to towns in New England, and regiments or brigades to counties in the South, depending upon the density of population. In New England the larger units, brigades and divisions, were necessarily based upon territorial subdivisions. In the South, several counties containing regiments were frequently grouped together to form brigade districts.

¹⁴Collection of Acts (Virginia), 2 Dec. 1793, p. 307-10.

Selection of Officers

The UMA required that each state have an adjutant general, each division a major general, each brigade a brigadier general and a brigade inspector, each regiment a lieutenant colonel-commandant, and each battalion a major. It further required that each company contain a captain, a lieutenant, an ensign, four sergeants, and four corporals. In keeping with the constitutional reservations it left the selection of these officers and non-commissioned officers to the states.

With exceptions too minor to mention, the state laws provided exactly the same complement of officers and non-commissioned officers as the federal act, but taking advantage of the reservations they varied widely as to the method by which these leaders would be selected. Normally several different methods were employed by each state depending upon the type of officer involved, general officer, field officer, company officer, or staff officer. Since all of the laws do not clearly specify the method for each type, the information as usual contains omissions.

In the states for which data is available, general officers and adjutant generals were almost invariably appointed by the governors or the legislatures. Brigade inspectors were normally designated by brigade commanders and regimental staff officers by regimental commanders. Field officers of the line were elected by either their men or

their officers in six cases out of the ten that the information covers and appointed by the governor or the legislature in the remaining four. Company officers were elected by their men in nine cases out of the thirteen available and appointed by the governors in three. In the remaining case (Virginia) the selection of both field and company officers rested with the county courts, which were required to recommend suitable candidates to the governor.

As indicated above, the method of election was confined almost entirely to field officers of the line and company officers, and by no means all of these were chosen in this way. Some seventy out of every one hundred company officers, a group which comprised about eighty-five percent of all officers, owed their selection to the ballots of their men.¹⁵ Taking all officers at large, perhaps sixty of each hundred were elected. These proportions hardly support the traditional supposition that all militia officers were elected.

Regimental non-commissioned officers were almost invariably appointed by the regimental commanders or by the

¹⁵A two brigade division contained approximately 295 officers of whom about 240, or eighty percent were company officers. Five percent, perhaps too little, has been added in view of the fact that some divisions were composed of more than two brigades. In nine out of thirteen states on which data is available the company officers were elected. This proportion, which reduces to sixty-nine percent, or sixty-nine out of each hundred officers, has been rounded off to seventy and extended to the remaining states.

field officers of the regiment as a group, and out of the ten cases available company non-commissioned officers were selected by the company commanders in seven, by the company officers in one, and surprisingly enough by election in only one. In the remaining case, Georgia, they were chosen once a year by drawing names from a hat. The unfortunate winners, as they must have been considered, could serve, provide a suitable substitute, or pay a fine of ten dollars.

Mobilization Procedures

As previously noted, one of the primary functions of the militia was to serve as a system of mobilization. The laws in establishing the necessary procedures closely followed colonial and Revolutionary tradition. In most states the governors and sometimes militia officers were authorized to call out troops in certain emergencies. They might do this in the normal case by drafting detachments from the militia at large or in special cases by ordering out complete units. There was, as usual, some variation in these provisions from state to state, and some states neglected to establish any procedures whatsoever. None of the laws specifically provided for the raising of men by the volunteer principle, a method frequently employed by the governors in actual practice.¹⁶ In some states their power to utilize this method was apparently comprehended in their greater

¹⁶See below pages 355, 382-83, 390, 404-05.

powers relating to the draft, in their constitutional powers, and in custom. In others it rested upon special legislation that had to be renewed with each emergency.

The emergencies in which troops might be ordered out as a matter of standard procedure included invasion, threatened invasion, and insurrection or rebellion. In twelve states the governors were permitted to embody men under such circumstances; and in eight of the twelve, brigade or division commanders, or both, were granted the same power. In two of the twelve, the grant was extended all the way down the command system to the company commanders. The governor's authority in six of the twelve also included the power to send troops into other states facing the same kinds of emergencies. In most of these last cases the laws limited the number of troops so dispatched to a small fraction, one-fifth to one-third, of the total force.

The drafting of detachments was accomplished by two methods, the class system and the quota system. In the former, the men in each company were divided beforehand into a number of classes, usually by "secret ballot," that is by drawing names from a hat or box. The classes were then assigned numbers and called up in numerical rotation when troops were required. The number of classes corresponded directly to the number of companies per regiment or in one case to the number per battalion. The mobilization of a single class would therefore provide one company from each

regiment or one from each battalion. Delaware, Kentucky, New Jersey, Pennsylvania, Tennessee, and Virginia utilized the class system.

In the other system, the governor assigned each division, or in some cases each brigade, its share of the total number of troops required. Each division commander broke his allocation down for the brigades, each brigade commander for the regiments, and so on until each company finally received its quota. The company commanders then detailed men to fill the quotas from special rosters kept for the purpose. Only two states, Massachusetts and Vermont, specified the quota system, but it was widely used by most states. The six states having draft classes found its flexibility valuable when they required fewer men than were contained in a single class. Many of the eight states that prescribed no draft procedures sometimes utilized it, presumably on the basis that it was authorized by custom. The normal tour of service for men detached either by class or by quota was about two months, and troops that had been ordered out had to be replaced at the end of that period.

In the states utilizing the class system, the laws usually prescribed elaborate methods of officering the troops. In Delaware, for example, the first class would be placed under the captain of the first company of the regiment, the lieutenant of the second, and the ensign of the fourth, and the other classes would march with similar pre-

established combinations of the officers. In the use of the quota system, higher commanders were usually required to detail the officers for the drafts from rosters similar to those kept for the men.

The method of embodiment by complete units was intended to meet emergencies in which time did not permit the assembling of detached men from their scattered corps. The laws of most states authorized this method either specifically or by implication in general statements permitting the governors to order out "parts or portions" of the militia. Several went so far as to establish complete alarm systems. Thus in South Carolina and Tennessee, the alarm on the approach of the enemy might be given by the firing of guns, the beating of drums, or vocally by officers and non-commissioned officers. Thereupon, the members of each company were required to report fully armed to a pre-selected rendezvous. South Carolina also required that at least one-fourth of the men in each unit marching out of its beat be left behind as "patrols" to preserve order, that is, to police the slaves. In most states, the period that units might be held in uninterrupted service was the same as for detachments, that is two months.

When the volunteer principle was employed, detachments were usually raised by quotas. The procedure was exactly the same as that described above for the use of the quota system in the draft except that the men were encouraged

to come forward of their own accord. Most orders for raising men in this way directed the use of the draft or the hiring of substitutes at company expense to fill deficiencies in the allocations. Individual volunteers were sometimes enrolled from the state at large to form select corps for long term service, but normally this required a special legislative enactment to cover the longer enlistment and any special inducements that might be offered.

Ten states, Georgia,¹⁷ Kentucky, Maryland, Massachusetts, New Jersey, North Carolina, Tennessee, Pennsylvania, South Carolina, and Vermont, permitted militiamen to provide substitutes in lieu of serving when they were drafted for tours of duty. In most of these cases the substitutes had to be approved by appropriate commanders before they were accepted. In all of them the substitute might be called in his own turn, whereupon the man he was replacing lost his exemption. In South Carolina men furnishing substitutes were relieved from the detachments for which they might have been selected, but they were required to serve on the patrols. Since all of these states established fines for refusing tours of duty, the militiaman in effect had three choices. He might perform his tour, hire a substitute, or pay the fine.

¹⁷The use of substitutes in Georgia is mentioned in passing in the supplementary act of 18 Dec. 1793. Marbury and Crawford, Digest, 358.

The laws varied widely in the penalties they set for offenses related to mobilization. The fines for refusing to perform tours of duty included assessments that varied from \$12.00 in Delaware to \$88.00 in South Carolina, and monthly payments of \$10.00 and \$12.00 as long as the troops were out in New Jersey and Pennsylvania respectively. In Georgia and Kentucky the penalty was forfeiture of not less than one month's nor more than one year's pay. In Maryland the law directed regimental commanders to hire substitutes for men refusing either to serve or hire their own and to charge the expense to the men concerned. The penalties for desertion ranged from \$20.00 in New Jersey to \$53.28 in Massachusetts and Vermont. In Kentucky the court martial might levy a fine of not more than eighteen month's pay and not less than six. It might also sentence the offender to corporal punishment, but the law does not specify the type.¹⁸

The laws of several of the states established the pay scale that would go into effect upon mobilization. Delaware and Pennsylvania allowed privates \$6.00 per month, Kentucky \$10.00, North Carolina \$16.65, and Virginia the same amount as received by United States troops, \$3.00 per

¹⁸Both in this paragraph and elsewhere in the pages that follow the fines have been converted from pounds to dollars as necessary. This accounts for such odd sums as the \$88.00 for South Carolina and \$53.28 for Massachusetts and Vermont. The value of the pound was fixed by the tariff law of 31 July 1789 at \$4.44, a figure that was not changed until long after the period under consideration. The law may be found in Annals, 1 Cong., 2148.

month.¹⁹ In South Carolina privates were paid \$6.50 per month when serving within the state and the same as United States troops when serving outside it. In New Jersey and New York, the federal pay scale was adopted for service outside the states.

Several of the laws contained special provisions relating to supply in time of mobilization. In Virginia, which had the most elaborate arrangement, the governor was given broad powers to procure and issue stores, and commanders of regiments were authorized to impress supplies and equipment, including wagons, horses, and drivers. In South Carolina, all field officers and company commanders were given essentially the same power of impressment. In both states the law provided for the reimbursement of the owners of the impressed articles. In Massachusetts and Vermont the initial responsibilities for supply were laid upon the members of detachments and upon the selectmen of the towns. The former were required to report with provisions for three days and the latter to resupply the men from their towns until released by the appropriate commanders.

From the detailed and carefully worked out descriptions, in the laws it might appear that the mobilization systems provided sound and efficient methods of raising men.

¹⁹Under the Federal Acts of 30 April 1790, 3 March 1790, and 5 March 1792, Emory Upton, The Military Policy of the United States (Washington, 1917), 75, 78, 81.

This was actually true only in the case of the embodiment of complete units. The methods based on the raising of detachments had already demonstrated their inefficacy on innumerable occasions during the Revolution. They were slow and cumbersome, and the men they brought together had never before functioned as units. Some of them knew neither each other nor their officers. Furthermore, neither units nor drafted detachments could be retained after their short tours had been completed, and volunteer detachments were seldom kept in service much longer than the usual two months.

In actual practice the draft was almost never employed to raise troops in large numbers. Indeed there appears to have been a reluctance on the part of many governors to resort to this measure, even in cases in which the militia was more or less anxious to serve. During the Indian troubles of 1793, for example, Governor Edward Telfair of Georgia wrote the Secretary of War, ". . . should a general pressure take place . . . I must, in a short period, be reduced to the dangerous expedient of impressing, and this, in my opinion, is to be avoided, as much as possible, by every government."²⁰ The draft was employed in the technical sense at least, when local commanders ordered out small bodies as complete units for local use, such as the pursuit of raiding Indians or the quelling of riots. In these cases, however,

²⁰American State Papers, Indian Affairs, I, 368.

actual impressment was seldom involved because the men with their personal interests immediately at stake were usually ready to serve.

Arms and Equipment

The federal act required each militiaman to provide himself with either of two combinations of arms. The first included a musket or firelock, a bayonet and belt, two spare flints, a knapsack, a cartridge pouch, and twenty-four cartridges complete with powder. The second retained most of these components but substituted the rifle for the musket. The act also standardized the caliber of the musket at eighteen gauge and required that the muskets of all militiamen meet this standard within five years.

The laws of the states adhered closely to the letter of the act in setting the arms requirement. Only New Hampshire, Tennessee, and Vermont, all of whom omitted the rifle combination, departed from the list of individual equipment to any significant extent. All states placed the responsibility upon the individual militiamen to provide themselves with the required articles and established penalties for those attending musters without them. These ranged from fines of \$.50 per incident in Delaware and Virginia to \$4.44 in Massachusetts and Vermont. While Maryland charged infantrymen only one cent for the delinquency, she required artillerymen and cavalrymen to pay two-thirds of a dollar.

Several states recognized the problem faced by men too poor to buy their own arms, and made special provisions for their relief. In all of the New England States except Rhode Island, the selectmen of the towns were directed to issue certificates confirming the indigency of such men and to provide them with the necessary equipment at town expense. In North Carolina the court-martial of each battalion was ordered to perform the same functions with the cost to be charged to the militia fund. Delaware, New Jersey, Pennsylvania, and Virginia exempted poor militiamen from the fines for lack of equipment, and Rhode Island appears to have done the same, though its law is not explicit. The New Jersey law also provided that a small quantity of state arms, far from enough to go around, be distributed to the companies for the use of such persons. In Maryland the fine of one cent per day was so small as to eliminate the arms requirement.

Training

In order to make training uniform, the UMA required that the states employ "the rules of discipline adopted by Congress on 29 March 1779" (Steuben's regulations). In keeping with the Constitutional reservations, it left the actual conduct of training to the states. The latter specified the number of musters to be held each year and established fines for failing to attend and other derelictions

of duty. From the viewpoint of present day training standards the musters were in every instance absurdly few. This situation apparently resulted from a reluctance on the part of the legislators to effect more than a minimum disruption in the economic life of the militiamen.²¹ It was also no doubt due partially to a mistaken idea of the amount of training required to make good soldiers.

In order to simplify the comparison of the number of musters required in the several states the everyday phraseology of the period, which ignored some of the distinction made in the laws will be followed. Thus the term "company muster" will refer to any company meeting, whether for training or review or both, and the term "general muster" will refer to both battalion and regimental meetings with the same lack of qualification as to purpose. The musters that regimental and battalion commanders were in some states permitted to call on their own initiative will be neglected. Few commanders were likely to impose these optional meetings upon their men, and the numbers of the meetings actually called cannot be determined in any event. It should be noted that in all cases law or custom limited musters to a single day each and that actual military exercise consumed only a part of that.

South Carolina prescribed more company musters than

²¹See above pages 269-70.

any other state, six per year, and New Jersey and Pennsylvania the fewest with one each, the average for all states being three. Eight states required two general musters per year,²² seven states one per year, and one state, Vermont, at least one every two years. The average was about one and a half a year. The total number per state, including both types, ranged from a maximum of eight in South Carolina to a minimum of two in Pennsylvania. The over-all average was four and a half per year. In at least two states, the laws also provided for inspection and review by higher commanders. In Connecticut the brigade and division commanders were authorized to order out their commands for these purposes at such times as they thought necessary. In North Carolina the same commanders were required to review their commands by regiments at least once every two years.

In most states the fines for failing to attend were the same for both company and general musters. They ranged from \$.50 per absence in Delaware, Maryland, and Virginia to \$2.20 in Massachusetts. In New York, North Carolina, South Carolina, and Tennessee the penalty for missing a general muster was double that for missing a company muster, and in Rhode Island it was slightly greater. South Carolina's

²²Among this group Massachusetts specified one general muster every two years but compensated by holding musters of all the militia in each town (not regiment) in the alternate years. South Carolina required not more than two per year.

penalties were based partially upon the offender's financial status. If he were absent at a company muster, for example, the forfeiture was \$1.55 plus twenty-five percent of his last general tax. Omitting this last state the average penalties were \$1.28 for company musters and \$1.57 for general musters.

The penalties for "disorders and contempts" at musters, including such things as neglect of duty and disobedience of orders, were considerably more severe. Although most states utilized only fines, three provided for corporal punishment. In most cases the laws did not establish flat penalties but set up limits, leaving the amount within the limits to the determination of courts-martial. The maximum fines ranged from slightly less than \$1.50 in Delaware and Rhode Island to \$8.88 in Connecticut, Massachusetts, New Hampshire, and Vermont. The average of the maximums for all states was \$4.87. Connecticut and New Hampshire permitted the courts-martial to prescribe a ride on a wooden horse as an alternative to the fine. Virginia, which had no fines for these derelictions, permitted offenders to be confined for one day or "tied neck and heels" for not more than five minutes.

Privileges

Aside from pay for actual service, militiamen received few actual rewards. Among the more fortunate in this

respect were non-commissioned officers and privates in Vermont and Connecticut and militiamen under twenty in New Hampshire, all of whom were exempted from the poll tax by supplements to the basic acts.²³ In the first of these states, one horse for each trooper was also exempted from the tax. The value of these exemptions can be seen in the fact that the poll tax in Vermont in 1797 was \$20.00 for men and \$13.50 for horses.²⁴ In a different category were the few meager privileges granted militiamen almost everywhere, usually more for the benefit of the state than the men. These included provisions that their arms not be seized for debts at any time nor their bodies seized for arrest in civil actions while they were performing their duties or on the way to and from them. In a few cases they also received free passage on toll bridges and reduced rates on ferries going to and from musters and alarms.

Enforcement

The enforcement of the acts rested in the hands of the governors and the militia officers themselves. The lack of rapid communications and compact organization, which made high level supervision difficult, placed a premium on the

²³Laws of Vermont, 1794 Oct. Sess. (29 Oct.), Sec. IX; Acts and Laws of the State of Connecticut, 1797 May Sess., 513; New Hampshire Laws, 1795 June Sess., 525. The basic act in Connecticut exempted light infantrymen and troopers and their horses.

²⁴Laws of Vermont, 1797 Sess. (10 Mar.), Sec. V.

performance of officers actually in contact with the troops, such as regimental, battalion, and company commanders.

These officers in the everyday performance of their duties carried out dozens of routine administrative functions. They were also responsible for the assessment of fines and other penalties. Usually they performed this last duty as members of courts-martial, but in a few states, including Connecticut and Maryland, commanding officers as individuals were permitted to levy fines in some offenses.

These officers, as well as higher officers, were subject to heavy penalties for neglects in the performance of their administrative tasks. In Georgia, to take a few cases at random, officers failing to call company and general musters were subject to fines of up to \$30.00 and \$100.00 respectively. In North Carolina, the fines for failure to make certain returns ranged from \$22.50 for company commanders to \$110.00 for battalion and regimental commanders. In Virginia, the assessments for "neglect of duty," which comprised a whole group of offenses, started at \$20.00 for captains and went up to \$70.00 for lieutenant colonels. Fines for general officers for offenses of these types were usually proportionately higher to correspond with the higher rank.

Despite these penalties, many officers were lax in carrying out their responsibilities. While their neglects probably encompassed all their duties, those involving the

failure to enroll the men, to make strength returns, and to muster the units struck at the heart of the system and led to widespread disorganization in many states. During the standby mobilizations of 1794 and 1797, for example, the governor of more than one state hardly knew whether he had a militia or not, and in at least one case he was hard put to find out.²⁵ This is not to say that all officers, or even a majority of them, were delinquent. Large numbers, particularly in the volunteer units, were conscientious and persevering. The efforts of many officers in Virginia throughout the 1790's to obtain arms for their men provide an excellent demonstration of this point.²⁶

Little or no data is available as to the extent to which the courts-martial actually inflicted penalties on delinquent militiamen. It seems likely, however, that many men escaped the full consequences of their neglects and derelictions through loopholes in the laws and that in the many disorganized units courts-martial were seldom held. The loopholes are to be found in provisions of the law that permitted commanders to excuse certain types of offenses in advance of the court meetings and in the elastic nature of the fines provided. In the latter regard most fines were stated as scales that started at a low sum and not infrequent-

²⁵See below pages 392-93, 405-06.

²⁶See below pages 403-04, 417-18.

militia of the battalion beats, presumably on an obligatory basis. The last two, which will be called the "brigade companies," were to be formed of volunteers from the brigades and were to be "uniformly clothed in regimentals at their own expense." The act also established the proportions of these units to the infantry and provided that they be integrated into the general militia.

These companies for reasons which will be discussed later formed the hard core of the militia. The artillery and cavalry had been considered elite troops in colonial days, and the law treated them as such. Initially the position of the grenadiers, light infantry, and rifles was somewhat equivocal, for it is not clear that the law intended to set them apart from the general militia. However this may have been, they in many cases acquired the status of the artillery and the horse. Thus they were usually composed of volunteers and equipped with uniforms, and they participated in the extra training that was characteristic of the brigade companies.

Though the UMA prescribed three types of battalion companies, only nine of the sixteen states authorized all three. The remainder restricted the number of types as follows:

(a) Light infantry and grenadiers only--Connecticut and New Hampshire.

(b) Light infantry and rifles only--Georgia²⁸ and New York.²⁹

(c) Light infantry only--South Carolina and Vermont.

(d) None authorized whatsoever--Tennessee.

The act required at least one company, which might be any of the three types, per battalion; but it set no maximum number, presumably because all types were foot troops differing from the infantry only in the details of armament. Ten states adopted the federal proportion, and two, Delaware and Massachusetts, set the requirement at one half the proportion, that is one per regiment. Of the remaining four states, Tennessee had no battalion companies, and New York, Rhode Island, and South Carolina failed to establish proportions.

The act apparently intended that the battalion companies follow the organization of the standing infantry. At any rate this must have been the general understanding, for only New Jersey and South Carolina took the trouble to establish the number of men per unit. The former set the number of privates at fifty-six, and the latter required at least forty.

It has been shown in the preceding chapter that the battalion companies as established by the act differed to

²⁸The rifles are mentioned in the supplementary act of 17 Dec. 1793. Marbury and Crawford, Digest, 357.

²⁹The New York act is not clear. Light infantry and rifles may have been authorized and they certainly existed.

some extent from Washington's original plan for such units.³⁰ Virginia in its provisions for these organizations followed the plan in full detail. She provided that they be composed of young men from eighteen to twenty-five, that the men be armed and uniformed at the expense of the militia fund, and that service be voluntary. It was thought that the youth of the group would permit extra training not practicable for the general militia, but the law does not go into detail on this subject. When the men reached the upper age limit they were to return to their companies in the ordinary militia carrying their special military knowledge and martial order with them. This promising project to put a reasonably exact version of Washington's plan into actual operation soon collapsed for reasons that are unknown. In less than a year the provision limiting membership to the special age group was repealed, and the companies then reverted to the status of the battalion companies in other states.

The UMA provided that each division contain at least one company each of artillery and horse, that no regiment contain more than one company of each, and that the combined strength of the two arms not exceed one eleventh of the strength of the brigade. In this group of limits the first, the minimum requirement, is the only one that has value for the comparisons soon to be made. The second, the regimental

³⁰See above pages 289-90.

proportion, was apparently intended as a distributional limit to preclude the concentration of all of the artillery and cavalry of a division in one or two regimental beats. The third, which reduces to about six companies per brigade,³¹ cannot be utilized as a maximum limit for either arm because it relates to the total of the two.

The states varied widely in their application of these elastic limits. The proportions they adopted may be seen from the following tabulations:

The artillery:

(1) Four states--New Hampshire, North Carolina, Pennsylvania, and Georgia--³²restated the UMA limits.

(2) Seven states established limits that varied from one company per division in Maryland to not more than two companies per brigade in Massachusetts and New Jersey.

(3) Two states, Rhode Island and Tennessee, did not provide for artillery.

(4) Three states neglected to establish limits.

The cavalry:

(5) The same four states³³ repeated the federal limits.

³¹One-eleventh of the forty companies in a UMA brigade is 3.63. When this number is multiplied by 64, the number of privates in the standing companies, and divided by 38, the average authorized strength of the brigade companies, the result is six. For the average strength of these companies see below pages 341-42.

³²The Georgia act is not explicit but this may be inferred.

³³See the preceding footnote.

(6) Eight states established limits that varied from one company per division in Maryland to not more than one per regiment in New Jersey, Tennessee, and Vermont.³⁴ Note: the actual proportion in New Jersey was not more than four per brigade, but this reduces to one per regiment.

(7) One state, Rhode Island, did not provide for cavalry.

(8) Three states neglected to establish limits.

With the exception of Tennessee and Rhode Island--see paragraphs (3) and (7) above--no state violated the federal limits. It will be noted in this respect that the total of both artillery and cavalry for New Jersey was six companies per brigade, a proportion that just meets the third of the federal limits. Since the limits of the four states that followed the letter of the federal act are so elastic, they cannot be used for comparative purposes. The requirements of the states in paragraph (2), however, ranged from one to four times the federal minimum, and the requirements of those in paragraph (6) from one to eight times the minimum.

While the federal act specified the number of officers, non-commissioned officers, and specialists per company for the artillery and horse, it was silent as to the number of privates. This omission, which was no doubt intentional, provided a flexibility not needed for the standing companies. Indeed it permitted the formation of small units of artillery

³⁴The Vermont data is taken from the supplementary act of 1794. Laws of Vermont, 1794 Oct. Sess., 76-80.

and horse in thinly populated sections where the brigade districts were so large as to preclude infantry-sized companies of the former in particular. More than half the states in failing to specify the number of privates may have heeded this consideration. North Carolina in establishing very large companies ignored it, but no record of the results is available.

Among the states that established the number of privates the range of variation was broad. In the artillery, Vermont at one end of the scale required only twenty-four, the average for the six states involved was thirty-six, and North Carolina at the other end required fifty-two. The same figures for the cavalry with seven states involved were thirty-two for three New England states, thirty-nine for the average, and sixty-four for North Carolina.³⁵

Several of the states established higher tactical units for the brigade companies. Connecticut,³⁶ Tennessee, and North Carolina specified that the cavalry be organized into regiments and Massachusetts that it be organized into squadrons and battalions. Massachusetts and North Carolina provided for the formation of the artillery into battalions

³⁵It has been assumed that the several figures given in the laws include the several types of specialists, and they have been corrected to obtain a uniform basis of comparison by subtracting the Federal complement of non-commissioned officers where indicated.

³⁶In the supplementary act of 1793. Acts and Laws of the State of Connecticut, 1793 Oct. Sess., 467-75.

and into brigades respectively. In all cases these new units were subordinated to appropriate brigade or division commanders. Strangely enough, while higher units were being built up in the above states, the cavalry regiments which already existed in New Hampshire were disbanded and their components annexed to the infantry regiments.

In order to insure that the volunteer corps be a part of the over-all system and not more or less independent of it as some of them had been in the past, the federal act required that new companies be formed from the enrolled militia of the battalion in one case and from that of the brigades in the other. In effect this made them organic parts of the infantry units from which they were drawn. While it reserved the customary privileges of the existing volunteer companies, it made them subject nevertheless to all the duties required of the general militia. In some cases the states repeated the words of the federal act, and in others they specifically annexed both types to the regiments, brigades, or divisions, or made them subject to the same fines, duties, and so on as the standing companies.

It was apparently anticipated that difficulties would be experienced in keeping the volunteer companies up to the proper strength and proportion, for several states placed special minimum limits on their enrollments, and several provided them with special sources from which to draw members. Vermont, for example, required that volunteer

companies be dissolved if they were consistently under-strength by a specified number of men, the presumption being that they were moribund. Connecticut permitted the battalion companies and the light dragoons, a part of the cavalry, to enroll exempts and empowered appropriate commanders to transform standing companies into battalion companies in the absence of volunteers. Massachusetts required the two standing companies commanded by the oldest captains to serve as light infantry in regiments without volunteer light infantry, and South Carolina authorized all volunteer companies to recruit exempts.

However, these special sources did not include the ordinary militia. At least four states, Connecticut, Massachusetts, New Hampshire, and Vermont, forbade officers of volunteers to recruit from any standing company the strength of which did not exceed its authorized strength.³⁷ Massachusetts prohibited volunteer companies from carrying on their rolls more men than the law specified. This move not only protected the standing companies from indiscriminate recruiting, but it also struck at the custom whereby volunteer companies granted honorary memberships to selected persons, a practice which sometimes permitted the recipients to escape all service.

The volunteer companies owed their superiority over

³⁷Vermont set the strength of the standing companies at fifty, rather than sixty-four, for this purpose.

the general militia to their martial esprit, excellent equipment, and thorough training. The first two of these factors resulted partially from the process of selection that determined membership. Since musters were more frequent than in ordinary militia, the companies attracted only those men who had a real and active interest in the military. The cost of arms, uniforms, and equipment was so high that only the relatively well-to-do could even consider membership. The small group that satisfied both conditions drilled and paraded with enthusiasm and put up the money for elaborate equipment without strain. Most members of the standing companies looked upon militia activities as a burden and many could hardly afford even the limited equipment required.

In general the laws did not require the extra training the companies underwent. However, the esprit of the members together with their right in most states to make "rules for their own government" resulted in many musters and meetings in excess of the number expected of the standing companies. The history of the Seventh Regiment of New York, for example, contains dozens of references that apparently pertain to such training periods.³⁸ Perhaps the favorite exercise was "the excursion," or practice march, which sometimes lasted overnight. These excursions usually led to a nearby town where the subject "Smithville Blues," or what-

³⁸Emmons Clark, History of the Seventh Regiment of New York, 1806-1889 (New York, 1890), I.

ever their name might have been, were lavishly entertained at a "cold and wet collation" by the local "Rifles." Such soirees, it will be readily understood, added to the zest of the military art and they appear to have done so without adversely affecting training benefits. Another impetus to training was the friendly rivalry that existed among neighboring units, all of whom tried to excel each other at parades and musters. In contrast the martial moments in the lives of members of standing companies were infrequent and barren.

With one single exception, the laws made no special provisions for the volunteer companies with respect to training fines. The exception occurred in Maryland, where non-commissioned officers and privates of the artillery and cavalry were subject to a fine of not more than two-thirds of a dollar for appearing at prescribed musters without the proper arms and equipment. The same grades of the standing infantry were required to pay only one cent for the same offense, and then only if not excused by their company commanders. This situation was further complicated by the fact that the fine for being absent was half a dollar for both groups. Thus it was conceivable that a dragoon or cannoneer might be penalized more for appearing without arms than for not appearing at all. The phrase "not more than," which qualified the fine for the former, no doubt rendered this a rare occurrence.

Amendatory Laws

After an initial shakedown period of a year, more or less, many states passed amendatory acts that reflected defects in the militia systems provided by the basic laws. Some of the resultant changes, particularly those that amounted to little more than administrative adjustments, have already been noted. Others which were apparently designed to correct serious disorganization and disinterest warrant consideration now. While space does not permit an examination of all the measures in this group, those of Georgia and Virginia afford examples of the types of problems that had to be met.

The Virginia act noted that many county and corporation courts had failed to make recommendations for officers and that in many cases the responsible officers had failed to divide their counties into battalion and company districts. The seriousness of these derelictions will be seen in the fact that these procedures, both required by the basic law, were prerequisites to the actual formation of the regiments and their component units. While the amendatory act laid penalties on the courts, it merely extended the time allowed for the establishment of the districts. However, no doubt recognizing that the delay with respect to the latter, as well as many other types of delinquencies, resulted from ignorance and indifference, it also required that the state provide all officers down to and including

captains with copies of the state and federal militia acts.³⁹

The nature of the corrections made by Georgia indicate that their need probably became apparent during the course of her constant embodiment of small forces for frontier defense. She laid heavy penalties, the forfeiture of up to one year's pay, on both officers and men who refused to serve their tours of duty, and required that all substitutes be approved by the detachment commanders concerned. She also repealed all exemptions and permitted the formation of companies of horse, artillery, and rifles only when brigade commanders certified that such companies belonged to some regiment or battalion within their commands. This last requirement no doubt constituted an effort to bring the independent companies more completely into the over-all system.⁴⁰

³⁹A Collection of Acts (Virginia), 2 Dec. 1793, pp. 307-10.

⁴⁰Marbury and Crawford, Digest, 17 Dec. 1793, pp. 357-58.

CHAPTER VIII

THE "UNIFORM MILITIA" IN ACTION: FRONTIER DEFENSE AND PUBLIC DISTURBANCE

During the 1790's men were drawn from the enormous mass that made up the militia for a wide variety of military missions. They were utilized in frontier defense, in suppressing rebellion and disorder, and in the stand-by detachments and associations organized during the foreign crises of 1794, 1797, and 1798-1801. These instances of actual use provide the best data available for the over-all study of the militia system. Valuable supplementary information is found in the changes in the basic militia laws that were made from time to time. These modifications usually accompanied or followed the large scale mobilizations during the foreign crises, and more often than not they reflected the difficulties encountered during the raising of the troops.

In this chapter and the one following the instances in which the militia was called out will be grouped topically under frontier defense and the other headings mentioned in the preceding paragraph. In each grouping, the efficacy of mobilization procedures, the efficiency of the troops

raised, the problems of supplying them with arms, and the general condition of the militia as revealed by the mobilization will be considered. It will, of course, be understood that the available data will vary from situation to situation. Thus there will be little information regarding mobilization in cases in which only a few troops were called up and little concerning efficiency when the troops did not take to the field. Since the lack of arms and the over-all condition of the system were fully revealed only in the large scale mobilizations, these subjects together with the amendatory legislation will be treated primarily under the stand-by detachments.

Since the lack of arms and the difficulty of their procurement had a profound effect upon the efficiency of the militia, these matters will be given a more detailed treatment than might be expected. The fact that large numbers of men had failed to provide themselves with rifles or muskets became increasingly evident with each of the major mobilizations. While efforts to enforce the laws in this respect may have been feeble, the crucial fact is that the militiaman could not walk into a store, put his money down, and leave with a weapon. After the outbreak of fighting in Europe, there was a world-wide shortage of arms, and the best efforts of American manufacturers did little to satisfy American needs.

Under these conditions the state governments, with

an occasional assist from the federal government, gradually assumed part of the responsibility of providing arms for their troops. Their endeavors only partially alleviated the problem. They were able to procure only a fraction of the quantities required, and the supplies they did obtain were frequently of such poor quality as to be almost worthless. In this dilemma such states as Virginia attempted to establish their own manufactories, but here again success was far from complete.

Frontier Defense

The militia, though employed in small numbers, saw more actual field service on the frontiers than in any other mission. From 1790 to 1794 it furnished complements for the several expeditions in the Northwest, and detachments were called out for service against the Indians in the states south of the Ohio. In the former case, the militiamen fought by the side of regulars in offensive operations under the command of federal officers. In the latter they fought alone under the control of the states, and it was intended by the national administration that they be used only in defensive or protective operations. With major campaigns under way in the Northwest, the President preferred to rely on treaty-makers rather than soldiers to solve the Indian problems in the Southern regions.

While this defensive policy was received without

major protest in Pennsylvania and Virginia, it found little favor in other sections. Indeed, in Georgia, Kentucky, and the Southwest Territory the militia activities of the period followed a distinctive pattern of their own. In these areas of bitter Indian-haters, the governing psychology had little patience for the type of defensive operations that Washington and Secretary of War Henry Knox preferred. Important leaders, including Governor Edward Telfair of Georgia, sometimes abetted rather than controlled the aggressive tendencies that were predominant. However, the control of military operations often rested in the hands of local militia leaders, who constantly embodied small groups for hot-blooded punitive expeditions into the Indian country. In these three areas the history of military affairs is dominated by such raids, by dreams of great armies that might crush whole tribes in single massive blows, and by the conflict of federal and local intentions.

Fortunately, the President possessed the ultimate weapon for use in the state-national controversy that arose over defense policies. This was the power of the purse. Under the provisions of acts passed in 1790 and 1792 he was authorized to order out the militia at federal expense for the protection of the frontier.¹ By construction, he might delegate this power or apply it after the fact when governors

¹The acts of 30 Apr. 1790 and 2 May 1792. See above pages 284-86.

or militia officers called up men on their own authority. In such cases, however, he refused to assume the responsibility for troops unless they were used properly. Thus there was no assurance that the central government would pay for expeditions that violated his prohibition against carrying the fight into the Indian country. While governors and militia leaders might sometimes be willing to go directly to Congress for compensation, the President's disavowal of their actions always resulted at the very least in years of delay in the payment of their claims.² Not unnaturally even the rashest, such as Governor Telfair, eventually became more tractable. This of course is not to say that other considerations played no part in their change. No doubt a slow and grudging acceptance of the superior efficacy of the President's strategy influenced many.

In the discussion of militia activities on the frontier, it will not be necessary to go over the battlegrounds of the Northwest again. The history of the campaigns of Harmer, St. Clair, and Wayne, all of whom commanded mixed forces of militia and regulars, has been told many times.³

²For examples of these delays see the Secretary of War's reports to the House of Representatives of 26 Dec. 1796 and 5 Apr. 1798, American State Papers, Indian Affairs, I, 585, 632. Hereafter cited as State Papers, IA.

³An excellent account of these operations may be found in James Ripley Jacobs, The Beginning of the U. S. Army, 1783-1812 (Princeton, 1947), Chapters 3-5, and 7.

The story of the militia south of the Ohio is more obscure, and for this and other reasons it warrants particular attention here. It will begin with the defense of the Virginia and Pennsylvania frontiers. Thereafter the events that occurred in Georgia and the Southwest Territory, including the operations of General Benjamin Logan and his "volunteer army" from Kentucky, will be taken up under the separate subtitle State-National Controversy.

When the flame in the Northwest began to spread to the frontiers of Virginia and Pennsylvania in the spring of 1790, the President first authorized the lieutenants of the most exposed counties to engage scouts to range out from the settlements and guard the avenues of approach.⁴ Based on a system long in use in Virginia, this arrangement was eminently satisfactory to the inhabitants, who had great faith in the experienced woodsmen selected and in the principle of local control. Unfortunately the cost of the scouts, about five-sixths of a dollar per day, greatly exceeded that of militia. Since Congress did not seem likely to authorize the extra pay, it soon became necessary to provide protection at the ordinary rates. New measures adopted in the summer

⁴Secretary of War to the lieutenants of certain Virginia counties along the Ohio, 23 Apr. 1790, State Papers, IA, I, 101. This authority was apparently given to the lieutenant of Washington County in Pennsylvania at the same time. See Secretary of War to the lieutenants of certain counties in Pennsylvania, Virginia, and Kentucky, 17 July 1790, Ibid., 102.

placed matters in the hands of the Governor of the Northwest Territory, whose station was hundreds of miles away. As the need arose he was to authorize the county lieutenants to order out small details of militia "rangers."⁵

Virginia frontiersmen immediately protested that the great distance involved did not permit rapid and effective action under the new system, and the state began to embody large detachments of rangers on its own authority.⁶ The President, driven both by this measure and by the increasing activity of the Indians, finally "confided" the protection of the threatened counties in both Virginia and Pennsylvania to the states. In late 1791 he authorized the Governor of Virginia to raise several companies of militia for the protection of four frontier counties. Although he did not specify the total number of these companies, it was apparently intended that the proportion be about one per county. Early the next year, he authorized the Governor of Pennsylvania to raise 228 men, or three companies, for the defense of three western counties. Under the plan as outlined by Knox all these troops were to be used for defensive purposes only. The Virginia companies were to be raised for as long

⁵Secretary of War to the President, 5 Jan. 1791, Ibid., 109; Secretary of War to the lieutenants of certain counties in Pennsylvania, Virginia, and Kentucky, 17 July 1790, Ibid., 102.

⁶Joint memorial of delegates of certain Virginia counties, undated, Ibid., 110; Governor in Council, 29 Dec. 1790, Ibid., 111-12.

a period as the governor thought proper and those of Pennsylvania for six months.⁷

In raising the troops neither state ordered out the ordinary militia, but each passed legislation authorizing the governors to form select corps of volunteers. In Virginia the governor directed the enrollment of five companies by officers especially appointed for the purpose. The term of service was set at eight and a half months, and the men were granted \$2.50 per month in addition to the federal allowance.⁸ As the governor explained to Knox, the longer term would not only provide a more effective defense, but it would also eliminate the paying of two sets of men during the frequent rotation of personnel incident to shorter terms. The bonus was necessary to attract volunteers, he added in a later letter, so that the "disagreeable and fallacious system of legal compulsion," that is the draft, might be avoided. Meantime, Knox had already declined to pay this extra expense, which was not authorized by federal law.⁹

⁷Secretary of War to Governor of Virginia, 28 Oct. and 17 Nov. 1791, Ibid., 220, 221. The first letter specified one company for Russell County, and the second authorized the governor to provide equally effectual defense for three other counties. This seemed to imply one company for each of these. Secretary of War to the President, 1 Jan. 1792, Ibid., 217-18. Secretary of War to Governor of Pennsylvania, 3 Jan. 1792, Ibid., 218.

⁸On 17 Nov. 1791 he ordered the raising of one company and on 12 Dec. 1791 the raising of the other four. Ibid., 221, 222-23.

⁹Governor Beverly Randolph to the Secretary of War,

In Pennsylvania, the special act authorized the governor to engage three companies of riflemen for six months, to organize them into a battalion, and to appoint all the necessary officers. It also provided a bonus that with the federal allowance would make the pay of privates fifty-five shillings (\$12.00) per month.¹⁰ In ordering the county lieutenants to raise the men, Governor Thomas Mifflin noted that the numerous departures from the state's general militia law were necessary in order to meet the emergency. That statute itself provided that such forces be drafted from the classes rather than raised at large and that officers be elected rather than appointed. It established tours of two months rather than six and a much lower pay scale.¹¹ Both Virginia and Pennsylvania thus found it desirable to abandon their ordinary mobilization procedures in order to meet this real field test.

While the history of the Virginia companies is obscure, they were apparently renewed periodically through

24 Nov. 1791, Ibid., 221; Governor Henry Lee to the Secretary of War, 5 Jan. 1792, Ibid., 224; Secretary of War to Governor of Virginia, 5 Dec. 1791, Ibid., 221.

¹⁰J. T. Mitchell and Henry Flanders (eds.), Statutes at Large of Pennsylvania (Harrisburg, 1896-1915), XIV, 196-98. At this time privates in the service of the United States received \$3.00 per month. Emory Upton, The Military Policy of the United States (Washington, 1917), 78.

¹¹State Papers, IA, I, 219-20.

1795.¹² As the meager records available indicate, the commanders faced many difficulties. The paymaster seldom made his rounds, and year by year as word of this got around recruiting became slower and slower. To make matters worse, Pennsylvania recruiters operating in adjacent areas offered more money for similar service.¹³ The supply system was so poor that the troops were sometimes quartered with the local inhabitants, who fed them at their own tables. Scouting parties were handicapped because they were seldom able to obtain provisions to take with them. As one commander wrote the governor, these logistic difficulties "put it out of the power of the most active officer to have rendered any essential service had it been wanted."¹⁴

Not the least of the problems was the shortage of arms and ammunition. From 1792 through 1795 the state issued to the militia more than two thousand muskets,¹⁵ a large

¹²According to references in W. P. Palmer and others (eds.), Calendar of Virginia State Papers (Richmond, 1875-93), VII, the companies, or some of them were in existence in 1793 and 1794. See pages 2, 37, 79-80, 95, 304, 366. This source will be hereafter cited as W. P. Palmer, Virginia State Papers. An act of the legislature on 9 Dec. 1794 apparently authorized the governor to continue the companies into 1795. Laws of Virginia, 1794 Nov. Sess., 35.

¹³W. P. Palmer, Virginia State Papers, VII, 2, 27, 37, 79-80, 95, 304, 366.

¹⁴Ibid., 33.

¹⁵See below pages 403-04.

proportion of which undoubtedly went to the western counties. Meantime, militia officers complained of the lack of ammunition. In early 1794, for example, Major William Lowther, commandant of the companies on the frontier, wrote that the powder available consisted of only thirteen quarter casks, eight of which were unfit for use, and added that no lead whatsoever was on hand.¹⁶

The troops were spread too thinly to offer effective protection. In 1794 one company occupied posts along a line that extended from county to county for a distance of one hundred and fifty miles. According to the commander, part of the line should have been taken over by a second company that never showed up.¹⁷ The presence of both companies would hardly have completely reassured the frontiersmen. Throughout the exposed areas, the inhabitants had begun to repair or rebuild stockaded stations, some dating from the French and Indian War and earlier times.¹⁸ In December 1793, the legislature, noting that it was improper for the militia of the frontier counties to be drawn from their dwellings during those dangerous days, authorized the brigade commanders to

¹⁶W. P. Palmer, Virginia State Papers, VII, 73-74, 79-80, 96.

¹⁷Ibid., 96.

¹⁸Ray Bird Cook, "Virginia Frontier Defenses, 1719-1795, I," in West Virginia History (Jan. 1940), 119-30.

suspend training.¹⁹ With Wayne's victory late in 1794 the pressure on the inhabitants and the need for the militia gradually disappeared.

Pennsylvania renewed its establishment with reduced numbers in April 1793 and with increased strength, including an artillery company, in February 1794.²⁰ The state does not appear to have experienced the recruiting difficulties nor the supply problems that beset Virginia. Its pay scale, which was based on the price of labor, attracted volunteers,²¹ and in each act for raising the troops the legislature appropriated money for arms, ammunition, and provisions. Until the summer of 1794, most of the troops were stationed along the frontiers of Westmoreland, Washington and Allegheny counties.²² During these years all the Pennsylvania militiamen who saw service were not confined to

¹⁹A Collection of All Such Acts of the General Assembly of Virginia of a Public and Permanent Nature, as Are Now in Force (Richmond, 1803), 307-10. Hereafter cited as Collection of Acts (Virginia).

²⁰Mitchell and Flanders, Statutes at Large of Pennsylvania, XIV, 381-83 (Act of 3 Apr. 1793) and XV, 13-15 (Act of 28 Feb. 1794).

²¹In the acts of 1793 and 1794 mentioned above the pay of privates was set at \$6.67 per month, which was still high.

²²The troops were raised in Westmoreland, Washington, Alleghany, and Fayette counties, but the initial dispositions in 1792 appear to have been confined to the first three of these. State Papers, IA, I, 220. The acts of 1793 and 1794 specified that they be stationed in the same three counties subject to changes, if the governor saw fit.

these long term units. In 1792, for example, the governor ordered out portions of the Washington and Westmoreland brigades for the defense of the frontier, and the same year a small force of mounted volunteers was sent to drive off a party of Indian raiders encamped on the Muskingum.²³

Meantime, Pennsylvania had begun a novel experiment, part of the purpose of which was to protect the settlements beyond the Allegheny River. In April 1793 the legislature provided for the establishment of a town at Presque Isle on Lake Erie "to promote the settlement of the neighboring country and thereby place the frontiers of Pennsylvania in a safer situation." In the spring of 1794, the governor ordered a detachment from the select battalion, consisting of a company of infantry and a few artillerymen, to that place to protect the commissioners sent to survey the town. Shortly thereafter, as the Indian danger appeared to be increasing, he directed the brigade inspectors of Westmoreland, Allegheny, and Fayette counties to draft one thousand men to cooperate with the detachment. When the federal government protested that the project might lead to serious trouble with the Iroquois, both the draft and the work of the commissioners was halted, and in September the whole undertaking was temporarily shelved. Meantime, the detachment had made

²³Mitchell and Flanders, Statutes at Large of Pennsylvania, XV, 35-36. The act mentions these expeditions in dealing with pay and other matters.

considerable progress in fortifying a position at Le Boeuf, the site of the French fort of earlier days. Though the state was willing to give up the town for the moment, it would not so readily part with the new fortifications.²⁴

The desire to retain Le Boeuf and the subsequent revival of the plan to build the town resulted in the perpetuation for a time of the part of the little army, the enlistment term of which was rapidly expiring. The same act that suspended the work of the commissioners authorized the governor to enlist 130 men for six months to garrison Le Boeuf. The next year, when a new act was passed providing for not one but four towns, the 130 man force was continued for an additional eight months, and the governor was authorized to add a company of 65 riflemen if necessary.²⁵

State-National Controversy

In Georgia the breath of the fire-eaters began to blow hot when the first major alarms occurred in October and November of 1792. Here, for reasons already mentioned, the President hardly dared delegate the kind of authority he had given the Governors of Virginia and Pennsylvania. Instead his efforts were directed at separating the Georgians and

²⁴State Papers, IA, I, 503-07. The federal protest is mentioned in letter from Governor Thomas Mifflin to the President, 25 May 1794, Ibid., 506.

²⁵Mitchell and Flanders, Statutes at Large of Pennsylvania, XV, 208-09, 337-46. (Act of 18 Apr. 1795).

the Indians from each others' throats long enough for some kind of settlement to be made. In order to accomplish this he attempted to place control of such immediate defensive operations as might be necessary in the hands of a federal officer. Only in this way could the recurrent cycle of raids and counter-raids that had inflamed the frontier for years be broken.

Many Georgians thought that peace could be achieved only by exterminating the Indians or by removing them to some distant place. Since these objects could be attained only by war, this group looked with disdain on the administration's effort to make peace and sometimes interfered with its agents. Its more rabid members made no secret of the fact that they preferred war to peace. Whether or not Governor Telfair could be considered the spokesman of the anti-Indian faction, he too preferred war. However, he hesitated to take the fatal step unless he could make certain of the support, or at least the financial assistance of the United States. This despite his best efforts he was unable to obtain.

When the Indian attacks began, Telfair demanded that Major Henry Gaither, commandant of the several companies of federal troops in Georgia, order out portions of the militia. Gaither responded to these demands during the alarms of late 1792 by conferring with the governor, and the two agreed to

embody certain small units.²⁶ As the attacks grew more frequent in March of 1792 the governor renewed his importunities. When Gaither refused, he complained to the President, "The militia remaining subject to the call of the commandant of the Federal troops, and not being drawn into service, upon pressing occasion, has abated the confidence of the people in Govt. . . ."²⁷ Several facts point to the probability that no formal arrangement had been made giving Gaither the authority Telfair seemed to think he had. In the incident of 1792 the major handled the problem such that the ultimate responsibility apparently remained with the governor. Meantime the question of Gaither's relationship to the militia was not mentioned in letters from the War Office until 29 April 1793. At that time Knox authorized him only to request the governor to order out troops when the need arose.²⁸

If Governor Telfair had any special object in attempting to pass the responsibility to Gaither it no doubt concerned federal liability for the expense of the units called up. Telfair favored offensive operations against the Indians, and any claim for such services that the state might put forward would be greatly strengthened if a federal

²⁶Major Henry Gaither to the Secretary of War, 28 Aug. 1793, State Papers, IA, I, 424.

²⁷Letter of 3 Apr. 1793, Ibid., 368.

²⁸Ibid., 367.

officer had sanctioned the raising of the troops involved. Gaither himself seems to have viewed things in this light. In early April he wrote Knox that Telfair frequently called upon him to order out troops following alleged attacks. In many cases there was no real evidence that the forays had actually occurred as claimed. He had not complied, nor did he intend to "unless I know them to be within our limits, and in force. . . ." ²⁹ Gaither found his position even more trying due to the belief among the people that he had the power to call the militia out for their protection. ³⁰

Following Gaither's refusals, Telfair himself began to embody troops in such numbers ³¹ that Washington seemingly became alarmed. In an effort to regain control of the situation, the President warned the governor to avoid offensive operations in the Creek country and devised a plan whereby the additional troops obviously required by the emergency could be made subject to federal control. He thus on 30 May suggested that the governor place under the command of Major Gaither one hundred horse and a like number of foot raised

²⁹ Ibid., 417.

³⁰ Gaither to the Secretary of War, 23 May 1793, Ibid., 421.

³¹ Report of the Secretary of War, 16 Dec. 1793, Ibid., 362.

from the militia of the state.³² A few days later on 10 June, learning that Telfair had ordered up six more troops of horse and had begun establishing an infantry encampment at Shoulderbone, the President urged him to conform to the authorization of 30 May as soon as the immediate danger passed.³³ Meantime, acting on the representations of several Georgia Congressmen, he requested the Governor of South Carolina to assist Georgia in case the latter's frontiers were over-run by large bodies of Indians.³⁴ While he limited this assistance to defensive measures, he had made a mistake that he was soon to regret.

Telfair had no intention of either reducing his growing army or placing Georgia troops under a federal officer. Throughout the summer and fall he permitted raids across the frontier, kept swarms of militia under arms,³⁵ and planned to raise thousands more for an all out invasion of the Creek

³²Ibid., 364. The horse were to be embodied under the federal act of 5 Mar. 1792, which gave the President special powers relating to the cavalry. The foot, however, were to be called into service "according to the general course of the militia law."

³³Governor of Georgia to Secretary of War, 8 May 1793, Ibid., 369; Secretary of War to Governor of Georgia, 10 June 1793, Ibid., 364-65.

³⁴Secretary of War to Governor of Georgia, 9 Mar. 1793, Ibid., 363; Secretary of War to Governor of South Carolina, 10 June 1793, Ibid., 366.

³⁵The number was never less than about seven or eight hundred. Gaither to Secretary of War, 20 July 1793, 28 Aug. 1793, and 3 Sept. 1793, Ibid., 422, 424-25.

country to begin about 15 October. On 8 August following a council of war with his generals he outlined this last project in a letter to Knox. The operation would require five thousand militiamen for sixty days, the cooperation of the federal troops in Georgia, and support from South Carolina, which should undertake to provide part of the militia.³⁶

The governor obviously believed that the President had given his carte blanche with regard to the use of South Carolina troops.

As soon as Secretary Knox partially recovered from the initial shock engendered by this gargantuan proposal that dwarfed the plans for the Northwest, he began to receive alarming reports from federal officials in Georgia. On 28 August, Major Gaither wrote that Telfair was preparing for the expedition or that he was pretending to do so, an alternative that hardly relieved the Secretary's apprehensions. Early in September, James Seagrove, an agent sent to the Creeks to settle certain controversies, reported that Telfair had called on the Governor of South Carolina for fifteen hundred to two thousand men. He added that Georgia had also made a contract for five hundred thousand rations. When he had questioned the governor as to these matters, he was told that the expedition had been "determined on." Constant Freeman, Jr., United States Paymaster in Georgia, wrote in similar

³⁶Ibid., 370-71.

vein.³⁷

Knox was able to gather some comfort from the thought that he had already taken the precaution of again warning Telfair against any kind of offensive operation. Freeman himself, who had only arrived in Augusta about 4 September, was the bearer of this admonition, which had been written long before intelligence of the impending attack had reached the War Office. It had the desired results, for Freeman immediately wrote the Secretary that Telfair had put a stop to all further preparations for the expedition.³⁸ Meantime, on 5 September, Knox had gotten off another warning even more to the point. Though this second advisory apparently reached the governor after the decision to drop the operation had been made, it reflects the seriousness with which the administration received Telfair's plan. The President "utterly disapproved" the measure, it said, "as being unauthorized by law, as contrary to the present state of affairs, and as contrary to the instructions heretofore given on the subject."³⁹ Knox also hastily advised the Governor of South Carolina to refrain from lending assistance

³⁷Ibid., 424, 408, 425.

³⁸Secretary of War to Governor of Georgia, 19 July 1793, Ibid., 365; Freeman to Secretary of War, 11 Sept. 1793, Ibid., 426.

³⁹Secretary of War to Governor of Georgia, 5 Sept. 1793, Ibid., 365; see also Report of Secretary of War, 16 Dec. 1793, Ibid., 362.

to the expedition.⁴⁰

As the great army faded away like a figment, Major Gaither found that part of his mission was also composed largely of the same kind of dream-stuff. As early as July he had begun to doubt that the one hundred horse and one hundred infantry would ever materialize. The militia officers, he wrote Knox, would oppose the raising of the troops because they thought the size of the detachment was too small and objected to the command being given to a federal officer. On 3 September he reported that despite repeated urgings Telfair had made no effort to provide the men.⁴¹ Four days later he sent the governor a letter demanding a decision. The latter answered curtly that the critical situation did not permit any departure from the arrangements then in effect.⁴² The matter seems to have rested at this stage, for by the middle of October the governor had taken no action.⁴³

The admonitions from the War Office did not put an end to the punitive raids into the Indian country. The largest of these expeditions, consisting of seven hundred men, went out in June 1793. After a respite during the days of the grand army, at least three more crossed the borders in September and October. It is not clear as to whether

⁴⁰Letter of 5 Sept. 1793, Ibid., 366.

⁴¹Ibid., 422, 425. ⁴²Ibid., 424-25.

⁴³Gaither to Secretary of War, 11 Oct. 1793, Ibid., 425.

Telfair specifically sanctioned these forays. However, he did report the first two to the Secretary of War, and sometime prior to 8 September he authorized the frontier commanders to pursue and destroy hostile Indian parties whenever they might be found, crossing the line if necessary.⁴⁴

The commanders of the several expeditions gave little thought to the difference between good and bad Indians. One of the expeditions fell upon "Little Oakfuskee," perhaps the most friendly of all the Creek towns, killing six warriors and taking eight prisoners. According to Seagrove, who had the best facilities for knowing, the town had not been involved in the depredations, mainly horse stealing, which gave rise to the raid.⁴⁵ The commander of another of the forces told him "that he would destroy all Indians he came across, whether friend or foe; and that he was opposed to peace."⁴⁶

The temper and actions of the Georgians put impediments in front of every step that Seagrove took along the path toward peace. He complained to Knox that the frontiersmen opposed every measure leading to a settlement and that

⁴⁴Report of Secretary of War, 16 Dec. 1793, Ibid., 362; Seagrove to Secretary of War, 9 Oct. 1793, Ibid., 411; Buckner Harris to Seagrove, 2 Oct. 1793, Ibid., 413.

⁴⁵Report of Secretary of War, 16 Dec. 1793, Ibid., 362.

⁴⁶Seagrove to Secretary of War, 9 Oct. 1793, Ibid., 411.

they were pointedly disrespectful to all who served the federal government. In September 1793 these aversions may have taken the form of an effort to remove him from the scene. Rumors filled the air that a party of militia intended to waylay and kill him as he rode from Augusta to a conference with some Creek leaders on the Oakmulgee. The officers at Fort Fidius, a nearby federal station, became so alarmed that they sent a detachment to escort him to the post. The apparent danger from the frontiersmen together with the attack on "Little Oakfuskee" and similar raids then underway caused the agent to postpone the plans for the meeting. He might have requested Telfair, he said, to put a stop to these raids, but he was convinced by the governor's prior conduct that no attention would be paid to his application.⁴⁷ A few days later in a more sanguine mood he did write the governor,⁴⁸ but the raids continued.

An incident at Fort Fidius in May of the next year brought another climax to Seagrove's tangled affairs. When some friendly Indians visited him at the fort, they were attacked by a large party of militiamen. The victims considering themselves to be under the protection of the United States fled to the safety of the stockade. When Major

⁴⁷Seagrove to Secretary of War, 17 Sept. 1793, Ibid., 409-10 and enclosures pages 410-11; Report of Secretary of War, 16 Dec. 1793, Ibid., 362; Seagrove to Secretary of War, 9 Oct. 1793, Ibid., 411.

⁴⁸Letter of 22 Sept. 1793, Ibid., 411.

Richard B. Roberts, commandant at the fort, did not immediately surrender them the senior militia officer threatened to "advance to the mouth of the cannon and take them." Before this threat could be carried out Roberts succeeded in spiriting the Indians across the river.⁴⁹ The worst thing that could have happened, a clash between state and federal troops, had been averted by the narrowest of margins.

His endless patience for once exhausted, Seagrove got off a hot letter to Governor George Matthews, who had succeeded Telfair. The persons who had committed the outrage were militia officers of the state, he wrote, and some of them had been guilty of similar acts in the past. What good did it do for government agents to attempt to make peace when such officers embodied their men at will and destroyed those under the protection of the public? Peace had been completely restored, and now Georgia must punish its citizens who had so wantonly violated it. Otherwise she must prepare for a war with the entire Creek nation.⁵⁰ Fortunately the Indians were not as anxious for war as he thought, and within a year the President had nominated three commissioners to meet with them. The resulting treaty of

⁴⁹Freeman to Secretary of War, 10 May 1794, Ibid., 483-84; Major Richard B. Roberts to Secretary of War, 10 May 1794, Ibid., 483; Report of Dr. Frederick Dalcho, 10 May 1794, Ibid., 484.

⁵⁰Letter of 16 May 1794, Ibid., 487.

Coleraine of 29 June 1796 brought peace to the frontier.⁵¹

During this period there was a shortage of arms in Georgia that paralleled that in Virginia. Several of the Georgia congressmen brought this fact to the President's attention as early as March 1793.⁵² Later in the spring Gaither furnished arms to many frontiersmen who were "forted on their own soil." In June, Seagrove found that at least one-third of the men in the vicinity of St. Mary's had no guns and that Captain John F. Randolph's troop of horse, which had been mustered in the same locale, was badly in need of swords and pistols.⁵³ During the late spring and early summer, the federal government in order to alleviate this situation established a small arsenal at Augusta. By 10 June, fifteen hundred muskets had been shipped to this place, and it was planned to send five hundred more. They were to be issued on the order of the governor in case of invasion or other emergencies affecting the interests of the States.⁵⁴

Information upon which to judge the quality of the

⁵¹Ibid., 560, 586.

⁵²Secretary of War to Governor of Georgia, 9 Mar. 1793, Ibid., 363.

⁵³Gaither to Secretary of War, 23 May 1793, Ibid., 421; Seagrove to Major General James Jackson, 12 June 1793, Ibid., 393.

⁵⁴Secretary of War to Governor of Georgia, 9 Mar., 23 Apr., 30 May, and 10 June 1793, Ibid., 363-64.

Georgia militia is meager. Despite the bravado that surrounded the several major frontier expeditions, the participants did little fighting. Some of the parties never encountered the Indians, and the only one to actually reach its goal shot up and destroyed a friendly town. According to Seagrove, the June expedition, which was one of those turning back, was badly planned, incapably led, and poorly provisioned. It returned, he added, when a "mutinous spirit took possession of a majority of the officers and men." A similar fate overtook one of the groups that went out in the autumn. After a short march, a discussion took place between the commanders "as usual," and the party began to retrace its steps.⁵⁵ While some officers in sponsoring such operations may have created much difficulty for Seagrove, their fault lay more in recklessness than in insubordination. Usually they considered their most flagrant actions to be consistent with the governor's instructions.

In the Southwest Territory the frontiersmen were just as turbulent as in Georgia, but Governor William Blount, a Presidential appointee rather than an elected official, did his best to control them. He rigorously suppressed every effort of self-embodied groups to cross the Tennessee into the Indian country for the kind of punitive raids that were occurring in Georgia. For the most part he was able to

⁵⁵Seagrove to the Secretary of War, 6 July and 22 Sept. 1793, Ibid., 394, 410.

insure that the large bodies of militia he called out, an entire brigade on one occasion,⁵⁶ were not employed for the same purpose. He failed in this endeavor only when his subordinates had the hardihood to disobey his orders.

Both the temper of the frontiersmen and the effect of his policies can be seen in several examples. In January 1793 about a hundred angry frontiersmen gathered at Gamble's Station to plan a retaliatory attack on the Cherokees, and others were expected to arrive momentarily. Blount issued a proclamation forbidding the project, sent a special officer to read it to the crowd, and ordered the use of military force if these measures did not succeed. Though a company of militia was alerted, the party wisely dispersed after hearing the proclamation.⁵⁷

Somewhat later, militia leaders in Kentucky attempted to lead parties from that state across the Southwest Territory to attack the lower Cherokee towns. Blount received the first intelligence of these activities in the spring of 1793. It was reported that General Benjamin Logan was raising men for the enterprise and that Major William Whitely had already departed with an advance party.⁵⁸ Blount

⁵⁶William Blount to Secretary of War, 27 Sept. 1792, Ibid., 292.

⁵⁷Ibid., 434-35.

⁵⁸Information of William Macklin, 12 Apr. 1793, Ibid., 448.

immediately protested to Governor Isaac Shelby of Kentucky and instructed General James Robertson of Miro District to stop the force if it got that far.⁵⁹ Shortly thereafter Shelby assured him that the operation would not materialize.⁶⁰ The rumors were back again in the fall of the next year and this time they were accompanied by troops. Whitely with about one hundred men slipped quietly into the Territory following a party of Indians that had been operating on the southern frontier of his state. He reached Nashville at a very opportune time, for General Robertson was preparing to send out a large force against the Creeks and Cherokees. Robertson willingly attached Whitely and his men to the expedition,⁶¹ and they got in their blow, as will be seen later.

Meantime Blount had been receiving reports that Logan was again recruiting. On 31 October he also learned that Whitely, now back from the Indian country, had passed by Knoxville on his way to join the general. The governor acted rapidly to head off the intended operation. He wrote Whitely, questioning the authority by which the troops had been raised and ordering him to desist, sent off a special messenger with similar orders for Logan, and warned the

⁵⁹Blount to Governor Isaac Shelby, 12 Apr. 1793, Ibid., 448-49; Blount to General James Robertson, 14 Apr. 1793, Ibid., 452.

⁶⁰John McKee to Blount, 9 May 1793, Ibid., 451.

⁶¹Robertson to Blount, 8 Oct. 1793, Ibid., 530.

Indians of their danger. To make quadruply sure he had the warning published in the Nashville Gazette.⁶² All of these precautions, together with the fact that Logan was having difficulty raising men, put a stop to the affair. It ends with Robertson's report that a small party of Logan's army (undoubtedly Whitely's group) had obeyed the orders to turn back.⁶³

The first of the major cases in which Blount's subordinates violated their standing instructions involved a company of mounted infantry which Blount himself ordered out after some raiding Indians in May 1793.⁶⁴ The company, which was commanded by Captain John Beard, crossed the Tennessee "in defiance of orders," attacked the village of Hanging Maw, a friendly Cherokee, and killed thirteen people. Daniel Smith, acting governor in Blount's absence, wanted to court-martial Beard, but decided not to do so at the moment in view of the popular sympathy which lay with the captain.⁶⁵ This affair and several similar "outrages," as Knox called

⁶²Blount to Colonel William Whitely, 1 Nov. 1794, Ibid., 533; Blount to General Benjamin Logan, 1 Nov. 1794, Ibid., 533-34; Blount to Secretary of War, 3 Nov. 1794, Ibid., 531.

⁶³Colonel James Winchester to Blount, 9 Nov. 1794 Ibid., 540; Robertson to Blount, 15 Nov. 1794, Ibid., 542.

⁶⁴Blount to (?), 28 May 1793, Ibid., 455.

⁶⁵Report of Major King and Daniel Carmichael, 12 June 1793, Ibid., 459; Report of Secretary of War, 16 Dec. 1793, Ibid., 363; Daniel Smith to Secretary of War, 22 June 1793, Ibid., 460.

them, resulted in a new war along the border and the calling up of masses of troops.⁶⁶

In September of the same year, Smith still acting as governor, ordered John Sevier and his command of about five hundred men to pursue and punish a party of Indians,⁶⁷ a project which Sevier accomplished with his usual success. The Secretary of War refused to compensate the members of the expedition for their services because it had been undertaken in violation of the President's orders "for the avowed purpose of carrying the war into the Cherokee country."⁶⁸ A year later, General Robertson sent a large force commanded by Major James Ore and reinforced by Whitely and the Kentuckians across the Tennessee to destroy the lower Creek and Cherokee towns. When Blount learned that Ore had devastated two villages, he wrote Robertson for an explanation. That doughty Indian fighter replied that he considered the operation to have been defensive in character. It had been

⁶⁶Report of Secretary of War, 16 Dec. 1793, Ibid., 363.

⁶⁷Smith to John Sevier, 30 Sept. 1793, Ibid., 458; Smith to Secretary of War, 1 Oct. 1795, Ibid., 586. Though the orders to Sevier as given in the first of these letters were not explicit, it appears by the second that Smith had intended the general to carry the fight into the Indian country. And Sevier apparently so understood it.

⁶⁸Report of Secretary of War to House of Representatives, Ibid., 585.

intended, he explained, to forestall a rumored invasion.⁶⁹

The Tennessee militia was probably the most efficient of the Southwest, if not the entire nation. This superiority was due partially to the superior leadership of such seasoned campaigners as Robertson, Sevier, and others and partially to military habits that were a heritage from the Franklin days. The militiamen were fine marksmen, very steady under fire as one of Sevier's units demonstrated so clearly in a river crossing during the campaign of 1793, and seldom if ever mutinous. Though fewer expeditions than in Georgia crossed into the Indian lands, none turned back.

Sevier's "unauthorized" campaign of 1793 was a model of well-conducted militia operations, if his own report is any indication. With his mounted infantrymen he pursued the Indians, beat off four attacks, fought a hot skirmish at a fording place on the Hightower River, and destroyed several towns. It was in the Hightower affair that a company in crossing the river was "received . . . furiously at the rising of the bank but rallied to drive off an enemy that outnumbered it four to one."⁷⁰ A few years later Andrew Jackson reported to the House of Representatives that the campaign had put an end to Indian excursions on that part of

⁶⁹General Robertson's order to Major Ore, 6 Sept. 1794, Ibid., 530; Robertson to Governor Blount, 8 Oct. 1794 Ibid., 529-30.

⁷⁰Sevier to Blount, 25 Oct. 1793, Ibid., 469-70.

the frontier.⁷¹

Blount himself summarized the qualities of the Tennessee militia and the value of its leadership in a letter to Knox. He boasted that in case of a general Indian war he could raise in Washington District five hundred horsemen, "the best marksmen in the world, armed with good rifles," within thirty days or even within fifteen. The men would turn out to a certainty, however, only if the top command were given to General Sevier and all other positions to their own militia officers. The abilities of the latter, he added, were equal to those of any other group of officers in America.⁷²

In the Southwest Territory the troops that were called up from time to time were almost always formally embodied by the governor himself or by high commanders pursuant to his specific instructions. This forms a sharp contrast to the case in Georgia, where local commanders embodied their units at will, as Seagrove put it. It also appears that the arms shortage was not as serious in the Southwest Territory as in Georgia. It did, however, exist to some extent, particularly in Miro District.⁷³

⁷¹Report of Committee of House of Representatives on the petition of Hugh Lawson White, 17 Jan. 1797, Ibid., 623.

⁷²Blount to Secretary of War, 8 Nov. 1792, Ibid., 327.

⁷³Secretary of War to Blount, 14 May 1793, Ibid., 430.

Rebellion and Public Disturbance

An equally important use of the militia came at times of public disturbances. It was utilized by the Federal Government under the act of 2 May 1792, which authorized the President to call out the militia to execute the laws and to suppress insurrection, in both the Whiskey Rebellion and Fries' Rebellion and by the states in all kinds of disorders. As in the case of frontier defense, the number of troops involved was usually small, though substantial forces were employed in the Whiskey Rebellion.

During the Whiskey Rebellion, Maryland, New Jersey, Pennsylvania, and Virginia were called upon for a total of 12,950 men.⁷⁴ The quota of each as assigned by the President on 7 August 1794 included detachments of infantry and cavalry, and all except Virginia were also to furnish a few artillerymen. Since the rebellion was to some extent a popular movement, the states had to contend with varying amounts of opposition in raising their contingents. Though there was some disaffection in Maryland and a little in Virginia,⁷⁵ these states together with New Jersey were able to use the

⁷⁴A copy of the order may be found in William P. Clarke, Official History of the Militia and the National Guard of the State of Pennsylvania (Philadelphia, 1910), I, 159. Hereafter cited as W. P. Clarke, Official History.

⁷⁵James Monaghan, "Opposition to Involuntary Military Service in the United States" (unpublished Master's thesis, Department of History, University of Pennsylvania, 1918), 11-12. Hereafter cited as Monaghan, "Involuntary Military Service."

mobilization procedures provided by their militia acts. In Pennsylvania, where disaffection was widespread and virulent, the draft system did not function, and special measures had to be devised to deal with the resulting emergency.

In the first three states, the governors issued calls in the normal way, setting quotas on the divisions and authorizing the use of the draft if necessary. In Maryland, while the turnout may have been somewhat slow in the western counties, it was apparently heavy in Baltimore, Annapolis, and throughout the eastern sections.⁷⁶ In Virginia a brigade commander in Surrey County reported a mutiny in his brigade, but this apparently involved only one company in which the men attempted to prevent the captain from drafting his quota. In the same brigade district "An Old Soldier" posted a letter highly critical of the draft and the short notice with which it was put into effect. However, his concern lay more with the anticipated hardships of the campaign than with the fate of the Whiskey Boys. Though such minor incidents as these did not materially affect the success of the Virginia mobilization, most of the detachments that went forward from the rendezvous at Fort Winchester were greatly understrength. Thomas Matthews, who appears to have been some kind of camp manager, attributed the deficiencies to "a want of energy"

⁷⁶Ibid., 11-12.

in the militia law.⁷⁷ In New Jersey, the draft hardly had to be resorted to. In some instances men who were not included in the quotas attempted to buy the places of those selected, and at one place ten times the quota turned out.⁷⁸

In Pennsylvania opposition to the call brought about the complete collapse of ordinary mobilization procedures. On 8 August, the day after the President's order was received, Governor Thomas Mifflin issued a directive to the divisions, giving each its quota. By the tenth of September it was clear that the attempt to use the regular draft had failed. Heroic measures were required, and Mifflin and the legislature responded to the challenge. After an address by the governor, the senate called for a full report on the status of the troops,⁷⁹ and a few days later on the nineteenth both houses passed an act authorizing the executive to enlist volunteers at large.⁸⁰ The effect, of course, was to abandon the draft as in the earlier case of the frontier companies.

The report, which was prepared by Secretary of State A. J. Dallas, presented a picture even more discouraging

⁷⁷James A. Bradley to the Governor, 12 Sept. 1794, and enclosures, W. P. Palmer, Virginia State Papers, VII, 307-08; Thomas Matthews to Lt. Governor Wood, 12 Oct. 1794, Ibid., 343.

⁷⁸Monaghan, "Involuntary Military Service," 11.

⁷⁹W. P. Clarke, Official History, I, 161-62.

⁸⁰Mitchell and Flanders, Statutes at Large of Pennsylvania, XV, 195-97.

than had been expected. In Philadelphia, Bucks, Chester, and Delaware counties the men drafted had refused to turn out. The city of Philadelphia, and Lancaster, Yorks, Berk, Franklin, and Northhampton counties had not even made their returns. Only in Dauphin and Montgomery counties, where the draft had proceeded without undue incident, were the quotas ready to march.⁸¹

Meantime, Mifflin, armed no doubt with foreknowledge of the form the new act would take, went to the hustings in an effort to point out the urgency of the situation and overcome the reluctance to serve. On 10 September, the same day as his speech to the legislature, he told the officers of the brigade of the City and County of Philadelphia that "unless we can supply the deficiency by voluntary enlistments the honor of the Militia will be tarnished and the peace of the Commonwealth perhaps destroyed."⁸² A few days later when he addressed a large group of militia assembled near Philadelphia, several uniformed companies offered their services and other volunteers began to come forward in large numbers. On a subsequent tour through the sections in which the draft had been ignored his temperate and convincing speeches proved increasingly effective. By the time the act which legalized all this had been passed he was able to

⁸¹W. P. Clarke, Official History, I, 162-63.

⁸²Ibid., 162.

put in the field at least 4590 men, about eighty-eight percent of those required.⁸³

The Pennsylvania quota as finally formed contained a heavy proportion of uniformed organizations. Among the first units to take up the march for Carlisle were three troops of cavalry, a company of light infantry, several companies of artillery, a mixed regiment of grenadiers and light infantry, and the famous McPherson's Blues, which were originally organized for this campaign. While enroute, the Blues with the addition of several companies of rifles, artillery, and infantry were organized into a regiment. McPherson's name was retained and he was elected colonel.⁸⁴

In Fries' Rebellion, the President directed New Jersey and Pennsylvania to hold certain organizations in readiness, but he actually ordered into the disaffected area only a few of the Pennsylvania units together with a few regulars. This time the difficulties that had been experienced by Pennsylvania a few years earlier did not arise. This may no doubt be attributed to the restricted scope and appeal of the rebellion, the small number of men employed, and the type of units that were selected. In the last regard, the force sent to the field consisted of two troops of "volunteer" cavalry and two troops of "militia" cavalry, all from Philadelphia. The adjectives were apparently used

⁸³Ibid., 163-64.

⁸⁴Ibid., 163.

in a special sense to distinguish between units that had volunteered for the Provisional Army and units that had not. The former were no doubt considered elite organizations by the administration because they were thought to be composed primarily of men holding Federalist principles. The latter were actually volunteer companies in the general sense in which the term has been used in this study and presumably possessed the high quality usually attributed to such organizations. Both were in the highest state of preparation for action. The remainder of the Pennsylvania readiness group was composed of other similarly qualified horse troops from Philadelphia and the counties.⁸⁵

General William McPherson, formerly of the Blues, was given command of this tiny operational force of 240 men. It is interesting to note that he was designated by the President, that is by Secretary of War McHenry, rather than by the Governor of Pennsylvania. To cover McPherson's movement a company of artillery at Carlisle was ordered to Reading and another such company at Fort Mifflin was alerted to march to the same place on the shortest notice. McPherson was also directed to assume command of the regulars, two companies of artillery from New York and about thirty infan-

⁸⁵Secretary of War to Governor of Pennsylvania, 20 Mar. 1799, Annals of Congress, 6th Cong., 1302; Secretary of War to General William McPherson, 21 Mar. 1799, Ibid., 1302-04.

try recruits from New Jersey, when they reached the rendezvous point. He was further authorized to call up the readiness force in both Pennsylvania and New Jersey if conditions warranted.⁸⁶

State Use

The employment of the militia by the states in time of public disturbances seldom involved more than a few companies. A few examples will serve to illustrate the wide variety of tasks these troops were called upon to perform. In New York on one occasion units were called out to prevent an anticipated disturbance at an execution, and in another to suppress a prison riot.⁸⁷ In Norfolk, Virginia, during the foreign crisis of 1794 a small guard was ordered out to prevent a clash between rival groups of Frenchmen,⁸⁸ and in Philadelphia during the French crisis of 1798 troops were sent to protect public buildings and patrol the streets following disorders created by men wearing the French cockade.⁸⁹ In Norfolk County, Massachusetts, a detachment was employed to conduct Jason Fairbanks, a convicted murderer,

⁸⁶Secretary of War to General McPherson, 21 Mar. 1799, Ibid., 1302-04.

⁸⁷Emmons Clark, History of the Seventh Regiment of New York, 1806-1889 (New York, 1890), I, 38.

⁸⁸W. P. Palmer, Virginia State Papers, VII, 12, 13.

⁸⁹J. Thomas Scharf and Thompson Westcott, History of Philadelphia, 1609-1884 (Philadelphia, 1884), I, 493.

who had once been rescued by a mob, to his hanging.⁹⁰ In Virginia,⁹¹ and no doubt in many states, detachments were posted in time of epidemic to prevent intercourse between infected and healthy sections.

In the South the militia was the primary tool for the control of refractory Negroes. During slave rebellions, such as the abortive Gabriel uprising in Virginia in 1800,⁹² large detachments were ordered out to restore order. For routine day-to-day policing of the blacks most Southern states required the militia to maintain patrols. Local militia officers, company or battalion commanders, were responsible for appointing these groups, which usually consisted of an officer and several men. In Virginia the law specified that the patrols be sent out at least once a month to visit all Negro quarters and other places "suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons." It also required that the patrol-
lers check the passes of any Negroes moving about from one

⁹⁰Charles Warren, Jacobin and Junto; or, Early American Politics as Viewed in the Diary of Dr. Nathaniel Ames, 1758-1822 (Cambridge, 1931), 127-33, 139-42.

⁹¹W. P. Palmer, Virginia State Papers, VII, 35, 40-42, 43, 57-58.

⁹²Ibid., IX, passim.

plantation to another.⁹³ The provisions of the Kentucky act were almost identical.⁹⁴

⁹³A Collection of Acts (Virginia), 22 Dec. 1792.

⁹⁴Kentucky Acts, 1792 Nov. Sess. (10 Dec. 1792).
Microfilm Collection of State Records, Library of Congress,
Kentucky B 2, Reel 1, Unit 1.

CHAPTER IX

THE "UNIFORM MILITIA" IN ACTION:

THE DETACHMENTS

The military mission of the detachments of 1794 and 1797 and the associations of 1798-1801 was to prevent war by demonstrating to Great Britain in the first case and to France in the other two that the United States was prepared to resist both threats and the use of force. In each case, special organizations were formed from the militia at large and alerted for instant action. Since the troops were never actually called into the field, the several mobilizations represented little more than paper arrangements. Nevertheless, in each period fear of aggression was so intense among many people that real efforts were made to enroll the men, arm them, and prepare them for fighting. These efforts revealed manifold deficiencies in the militia systems of many states.

The Detachment of 1794

The first detachment was formed under the Act of

9 May 1794,¹ which authorized the President to require the several states to place a total of eighty thousand men in a status of readiness. It was no doubt anticipated that the larger part of these would be taken from the standing companies, but the law also provided that independent corps of infantry, cavalry, and artillery might volunteer their services as units. The law itself established the allocations of the states, and by about 19 May these had been transmitted by the Secretary of War to the governors.²

Most states for which data is available utilized the volunteer principle and the quota system in the mobilization. Only four, Connecticut, North Carolina, Rhode Island, and New Jersey, passed special laws,³ and those of the first two contained little of interest. That of Rhode Island called for a special enrollment of the militia before the unit quotas were assigned. It allowed forty days for the completion of this time-consuming process and the preparation of

¹See above page 177.

²A copy of the Secretary of War's letter transmitting the law to the states and giving instructions concerning the raising of the quotas may be found in W. P. Palmer and others (eds.), Calendar of Virginia State Papers (Richmond, 1875-1893), VII, 145-46. Hereafter cited as W. P. Palmer, Virginia State Papers.

³Connecticut, Journal of Lower House, 30 May 1794 (Microfilm Collection of State Records, Library of Congress, Connecticut, A 1 b, Reel 3); New Jersey Laws, 1794 June Sess., Chap. 483; North Carolina Laws, 1794 July Sess., Chap. 3; Rhode Island, Acts and Resolves, 1794 June Sess., 22-23. A search of the session laws has failed to reveal acts for states other than those mentioned.

the resulting returns. That of New Jersey set up novel procedures for filling deficiencies in the company quotas when sufficient volunteers did not come forward. It directed the company commanders to divide all property holders⁴ over eighteen years of age living in their districts into as many classes as there might be men deficient, to call upon each class to furnish a man, and to hire men for classes not complying within ten days. They were then to assess the classes concerned for the expense of the men hired. In order that the assessments be equitable the law also provided that the classes be so arranged as to represent equal aggregates of wealth and that the individual members of each class be charged in proportion to their worth.

Several states, including Delaware, Massachusetts, and Virginia, encountered real difficulty in complying with the requisitions. In each of these cases the trouble arose not so much from failure in the mobilization system as from widespread disorganization among the troops. Similar disorganization probably also existed in Rhode Island, which had found it necessary to undertake a preparatory enrollment before the actual enlistment began. In Maryland the quota was not raised, or so Samuel Smith, a congressman from that state, reported in a House debate a few years later.⁵ If

⁴The law specified "all the free white male Inhabitants and others holding property."

⁵Annals of Congress, 5 Cong., 3 Sess., 2982.

this were the case, no information is available as to the reason.

In Delaware, eight months after the President's requisition had been received, the governor told the legislature that he had been unable to organize the state's quota. He blamed the lack of arms and the inadequacies of the militia law. "To detail its defects," he said, "is, perhaps unnecessary; they have been experienced in almost a similar degree in the several counties and of course must be generally known." A legislative committee appointed to consider the governor's remarks reported that difficulties multiplied every day in the execution of the law. Its defects were so numerous and so difficult to remedy, the report continued, that another special committee should be appointed to recommend the necessary changes.⁶

In Massachusetts the authorities found that in some towns the militia had not been organized, and the General Court had to take strong action to insure that the quotas be filled. The resulting resolve required the selectmen of such towns to forthwith enroll all persons subject to militia duty and to detach their full quotas from the new rolls. Towns in which the selectmen neglected to comply were made subject

⁶Delaware, Journal of the Senate, 12 Jan. 1795, 7-8, 12. (Microfilm Collection of State Records, Library of Congress, Delaware, A 1 a, Reel 1, Unit 3).

to a fine of ten pounds for each man they failed to furnish.⁷

Before issuing the divisional quotas, the Virginia authorities made a survey of the status of the troops. It was found that only some thirty-five of the one hundred and one regiments were completely organized. In most of the remainder the officers, or some of them, had been appointed but apparently had not yet formed their units. About fifteen of the regiments had neither officers nor men and thus existed only on paper.⁸ The report attributed the deficiencies to several factors, the most important of which was the failure of the county courts to recommend officers as required by the general act of 22 December 1792. Others included faulty recommendations by the courts, disorganization created by the recent division of several counties into two regiments,⁹ and in one case disputes over rank among the officers.

The general character of the report leaves some doubt as to whether it made conditions appear as unsatisfactory as they actually were. For example, it does not list the number of men actually enrolled in the regiments but only those sixteen years of age and over living in the

⁷Massachusetts Resolves, 19 June 1794.

⁸Samuel Coleman to the Lt. Governor, 2 June 1794, W. P. Palmer, Virginia State Papers, VII, 161-67.

⁹An amendatory law had thus created nineteen additional regiments. Ibid., 78.

regimental districts. Furthermore, it seems to be based upon the assumption that any unit having officers was per se completely organized. These considerations lead one to believe that it may have been compounded from the census tables and the imaginations of the adjutant general and his assistants rather than from actual returns. If this were true then things were dark indeed, for the lack of returns was one of the most accurate indicators of disorder. At any rate, the failure of the courts to make their recommendations for officers, the main cause of the trouble, was an old problem which the legislature had already tried to correct.¹⁰

While several of the other states may have encountered difficulties it is likely that few if any had to deal with such major problems as the three just discussed. In Vermont, for example, after a month's delay for the calling of a special meeting of the council, the governor issued his orders and the enrollment was promptly completed.¹¹ In New Jersey the adjutant general warned that the militia law would be rigidly enforced,¹² but there may have been little

¹⁰See above pages 346-47.

¹¹Eliakim Persons Walton (ed.), Records of Governor and Council of Vermont (Montpelier, 1876), IV, 483.

¹²Harry L. Harris and John T. Hilton, A History of the Second Regiment, N. G., N. J.; Second N. J. Volunteers, Spanish War; Fifth New Jersey Infantry; Together with a Short Review Covering Early Military Life in the State of New Jersey (Paterson, 1908), 43-44.

need for either this admonition or for the special law already discussed. The detachment appears to have been more or less completely organized by August when the President called for troops for the Whiskey Rebellion. In both of these states, promises of extra pay for men called into actual service may have helped overcome whatever reluctance existed.¹³

In some states unnecessary delays resulted from the failure to utilize the mobilization procedures set up in advance. These occurred as a matter of form in the four states that took the time to pass special acts and in states such as Vermont that waited to convene their councils. Thus, though the requisition was received in mid-May, Connecticut did not get its law through until 30 May, New Jersey until 20 June, Rhode Island until some time in June, and North Carolina until some time in July. In Vermont the council did not meet until 21 June.

Another type of delay resulted as the governors and the division, brigade, and lower commanders leisurely broke

¹³On 21 June the Governor and Council of Vermont recommended such pay and on 30 October the Legislature authorized it. Walton, Records of Governor and Council of Vermont, IV, 483 and footnote 483. The act provided that the state add to the Federal allowance of privates and NCOs a sum which would make the total for privates £2 per month and slightly larger amounts for NCOs. Laws of Vermont, 1794 Oct. Sess., 123-24. The New Jersey law that set up the class system of filling deficiencies also provided NCOs and privates \$3.00 a month in addition to what they received from the United States plus a bounty of \$2.00 for enrolling. New Jersey Laws, 1794 June Sess., Chap. 483.

down their quotas for the use of subordinate units. The experience of Virginia shows how rapidly the time lost in this way mounted up. That state received the requisition from the President in the middle of May, waited until 2 June for the preparation of returns, issued an initial mobilization order on 20 June, and apparently followed it with another about 30 June. Only by 4 July was one division beginning to get orders to its brigades.¹⁴ It is a safe assumption that another week or two was lost while the quotas languished in lower headquarters on their way to the companies. Even though the last estimate is conservative, this adds to a total elapsed time of some two months.

The corrective legislation accompanying and following the mobilization reflected other problems and weaknesses that had become apparent as the foreign threat developed and the detachments were raised to meet it. The most important of the shortcomings thus revealed concerned the volunteer companies. Several states discovered the need for more artillery and cavalry and for the organization of these arms into higher tactical units. Other defects that appeared included the lack of non-commissioned officers in one state and the lack of trained officers in another.

¹⁴Simon Morgan (Adjutant General) to the Generals of Division, 20 June 1794, W. P. Palmer, Virginia State Papers, VII, 191; "Rough General Orders," 30 June 1794, Ibid., 202-03; "Division Orders," 4 July 1794, Ibid., 204.

New York, with its great port to protect, took the lead in the building up of the artillery. In 1795 in an effort to increase enrollments it excused artillery non-commissioned officers and privates from jury duty, deducted the first two hundred dollars from their property taxes, and exempted those who had served nine years from all further militia duty except in invasion or insurrection.¹⁵ Vermont took steps to increase its cavalry to the maximum proportion authorized by the basic act, one company per regiment, and empowered brigade commanders to recruit the required men from exempts.¹⁶ Virginia organized its cavalry and artillery into regiments and battalions, and prescribed that all types of independent companies be called into service by complete units rather than mobilization classes.¹⁷

The problems concerning officers and non-commissioned officers occurred in South Carolina and Virginia. The former laid a fine of four pounds on men appointed as sergeants who refused to serve but added that no one should be required to

¹⁵Act passed 10 Apr. 1795, Laws of the State of New York, 1789-96 (republished by the Secretary of State, Albany, 1887), 594.

¹⁶Act of 29 Oct. 1794, Laws of Vermont, 1794 Oct. Sess., 80.

¹⁷Act of 24 Dec. 1795, A Collection of All Such Acts of the General Assembly of Virginia of a Public and Permanent Nature, As Are Now in Force (Richmond, 1803), 331-41. Hereafter cited as Collection of Acts (Virginia).

perform this distasteful duty more than one year at a time.¹⁸ Virginia, apparently finding that many of its officers were not familiar with their duties, required that those of each regimental district meet once a year for four days' training under the supervision of the brigade inspectors.¹⁹ It may be noted in passing that the reluctance to serve as non-commissioned officers was probably more prevalent than the laws indicate. It appears to have stemmed from the time-consuming administrative duties, such as notifying the men of drills, that went with the position.

During 1794 and 1795 the militia was also employed by several of the states to enforce the embargo and to prevent violations of the neutrality of the ports and harbors. One of the better known incidents of the period arose when the British ship of the line Africa boarded the packet Medusa in Rhode Island waters in an effort to seize the French minister, Fauchet. Although the Africa had gone to much trouble for nothing, Fauchet having quit the packet, the affair caused great indignation both in Rhode Island and the national capitol, and anger continued to grow as the Africa overhauled other American ships and impressed American seamen.

¹⁸Act of 19 Dec. 1794, Benjamin Elliot and Martin Strobel (eds.), The Militia System of South Carolina, Being a Digest of the Acts of Congress Concerning the Militia, Likewise of the Militia Laws of this State (Charleston, 1833), 38. Hereafter cited as Elliot and Strobel, Militia System of South Carolina.

¹⁹See footnote 17 above.

Finally, under the direction of the Secretary of War, Governor Arthur Fenner ordered out portions of the militia to exclude the personnel of the British vessel from the shores of the state. With bayonets bristling at every possible landing spot, as one writer put it, the militiamen kept the enemy, if that term may be used, at a distance.²⁰

In Virginia details were ordered out from time to time at Bermuda Hundred, Norfolk, Portsmouth, and one or two other places. They mounted cannon to prevent the sailing of unauthorized vessels, took charge of others that had aroused suspicion, and manned a small schooner to give chase to one which had already departed. In the last case, which occurred at Portsmouth, the sea-going militiamen caught their quarry and took possession of it.²¹ The size of the details varied from a few men to a company, and they were embodied by local militia commanders.

In evaluating the results of the mobilization it must be noted that the data upon which the study is based does not disclose a single case, with the possible exception of the Massachusetts towns, in which it was found necessary to resort to the draft. The fact that the troops could be raised by voluntary enrollment, of course, indicates the

²⁰Octavius Pickering and C. W. Upham, Life of Timothy Pickering (Boston, 1867-73), III, 232, 238-39, 241.

²¹W. P. Palmer, Virginia State Papers, VII, 97-99, 103-05, 125-26, 219.

absence of any widespread opposition to the purpose for which they were to be utilized. The main difficulties arose from the failure of the militia laws to provide a sound structure from which the quotas could be drawn. The experiences of some states also showed that the mobilization procedures were slow and cumbersome and that the laws did not always provide the type of force required.

The conditions that made the structure unsound may be attributed partly to the recent reorganization of the militia under the new state laws that followed the Uniform Militia Act and partly to indifference at all levels. Since conditions improved little with the passage of time, as the mobilization of 1797 made clear, the latter was probably the more important. The lack of interest might have disappeared in the face of more energetic leadership, more easily obtainable arms, better enforcement of the regulations, and stiffer fines. However, none of these factors appears to have been within reach except in isolated cases.

A part of the time lost in placing the mobilization procedures into operation may be charged to poor communications and to the lack of a more urgent and concrete military threat. On the other hand, the raising of the men was carried out under almost ideal outward conditions. There was no enemy on the shores to disrupt the roads and create fear and confusion. One may doubt whether the presence of both such an enemy and the telegraph, too, would have speeded

events. The central fact seems to be that the quota system was by nature more time consuming than the system by which whole units were ordered out. Thus the Virginia commanders at the ports got their men almost immediately when they embodied companies or parts of companies. The only advantage possessed by the quota system lay in the fact that it distributed the duty among a larger group of men.

Aside from weaknesses in punitive features, the defects in the laws were to be expected. To a large extent they reflected the emergence of a new kind of military problem, the defense of the coasts. The solution required long range striking power and mobility, that is, artillery and cavalry, in larger proportions than the land fighting to which the militia was more accustomed. Throughout the 1790's the states continued to attempt to increase their strength in these two arms.

The Arms Problem in 1794

By 1794 the fact that many militiamen had failed to provide themselves with arms was no secret to the authorities. Throughout that year and for years thereafter Virginia militia commanders reported the lack of small arms and cannon and requested that the state supply both.²² While most of these requests came from company and regimental commanders, one brigade commander wrote that fifty well-armed men could

²²Ibid., VII and VIII passim.

hardly be mustered in his county.²³ As already noted, a major reason that Connecticut was unable to organize its detachment lay in the lack of arms and equipment.

That this famine of muskets extended to most, if not all, states appears to have been well known to the administration. When the President sent the states their quotas for the detachment he earnestly requested the governors to take immediate measures to insure that the whole militia be properly armed and equipped.²⁴ A few months later, when he called on Maryland, Pennsylvania, Virginia, and New Jersey for the Whiskey Rebellion troops, he asked that the states furnish arms to men unable to provide their own. If the stocks of the states should prove inadequate, he continued, the federal government would open its own arsenals.²⁵ Late in the year, Secretary Knox reported that two-thirds of the men sent to Western Pennsylvania had to be issued arms from the public stores. At the same time, he also estimated that only 100,000 of the 450,000 men liable to militia duty were armed with the types of weapons required by the federal law. Though noting that the penalties in the state laws were some-

²³John A. Bradley to the Governor, 12 May 1794, Ibid., VII, 141-42.

²⁴Ibid., VII, 145-46. See footnote 2 above.

²⁵A copy of the order calling for the troops may be found in William P. Clarke, Official History of the Militia and the National Guard of the State of Pennsylvania (Philadelphia, 1910), I, 159.

times inadequate, he attributed the deficiency primarily to the general shortage of arms. This shortage, he went on, could not be made up by imports as long as Europe was at war.²⁶

While the administration fretted, at least two of the states took measures of their own to provide small arms and cannons for the use of their troops. New York in 1794 appropriated \$75,000 for the purchase of field artillery, small arms, and accoutrements.²⁷ Meantime, Virginia had issued a total of 2146 muskets to its troops between 1792 and 1795.²⁸ Late in the last of these years the Virginia legislature, watching the stocks dwindle, authorized the governor to procure four thousand stands of small arms and accoutrements each year. These arms were to be distributed to the militia according to need when it was called into actual service. The same act also authorized the governor to issue one field piece to each company of artillery as long as the supply lasted.²⁹ In December 1796, Virginia also began planning the construction of a "manufactory of

²⁶Knox to Speaker of the House, 10 Dec. 1794, Annals, 3 Cong., 1396-99.

²⁷Act passed 24 Mar. 1794, New York Laws, 1794 Jan. Sess., 15-16.

²⁸W. P. Palmer, Virginia State Papers, IX, 31-32.

²⁹Act passed 26 Dec. 1795, Virginia Acts, 1795 Nov. Sess., 17.

arms."³⁰ It was one thing to plan such programs as these and another to implement them, as will be shown later.

The Detachment of 1797

The second detachment was raised under the act of 24 June 1797, which like that of 1794 called for eighty thousand men to be held in readiness and authorized the acceptance of independent corps that might volunteer their services. Only Rhode Island appears to have passed special legislation to raise its quota,³¹ and this was almost identical with its act of 1794, which has been discussed. The remaining states presumably made use of procedures similar to those they had followed in 1794.

At least two states, Kentucky and New Hampshire, experienced severe difficulties in raising their quotas. On 28 August, almost a month after the receipt of the initial order from the Secretary of War,³² the governor of the former called on the adjutant general for a complete troop return. By 14 September it had become clear that this official was unable to provide the required information, and the governor, abandoning the normal military channels, directed the secretary of state to write the several brigade commanders for

³⁰W. P. Palmer, Virginia State Papers, VIII, 406.

³¹Rhode Island Acts and Resolves, 1797 Oct. Sess., 25-27.

³²The order was dated 1 Aug. 1797. A copy may be found in W. P. Palmer, Virginia State Papers, VIII, 441.

full reports covering the strength of their regiments and the actual state of arms, ammunition, and accoutrements. On 25 October, no replies having been received, the governor, growing somewhat impatient, issued his quotas and ordered the several brigadiers "to take the most effectual measures" for raising them.³³ Although no data is available as to the outcome, the lack of returns was no doubt as usual a certain indication of disorder.

New Hampshire also had to deal with a certain degree of disorganization, or so it would seem from an act passed by the legislature in December 1798. Under the measure, complaints against company commanders who had failed to call their units together for training might be directed to higher commanders for investigation and prosecution. The law also attacked the problem of nonexistent companies. Thus in cases in which there was a shortage of personnel in the company beat, it required the field officers to annex persons liable to duty to a contiguous company.³⁴

In February 1799, the value and effect of the federal act setting up the detachment were reviewed during the Congressional discussion of a Republican motion to continue the measure for another year. The debate provides some informa-

³³Kentucky, Executive Department Journals, 1797, pp. 128, 130, 134 (Microfilm Collection of State Records, Library of Congress, Kentucky, E 1, Reel 1, Unit 1).

³⁴Act passed 27 Dec. 1798, New Hampshire Laws, 1798 Dec. Sess., 527-28.

tion as to the implementation of the act in several other states. However, since the matter had become for the moment a party question, the opinions of the speakers can hardly be accepted at face value. Speaker Jonathan Dayton, a Federalist, called the act "a pompous nullity." In some states, he went on, it had been carried into effect, and in some ignored. In others the members of the militia itself were not even listed.³⁵ Samuel Dana of Connecticut, one of the Federalist ultras, maintained that the detachment constituted no more than a roster of names on paper. In an earlier debate he had charged that the men detached did not even know their officers and that less than three-fourths of the members of the detachments could be found, if they were called upon.³⁶

Several Republicans, each describing the status in his own state, took a different view. In Maryland the detachment had been formed and was being held for service, and the entire division to which Samuel Smith, one of the state's representatives, belonged had offered its services. In Massachusetts the detached units were as ready as any standing army, and in New York, North Carolina, and Virginia the required number of men had come forward voluntarily. In

³⁵Annals, 5 Cong., 3 Sess., 2977.

³⁶Ibid., 2978; Annals, 5 Cong., 2 Sess., 16 May 1798, p. 1751.

Pennsylvania many independent corps and individuals had volunteered, and the remainder of the quota, presumably a small fraction, had been supplied by draft.³⁷

The mobilization, like that of 1794, was accompanied and followed by many corrective state laws. These continued the trend toward building up the cavalry and artillery and providing better training for officers. Vermont increased the maximum strength of its artillery companies from twenty-four to thirty and of its cavalry troops from thirty-two to fifty.³⁸ New York cut the term of artillery service required for permanent militia exemption to four years, added four companies to the New York City regiment, increased the number of training days per year to a maximum of eighteen, and began to provide training ammunition.³⁹

Connecticut authorized the commanders of cavalry, artillery, light infantry, and grenadier companies to recruit from the "battalion companies," presumably meaning the standing companies in this context, provided that they maintain

³⁷Samuel Smith of Maryland, Annals, 5 Cong., 3 Sess., 2982-83; Joseph B. Varnum of Massachusetts, Ibid., 2977-78; John Williams of New York, Ibid., 2984; Joseph McDowell of North Carolina, Ibid., 2977; W. C. C. Claiborne of Virginia, Ibid., 2980-81; Albert Gallatin of Pennsylvania, Ibid., 2979.

³⁸Act of 10 Mar. 1797, Laws of State of Vermont Revised and Passed by the Legislature in 1797 (Rutland, 1798), 431-46.

³⁹Act passed 27 Aug. 1798, Emmons Clark, History of the Seventh Regiment of New York, 1806-89 (New York, 1890), I, 37. Hereafter cited as E. Clark, Seventh Regiment.

the appropriate balance of numbers between the two types. In order to preserve the strength of the independent corps, it also prescribed that men joining them not return to the standing militia throughout the remainder of their service.⁴⁰ South Carolina formed its cavalry and artillery into higher units and made efforts to bring the former to full strength by permitting troop captains to recruit from exempts.⁴¹

Georgia noted that many officers had not been "sufficiently instructed in the practice of discipline prescribed by Congress," and required that field officers undergo a two day training period once a year and company officers twice a year. It also directed that the company officers train their non-commissioned officers and privates in the Congressional discipline.⁴²

In addition to bolstering its artillery and cavalry, Vermont created an entirely new type of unit that in some respects resembled the "senior class" militia of Rhode Island. It authorized exempts to voluntarily form themselves into companies, incorporated these into the regiments from

⁴⁰Acts of May and Oct. 1797, dates not printed. Acts and Laws of the State of Connecticut, 1797 May Sess., 464, and 1797 Oct. Sess., 476.

⁴¹Act of 16 Dec. 1797, Elliot and Strobel, Militia System of South Carolina, Appendix, 45-46.

⁴²Act of 2 Feb. 1798, Horatio Marbury and William H. Crawford (eds.), Digest of the Laws of the State of Georgia, 1775-1800 (Savannah, 1802), 360-61. Hereafter cited as Marbury and Crawford, Digest.

which they were raised, and subjected them to the same duties and regulations as the regular militia. Once having joined such companies, members under the age of forty-five were permitted to withdraw only with the special permission of their regimental commanders.⁴³

The over-all results of the mobilization correspond closely to the results in 1794: some states experienced difficulty, and some did not. The comments of the Federalists, who doubted that most of the detached companies ever met for organization and training, may probably be taken at face value. The mobilization again disclosed widespread disarrangement in some states and the need for more artillery and cavalry. It also revealed the increasingly critical nature of the arms problem.

More Troubles Concerning Arms (1797-1801)

During the crisis of 1797 several other states came to grips with the arms problem. In March the legislature of Pennsylvania directed the governor to immediately purchase ten thousand stands wherever he could find them and to contract with American manufacturers for a second ten thousand, the whole to be of the Charleville pattern used by the United States.⁴⁴ In Delaware, the legislature authorized the

⁴³Act of 7 Nov. 1798, Laws of Vermont, 1798 Sess., Chap. 103, p. 81-84.

⁴⁴Act passed 28 Mar. 1797, James T. Mitchell and Henry Flanders (eds.), Statutes at Large of Pennsylvania

Governor to purchase slightly more than one thousand stands of the same pattern.⁴⁵ By February of 1799, Pennsylvania had arranged for the first ten thousand muskets and some were being delivered.⁴⁶ At about the same time the Governor of Delaware reported that he had been unable to find a supplier. Even if he had been able to locate the weapons, he continued, the price he was permitted to pay, \$12.00 a stand, would not have bought them.⁴⁷

Virginia's program, which called for the purchase of four thousand stands per year, one of the largest undertaken by any state, provides a graphic illustration of the difficulties and pitfalls involved in the procurement of arms during this period. The state, having also adopted the Charleville musket, established specifications that called for an exact copy, even to the details of appearance, the last being an unwise requirement that was to delay procurement. By the spring of 1795 no contracts had been let, but offers were being received from many small manufacturers,

(Harrisburg, 1896-1915), XV, Chap. MCMXL, 524-27. This act was suspended for two years on 11 Apr. 1799, but the contracts already made were to continue in force. Ibid., XVI, Chap. MMXCIII, 349.

⁴⁵Act passed 27 Jan. 1798, Delaware Laws, 1798 Jan. Regular Sess., 42-43.

⁴⁶From a speech by Gallatin in Congress on 23 Feb. 1799. Annals, 5 Cong., 3 Sess., 2979.

⁴⁷Delaware, Journals of House of Representatives, 4 Jan. 1799, p. 12-13 (Microfilm Collection of State Records, Library of Congress, Delaware, A 1 b, Reel 2, Unit 2).

the majority being local shop or mill owners.⁴⁸ John Strode of Culpepper, for example, wrote that he would manufacture four thousand stands complete, including bayonet, cartridge box, pan wiper, and picker for the touch-hole at \$15.00 a stand.⁴⁹

The governor apparently either doubted the ability of these small firms to fill large orders or thought that their prices were too high. At any rate in the summer of 1796, he sent an agent named Dawson to New England, the center of the American firearm industry, to investigate the possibility of arranging a contract there. In September, Dawson wrote from Boston that muskets were not available at the prices the General Assembly had contemplated. However, he suggested that James Swan of that city might be able to procure the arms in Europe at suitable prices.⁵⁰

Thus began what was certainly one of the most arduous commercial operations in our history. Swan, who had been directing the financial activities of the French Republic in the United States, was thought to be particularly qualified for the project because he had many business connections

⁴⁸W. P. Palmer, Virginia State Papers, VIII, 363, 403, 423, 506; IX, 12, 49.

⁴⁹Ibid., VIII, 357, also 430, 447.

⁵⁰T. Dawson to the Governor, 22 July and 11 Sept. 1796, Ibid., 380, 387.

in England and on the Continent.⁵¹ After long negotiations, he undertook in May 1797 to deliver four thousand stands within fifteen months at \$13.00 a stand.⁵² By subsequent contracts of January and April 1798 he agreed to furnish two additional units of four thousand each, the last at a price of only \$10.00 a stand.⁵³

Soon thereafter Swan went to Europe to purchase the arms. During the next three years he engaged in such an energetic buying search from country to country that he must have become as familiar to the frontier guards as their own officers. He could not obtain export permits from Holland and Great Britain. He had the muskets in his grasp at Liege, but France also refused the needed permit. As the time for the initial delivery approached in 1798 he obtained an extension and immediately asked for another. A few months later, he asked for a third.⁵⁴ By April 1799 some eight months after delivery should have been made, he had purchased the first unit of four thousand in Denmark and Germany, and twelve hundred had been transported to Hamburg for shipment. Due to the rigors of both the winter and the

⁵¹Dawson to the Governor, 11 Sept. 1796, Ibid., 387.

⁵²Ibid., 388-89, 419, 435-36.

⁵³Ibid., 460, 470, 473-74.

⁵⁴James Swan to the Governor, 22 May and 11 Dec. 1798, Ibid., 485, 531-32.

European war he did not think the remainder of the unit could be shipped until after the first of July.⁵⁵ Another year passed before he was able to write from the same place that the second of the three units was ready for shipment. Much time had been lost, he complained, because in order to meet the specification as to appearance he had been forced to have the locks manufactured separately.⁵⁶

Meantime, as the shipments began to arrive, Robert Pollard, Swan's agent, found that his troubles were just beginning. Virginia refused to accept the first four thousand at the agreed price because of their poor quality. Pollard dropped the price to \$11.00 and then to \$10.00 with no results.⁵⁷ The arms were then evaluated by a commission representing both sides, but the governor refused to approve the findings.⁵⁸ Though an agreement was finally reached,⁵⁹ this controversy over quality and price dragged on as new shipments were received until May 1801 when Swan sold his interest in the contract.⁶⁰

⁵⁵Swan to Robert Pollard, 28 Apr. 1799, Ibid., IX, 21.

⁵⁶Swan to Pollard, 12 Apr. 1800, Ibid., 106-07.

⁵⁷Pollard to the Governor, 21 Oct. and 21 Nov. 1799, Ibid., 51, 58.

⁵⁸Ibid., 71, 99, 100-01.

⁵⁹Ibid., 109.

⁶⁰Ibid., 206 and passim.

As soon as it became apparent that the Swan arrangement left something to be desired, Virginia began to search for new sources. In May 1798 it again sent an agent to the East, but he was unable to find a supplier.⁶¹ In April of 1800 the state finally made a contract for four thousand stands with Robert McCormick of Richmond, but for a long time this promised as much excitement and no better outcome than the Swan agreements.⁶² The results of the five year effort can be seen in a treasury report of March 1800. Out of a total of \$199,000 appropriated for arms the state had been able to actually spend only slightly more than \$55,000.⁶³

Progress on the planned arsenal or manufactory of arms was not much more rapid. Months were consumed in the selection of a location, and more were lost while the architect and designer, John Clarke, went east to inspect Springfield and other arsenals. Finally in January 1798 the legislature authorized the project, and in July of the same year Clarke was ready with drawings and cost estimates. A year and a half had passed since the undertaking had been initiated, and though construction was soon begun it too went slowly.⁶⁴

⁶¹Ibid., 468-69.

⁶²Ibid., 111 and passim.

⁶³Ibid., 203.

⁶⁴Ibid., VIII, 455-57, 466-68, and passim. Act passed 23 Jan. 1798 (Section VII), Virginia Acts, 1797 Dec. Sess., 12.

As fear of war reached a peak in 1798, the federal government took steps, though they were hardly sufficient, to cope with the lack of arms. The Provisional Army Act of 28 May 1798 authorized the President to lend cannon to militia units desiring to become artillery men and all types of equipment, including field pieces, small arms, and accoutrements, to any part of the militia called into the federal service. In order that cavalrymen might be supplied under the latter provision, the act also authorized the President to buy headgear, sabres, and pistols to equip four thousand troopers. The supplementary act of 22 June 1798 permitted him to lend both artillery and small arms to the associations for use in training.⁶⁵

While none of these provisions helped to put arms permanently into the hands of the militia at large, the act of 6 July 1798 was directed to this end. It authorized the government to procure thirty thousand muskets for sale to the states or directly to their militia and required that the arms be deposited at convenient places to make such sales easier. It also permitted the President to issue the arms remaining unsold at any time to militia units called into actual service.⁶⁶ This act hardly resulted in immediate benefits. By December 1800, according to a charge made in

⁶⁵Annals, 5 Cong., 3729-32 (sections 11, 12, and 13), 3743-44.

⁶⁶Ibid., 3752-53.

the House of Representatives, not a single stand had reached the hands of the troops.⁶⁷

During and after 1798 several other states joined the list of those taking measures of their own to provide arms. The Georgia legislature provided for the purchase of one thousand muskets and bayonets, five hundred pairs of horseman's pistols, and five hundred swords, all to be sold to militiamen at cost plus charges.⁶⁸ In New Hampshire, after the Governor reported a severe shortage of fieldpieces among the artillery companies,⁶⁹ the legislature resolved that the state provide each such company with at least one cannon.⁷⁰ Meanwhile, Virginia, no new hand at the business, began to lay in cavalry equipment for six hundred men and attempted to purchase cannon from the United States. The Secretary of War refused to sell the wanted pieces, but he did offer to assist in their purchase from manufacturers.⁷¹

⁶⁷From Samuel Smith's speech on the reduction of the artillery, 17 Dec. 1800, Annals, 6 Cong. 2 Sess., 832.

⁶⁸Act of 18 Feb. 1799, Marbury and Crawford, Digest, 363.

⁶⁹New Hampshire, Journal of House of Representatives, 1798 June Sess., 21. (Microfilm Collection of State Records, Library of Congress, New Hampshire, A 1 b, Reel 3).

⁷⁰Act of 21 Dec. 1799, New Hampshire Laws, 1799 Dec. Sess., 547.

⁷¹Act passed 23 Jan. 1798 (Section VIII), Virginia Acts, 1797 Dec. Sess., 121. James McHenry to the Governor, 3 Aug. 1798, W. P. Palmer, Virginia State Papers, VIII, 507.

Maryland in establishing heavy penalties for attending musters without arms, an offense formerly subject to a fine of only one cent, made a sweeping change that recognized the arms problem.⁷²

In Virginia, for which the data is most complete, the Governor between 1798 and 1801 received some thirty requests for arms. These came from units of all sizes and all types, including volunteer organizations.⁷³ Some of the letters were impatient:

The imbecile situation of the company of militia under my command for want of arms . . . induces me to apply to your excellency for as many firelocks . . . as will be sufficient to arm my company, which consists of 85 men. There are not more than half a dozen firelocks belonging to its members which are fitted for warlike operations; many are totally destitute of any sort of gun.⁷⁴

In response to such requests as these, the state distributed 1558 muskets in 1798 and 1799.⁷⁵ In 1800 distribution on a much larger scale was begun when the legislature took a hand. Until this time the matter had been handled on a more or less haphazard basis with the governor approving or disapproving the requests as he saw fit. Under

⁷²Act of Nov. 1798, William Kilty (ed.), The Laws of Maryland (Annapolis, 1800), II, Chap. C, Section XV.

⁷³W. P. Palmer, Virginia State Papers, VIII and IX passim.

⁷⁴William Ludwell Lee to the Governor, 9 July 1798, Ibid., VIII, 497.

⁷⁵"Statement of Public Arms," 22 June 1799, Ibid., IX, 31-32.

the new act, he was required to deliver to the regiments in proportion to their strength two-thirds of all small arms on hand and under procurement. The act also established a uniform system of accountability using receipts and provided heavy fines for the embezzlement of state-owned weapons.⁷⁶

Since the state had almost eight thousand weapons in stock in April 1799,⁷⁷ before the first Swan shipment arrived, and orders that totalled sixteen thousand under the Swan and McCormick contracts, the numbers involved far exceeded those of earlier issues. Reflecting both the magnitude of the logistical problem and the delay that always characterized militia affairs, work lagged and the distribution was not completed until November 1801.⁷⁸ It appears that arms were not sent to all regiments as the law seemed to require but only to those in selected counties.⁷⁹

The "Associations" of 1798-1801

In 1798 the President began to accept on a readiness basis the services of special volunteer companies or "associations." The question as to whether these units were regular troops or militia had brought on hours of argument in the

⁷⁶Act of 28 Jan. 1800, Virginia Acts, 1799 Dec. Sess., 26-27.

⁷⁷Quarterly return of arsenal at Point of Fork, W. P. Palmer, Virginia State Papers, IX, 15.

⁷⁸Ibid., 219.

⁷⁹Ibid., 122-23.

House.⁸⁰ While theoretically they may have been a kind of hybrid, they will be treated here as militia on the practical consideration that they were not constantly embodied like regulars. They would constitute a fighting force only when specifically called out.

The President's authority with regard to these units was defined by the Provisional Army Act of 28 May 1798 and the supplementary act of 22 June of the same year. Under these measures he was permitted to accept such units during a period of three years after 28 May 1798 and to call any of them to active service during the two years following acceptance. Thus a unit accepted on 28 May 1801 might be called up as late as 28 May 1803. The President was also authorized to appoint the officers of these corps, prescribe rules and regulations for their government, and lend them federal arms for use in training.⁸¹ Under the Eventual Army Act of 2 March 1799, he was empowered to organize them into regiments, brigades, and divisions and to employ them under the same circumstances that he might use the ordinary militia. This last act also limited the number of the volunteers he might accept to seventy-five thousand and apportioned them

⁸⁰See above pages 229-230.

⁸¹Act of 28 May 1798, Section 3, and Act of 22 June 1792. With regard to equipment, the first of the two acts required that the men arm, uniform, and equip themselves. See above pages 227-28, 233-34.

among the states and territories.⁸²

While the law had specifically referred to companies of volunteers "who may associate and offer themselves," it was silent as to how the resulting "associations" were to be formed. On 1 November 1798, the War Department published a circular to clarify this and other practical questions that had arisen. This document interpreted the law to imply that the companies follow the federal tables of organization for infantry, cavalry, and artillery, as the case might be. It advised that the members of each unit sign articles of association, which would form "the essence of the engagement with their country." The articles would thus bind each man to accept the rules and regulations prescribed by the President and to serve when called upon. In order to avoid the possibility that disaffected persons might offer themselves, it further required that each company provide itself with certificates "from prominent and known characters, setting forth the principles of the associates, those of the Officers elect especially." With this proof, the company's choice of officers, the circular continued, would generally be respected. Companies having complied with all these requirements might formally offer their services to the President.⁸³

It will be seen that both the law and this circular

⁸²See above page 242.

⁸³Letter, War Office of the United States, 1 Nov. 1798, Broadside Collection, Portfolio 224, No. 7 c, Rare Book Room, Library of Congress.

placed the associations under complete federal control. They were to be raised without the intervention of the states, they might be called into service without the consent of the states, and the President was the sole judge of their qualifications for acceptance. Furthermore, he was to appoint their officers, provide them with arms as required, and devise their regulations.

Unfortunately most of the War Department records relating to these companies were destroyed by fire in 1800.⁸⁴ The limited data available from less comprehensive sources indicates that the mobilization was successful and that its history was deeply entangled in the political passions of the day. The series of events that occurred in Philadelphia beginning as early as 1797 provide the best illustration of the latter point. When the adjutant of certain city units ordered a parade to welcome the President on his return to the city in the fall, the Aurora published letters objecting to the display and charging that an effort was being made to convert the militia into "servants in livery." Although it was planned that about one thousand men participate in the event, the Aurora reported that less than one hundred actually turned out, some companies having less than ten men.

⁸⁴A search of the material in the Old Army Section, National Archives, revealed practically nothing for the period prior to 1801. The fact that the records concerned were destroyed by fire is clearly implied in letter, War Department, Office of the Secretary, to Joseph C. Boyd, 19 Feb. 1802, "Military Book I A, 1800-03," MS, Old Army Section, National Archives.

Though this report must be evaluated for bias, it reveals that many militiamen had begun to put their political feelings ahead of their militia responsibilities. As time passed the internal split that this produced became more pronounced, and by May 1798, the month in which the Provisional Army Act was passed, the First Light Infantry was openly described with the phrase sans-culottes in recognition of its pro-Republican and pro-French sympathies.⁸⁵

Soon after the passage of the federal act when Governor Mifflin called upon the officers of the militia to support defense measures, the officers of the city brigade immediately adopted resolutions assuring the governor of their complete cooperation. The officers of the county brigade were neither as prompt nor as enthusiastic in their reaction. Though they finally agreed by a heavy vote to comply with the governor's request, they also accepted an address criticizing overly hasty action and expressing gratitude to France for her assistance in the Revolution.⁸⁶

The formation of the associations during the summer of 1798 reflected the deepness of the split that had developed. McPherson's Blues, composed primarily of Federalists and strengthened by several new companies, immediately volunteered its services. Several other organizations that were

⁸⁵J. Thomas Scharf and Thompson Westcott, History of Philadelphia 1609-1884 (Philadelphia, 1884), I, 490, 493.

⁸⁶Ibid., 493-94.

probably dominated by Federalists, including Lieper's Light Horse, the Philadelphia Blues, the First Green Infantry, the Germantown Infantry Blues, and the Northern Liberty Blues, also enrolled.⁸⁷ Meantime, in order to counterbalance McPherson's Blues and the other Federalist units in the city, the Republicans formed a military association of their own. Known as the "Militia Legion of Philadelphia," it was composed of all the uniformed companies that were essentially Republican in membership. Since these several units were apparently already in existence, there is more than a suggestion that men of a feather had been flocking together for military purposes for some period of time. On the other hand, the possibility that Republican purity had resulted from the gradual withdrawal of non-Republicans cannot be completely ignored. All members of the "Republican Legion," as the organization was more popularly known, were required to subscribe to a kind of test oath signifying their devotion to Republican principles and their determination "to support the laws and republican institutions of the general and state governments."⁸⁸

That the partisan quarrels of the time should have split the militia is hardly a matter for wonder. The Federalists themselves had opened the way for the prevalent emotions to penetrate and divide the troops. In the volunteer

⁸⁷Ibid., 494-95.

⁸⁸Ibid., 495.

associations they had intended to create a distinctly partisan force, and the ultras in Congress, such as Robert Goodloe Harper, had hardly disguised this fact. The War Department circular with its requirements that practically excluded non-Federalists from the associations did little to allay Republican apprehension. In the face of these circumstances and rising fears of suppression, the Republicans in Philadelphia, the center of partisan strife, had reacted in the only way that seemed open to them.

This side-by-side existence of rival military units may provide one of the darker pages of the peacetime history of the militia, but its significance must not be misinterpreted. While the members of the two sides may have jeered at each other, there is not the slightest indication that they intended matters to come to blows. In this respect, the Republican Legion, which is known to have been active and influential in public affairs,⁸⁹ probably assumed more the character of a political action group than that of a private army. The public attitude toward the associations appears to have been dependent upon one's political persuasion. Thus when riots occurred at Northampton, Massachusetts, during Fries' Rebellion, "a Dedham High Federalist" gleefully remarked that McPherson's Blues would "soon dish . . . up" the troublemakers. Dr. Nathaniel Ames, the "Jacobin" zealot,

⁸⁹Ibid.

overhearing this, referred to the associations as "a standing army of mercenaries."⁹⁰

Despite the strong feelings that the associations aroused in many people, they appear to have been formed in sufficient numbers to satisfy the expectations of the administration. In a letter to the President on 5 January 1800, Secretary of War McHenry wrote that they provided a valuable reserve for reinforcement of the regular army. When completely organized into higher units, he added, they would also serve as forces around which the militia could rally in times of great emergency. He was so impressed by their efficacy and low cost that he thought the system which provided them should be made a permanent feature of our military arrangements.⁹¹ The associations actually attained a certain continuity during the three years they were authorized. By the fall of 1800 the President had begun to renew his acceptance of companies whose initial terms had expired. At least one such company, the Portland Volunteers, served out two terms and volunteered for a third. Companies were still requesting renewals in February 1802, nine months after the

⁹⁰Charles Warren, Jacobin and Junto: or Early American Politics as Viewed in the Diary of Dr. Nathaniel Ames, 1758-1822 (Cambridge, 1931), 125.

⁹¹American State Papers, Indian Affairs, I, 137. The same letter also appears in Annals, 6 Cong., the relevant material being on page 1409.

legal acceptance period had expired.⁹²

McHenry's comments as to the general excellence of the associations appear to have been substantially correct. Unlike the detachments of previous years they constituted something more than a mere list of names on paper. The procedures by which they were raised, as outlined in the War Department circular, insured that they be completely organized. The fact that they were composed of men living in the same neighborhood or locality permitted them to function as units. The detachments, formed under less effective regulations and composed of men living in different places, were denied both these advantages.

In further assessing the efficiency of the associations the questions of federal control, arms, and partisan character must also be considered. The first of these was partially responsible for the superior organization of the units, and it probably cut weeks from the time that would have been required to embody them for action. Indeed these troops reflect many of the advantages that might have been obtained from a national militia. While no data is available as to the way in which they were armed, it should be remembered that their members came primarily from upper

⁹²War Department letter, 18 Nov. 1800, file copy unsigned, to Joseph Coffin Boyd of the Portland Volunteers. "Military Book 1 A, 1800-1803," MS, Old Army Section, National Archives; War Department letters, Office of the Secretary, to Jonathan Winslow and to Joseph C. Boyd, 18 Feb. 1802 and 19 Feb. 1802 respectively, Ibid., 152-53.

economic groups and that the President was permitted to lend them arms. These considerations point to the probability that they were much better equipped than the detachments had been. The partisan enthusiasm of the men was undesirable, but it was not without some value. It no doubt lent the associations the interest, unity, and stability that accounted for the numerous instances of re-volunteering.

During this period the states did not neglect the militia simply because the associations had been formed. As usual in times of real or assumed danger, they made efforts, as reflected in the many amendatory laws, to improve the efficiency of their troops and prepare them for possible action. In most cases the new acts indicated the continuing need for more artillery and cavalry and the prevalence of the same kind of disorganization that had existed in 1794 and 1797. Among the states attempting to bolster the two special arms were New York and Virginia. The former increased the tax exemption of artillerymen to five hundred dollars, and the latter in order to stimulate enlistments in all volunteer corps provided that no one enlisting in such units be held to a longer term of service than five years.⁹³

In South Carolina, if the supplementary militia act

⁹³E. Clark, Seventh Regiment, I, 36; Virginia Acts, 1799 Jan. Sess., 3-4.

of 20 December 1800 is any indication, disorder and disinterest had eaten away at the efficiency of the system like the rust on a typical militiaman's rifle. The act pointed to the prevalent lack of "due subordination and obedience to orders" and prescribed corrective measures for such infractions as disobedience by officers, refusal of householders to give information for the military census, neglect of company commanders to muster their units as required by law, and refusal of companies to elect officers. Other corrective provisions of the act indicate that many volunteer companies were moribund, that fines were not always being collected, and that men not members of companies were voting in company elections.⁹⁴

Georgia reorganized and consolidated the company and battalion beats,⁹⁵ and North Carolina made increases that ranged from two hundred to almost five hundred percent in its fines for failing to attend musters and attending without arms. It also established a fine of twenty-five percent of the last public tax paid by the offender for failure to turn out on alarms. This new fine, which was substituted for the old flat charge of two pounds, would

⁹⁴Elliot and Strobel, Militia System of South Carolina, Appendix, 52-54.

⁹⁵Marbury and Crawford, Digest, 362-63.

of course, cost some offenders less and some more than they formerly would have been required to pay.⁹⁶

⁹⁶The act was passed in 1800. James Iredell, The Public Acts of the General Assembly of North Carolina, Containing the Acts from 1715 to 1803, Revised and Published under the Authority of the Legislature (Revised by Francis Xavier Martin: Newbern, 1804), II, 159-65.

CHAPTER X

SUMMARY AND CONCLUSIONS

The struggles over American military policy between 1783 and 1800 must be viewed as a part of the general conflict between the nationalists and the anti-nationalists. The former in their continuous efforts to obtain relatively large federal armies and to bring the militia under greater federal control provided the central themes. Their opponents saw in these themes serious threats to their determination to preserve unimpaired the powers of the provincial governments. On their part, these advocates of the rights of the states favored more or less complete reliance on the militia with only token standing forces.

It was under great disadvantages that the nationalists tried to strengthen the army. Their opponents had encircled a military philosophy of doubtful value, since it assigned fictitious merits to the militia, with ramparts made of two kinds of almost impenetrable masonry, the militia myth and the fear of regular troops. From time to time, particularly during Confederation days and from 1794 on, they also pointed to the high costs of standing troops with great

effect, and throughout the period under consideration they brought forward many subordinate arguments. The nationalists were able to break through these formidable defenses on only a few occasions, as in 1792 following St. Clair's defeat and in 1797-1800 during the French crisis. Their gains at the end of the period were minor. They were little, if any more successful in reforming the militia, though they did put through the Uniform Militia Act of 1792.

These failures meant that the military lessons of the Revolution made no lasting imprint on American military policy. The old dual system with its inadequate numbers of regulars and its variegated, inefficient militia continued to live out its useless life. However, it should be emphasized that the nationalists never attempted to destroy the system as such. Their purpose was to perfect and balance its two components. In view of the Revolutionary experience, one might wish to criticize them for not trying to abolish the militia, thus doing away with the dangerous and wasteful dualism. This, however, would have required constitutional changes that could not have been obtained; and, if this consideration were not enough, such action would have been impossible for other reasons.

It would have gone far beyond the best military advice available. It would also have had to overcome in a moment the great weight of more than a hundred years of tradition concerning both the value of the militia and the

rights of the states. Furthermore, it would have been necessary to find the funds to support many times the few federal troops that otherwise seemed to be sufficient. This, of course, would have been a manifest impossibility. A single system based on regulars may be better than a dual one when no special historical conditions must be considered as a part of the problem. Unfortunately, such considerations usually form the essence of the question. The nationalists, though they made no effort to abandon the militia entirely, knew that regulars were superior to militia. They also knew that a military system must be acceptable to tradition, to the pocketbook, and to political realities. All of this is to say that the efficacy of military policy must be evaluated in the context of its era.

The Military Policy of the Confederation

After the Revolution the military problems of the United States consisted primarily of the defense of the frontier and the preservation of public order. Although they might have been substantially solved by the establishment of an army of about three thousand men, as Washington and other military leaders recommended, Congress seemed to be incapable of any firm action at all. It was handicapped by constitutional reservations, by the growing fear of standing troops, and by the lack of funds. To further burden those who wanted sizeable federal forces, the voting rules

of the Confederation sometimes permitted the anti-army minority to have its way.

The constitutional issue concerned the question of whether or not Congress had the authority to raise troops in time of peace. Hamilton in the report of the military committee of 1783 resolved the two conflicting opinions in favor of the Union. However, his arguments, which proceeded from logic as much as from sentiment, had no more effect upon the essentially emotional attitudes of his opponents than an arrow fired into the stockaded walls of Fort Mifflin. Constitutional scruples at this time appear to have been more prevalent in New England than elsewhere. The historian is at a loss to get at the reasons for this, but he may suspect the sincerity of the Puritanical conscience. It may be more than coincidence, for example, that constitutional reservations and opposition to the half-pay and commutation acts were both centered in New England. Nor did that section have to face the Indian problem that existed in many of the other states.

The fear of standing armies may have been traditional, but it certainly fed and grew upon some of the incidents of demobilization. The rebellious activities of the officers at Newburgh, the mutiny of the Pennsylvania recruits, and the formation of the Society of the Cincinnati seemed to indicate that armies really were threats to liberty and republican government. The commutation act and the claims of the soldiers for back pay proved that they were also threats to the

pocketbook. All of this made a powerful combination that influenced American military policy for years. However, both the average American and the doctrinaire army-hater reserved the right to choose between dangers. When the Indians raised his tomahawk on the Northwest frontier and Shays poised his men for a foray on Boston, few people were in doubt as to where the most clear and imminent danger lay.

The financial problem was not susceptible to solution by any such easy means. It was frightened away neither by the Shawnee nor by the regulator, and the efforts of nationalists like Hamilton and Madison to obtain independent funds did not cause it to disappear. While the minds of men might change, the empty treasury seemed to go on forever. Without money, armies of the size necessary could not be raised. Delegates to the Congress may have argued about the constitution and about standing armies, but these arguments affected only the control of the troops. Lack of funds set the number.

However, the main apparent issues varied from year to year. Constitutional scruples determined the military policy in 1783 and 1784, and as a result no real federal forces were raised. In 1785 the expectation that sales of the Northwestern lands might bring coins to the coffers induced Congress to order the enlisting of a few federal troops. In 1786 the rebellion in Massachusetts dictated the raising of some reinforcements. From 1787 to the end

of the Confederation's stormy life the lack of money was the main factor. During this last period the financial pinch was so severe that enlistments were stopped, and it became necessary to think in terms of militia rather than additional federal regiments when the Indian troubles became more serious in the Northwest, the primary arena of the Congressional troops in service.

The voting rules of the Confederation required nine votes to pass any measure of importance, including most military measures. Since more than ten or eleven states were seldom present, such a majority was almost impossible to attain, and as a result the real sentiments of Congress were sometimes obscured. In 1784, for example, a majority of the states favored the raising of a federal army by requisition. Since they were never able to muster the nine votes, Elbridge Gerry and the New England bloc with its three or four votes prevailed. Gerry on one occasion even utilized the rules to strike out a provision by moving that it stand. The provision could be defeated by three votes through the use of this strategem, whereas a move to strike would have required nine. The minority and not Congress as a whole should be blamed, to the extent that blame is due, in this case and most others for the failure of the Congressional military policy.

Such measures as Congress did take to provide federal troops were poorly executed. The system by which the states themselves actually enlisted the men precluded rapid action.

Delays were experienced while the legislatures passed special laws and tried to find the money for recruiting expenses. The lost time was particularly great in the many cases in which the legislatures did not happen to be in session at the moment. Nor were the states always able to raise their full quotas. Only 580 of the 700 men authorized in 1785, and only 510 of the 1340 voted in 1786, were ever enlisted. The failures resulted from lack of funds, from the failure of the legislatures to pass the required laws, and from the difficulty of finding men willing to fight Indians in Ohio without the positive assurance that they would receive their pay.

The truly national force disappeared when the army was discharged in 1783. Thereafter the few troops under federal control were provided by the states of the Northeast. Nor were they employed on a nationwide basis. While their numbers may have been too few to permit their dispersion all along the frontier, it is also true that Congress never seriously considered the raising of troops for use anywhere except in the Northwest. It was no coincidence that this was the only territory owned by the nation as a whole. Congress would look after its own frontier areas, from which money might be obtained, and the states could look after theirs.

Following the Revolution most Americans put aside whatever interest they may have had in the militia. As a

result the wartime organization, such as it had been, virtually disappeared in many states. One of the most competent military observers of the day attributed these conditions to defects in the laws, to the lack of enforcement, and to the losses of income suffered by militiamen attending musters. These factors, however, did not operate on the frontier, where the Indian was a constant danger, and in a few other places, such as New York City, where enthusiasm ran high for the moment.

Into this atmosphere of indifference, reformers introduced new plans for the radical reorganization of the militia by the national government. All of these plans were based on a new understanding of the militia problem. The experiences of the war had indicated that a small, highly-trained select corps was preferable to great masses of untrained troops. Each of the plans provided for such a corps, and all except one relegated the general militia to reserve status. That one (von Steuben's) dispensed with it entirely. The plans suggested three different principles by which the select corps might be set up:

(1) By the organization of a Continental militia (von Steuben).

(2) By the establishment of a military class composed of young men between eighteen and twenty (Knox).

(3) By the formation of special units--"light companies" or "trainbands"--in the militia at large (Washington and Hamilton).

Other features of the plans may be seen in the following tabulation:

TABLE 2
COMPARISON OF PLANS FOR THE ORGANIZATION
OF THE MILITIA

plan	age requirement	service	term of service	training days per year	cost per year	total strength
Washington	none(?)	oblig. or volun.	3-7 yrs.	12-25	---	40,000
Hamilton	none	volun.	8 yrs.	24	\$ 60,000	8,000
Von Steuben	18-24	volun.	3 yrs.	31	\$315,000	21,000
Knox	18-20	oblig.	3 yrs.	42	\$735,000	45,000

The Congress failed to adopt any of the plans. The public was uninterested, the estimated costs were high, and there was no immediate military threat to make reform either desirable or imperative. The fact that the plans all called for national action might have been expected to bring down the denunciations of the anti-nationalists, but they too appear to have been slumbering in the bivouac of indifference. If they had been more awake they might have pointed out that the powers of Congress relating to the militia were practically non-existent. It might have recommended one of

the plans to the states, but it could not force them to accept it.

The frontier south of the Ohio was under almost constant Indian attack from 1783 to 1789. The failure of North Carolina and Virginia to send military aid to their colonists in East Tennessee, Kentucky, and Cumberland resulted in separatist movements in all these areas. In East Tennessee the military state of Franklin arose, fought innumerable engagements with the Indians, skirmished with the North Carolina Loyalists, and disappeared, leaving nothing behind except the incomparable legend of its fighting men. The history of Franklin affords one of the rare demonstrations of the fact that militiamen can be good soldiers. The excellence of its troops rested upon good leadership, plenty of fighting, and the military esprit that comes from a tradition of victory.

A neglected aspect of the history of the militia during the Confederation is the role that it played in the land conflicts and new state movements of the period. Such conflicts occurred in Franklin and also in the Hampshire Grants and in the Wyoming Valley. Each case had its own distinguishing features. In Franklin the militia was the fountainhead of the separatist movement and the pillar of the new state. In the Hampshire Grants the troops of New York and Vermont came to blows in the pursuance of the formal policies of the two governments. In the Wyoming Valley

a land company organized its own private militia to protect its claims against Pennsylvania, which had employed force. The use of the militia by Pennsylvania, however, appears to have been a phenomenon of the power of land speculators in the legislature, and it was brought to a halt when other elements of the government protested.

These troubles pointed to certain dangers inherent in the existing military system. Although Congress could have prevented the states from raising standing armies, it had no control over their use of their own militia forces. Nor could the provision of the Articles that forbade the states to make war be conveniently invoked, for the old states looked upon the conflicts as insurrections, not as wars. Indeed, Congress, far from being able to interpose its power to stop the fighting, might be called upon to help put down the "revolt." This happened in the Wyoming troubles in 1788, and only the general sympathy for Vermont both in New England and in the federal army prevented its happening in the Hampshire Grants. Shays Rebellion, in which the militia organization of Massachusetts provided fighting men for the insurgents, again showed that the central government could be forced to pit its armies against provincial troops.

Federalist Military Policy

The new Constitution greatly increased the military prerogatives of the central government. It vested the command

of the federal troops in the President, gave him the right to select the officers, and provided the means whereby funds could be raised for the maintenance of armies. Despite these steps in the direction of central control of military affairs the conflict between the nationalists and the anti-nationalists continued without diminution. As in the past, the former pressed for large standing forces and the federalization of the militia. The latter opposed both of these objectives and insisted that every military threat be met with large bodies of militia.

During the first four Congresses the nationalists (or the Federalists after about 1793) met with some success in their constant effort to augment the regular forces. Under the pressure of the Indian threat in the Ohio Country, they put through army increases each session until the Legion of the United States was finally formed in 1792. The legion's victory at Fallen Timbers in the summer of 1794 resolved the Northwestern Indian problem for the moment. However, new dangers appeared as England preyed on American commerce, and the military situation was complicated by an increase in the activities of the Algerian corsairs. The Federalists demanded and got a navy for use against the latter. They also proposed large additions to the army, which were defeated by the Republicans in the House on three different occasions in the spring and summer of 1794. However, the Congress did place a detachment of eighty thousand militia in readiness.

There is more than one reason to believe that the Federalist insistence upon more regular troops during part of this period was based to a large extent upon domestic considerations. The Federalists wanted no war with Great Britain, but they did fear the Jacobin clubs that had appeared in many cities and the general leveling influences of the French Revolution. They were also aware of the growing resistance to the excise tax in Western Pennsylvania and a few other places. They appear to have looked upon the troops that might be raised to counteract such disturbances as a final safeguard, a dernier resort. The greatest paradox of early American military history lies in the fact that Republican fears of suppression and federal military intervention were attached to the regulars but that the militia was invariably utilized for such purposes, as in the Whiskey Rebellion.

Republican arguments against military increases were usually based upon such fears. They ceaselessly put forward the militia as a substitute for more regulars in times of danger and stress. This made it necessary that they develop a whole series of arguments pointing not only to the superior desirability of the militia but also to its greater efficiency. It was composed of a better class of men, it knew the terrain, it knew the Indians, it had a long history of successes both in the Revolution and in Indian campaigns, and so on. After 1794 the primary emphasis of Republican

objections on occasion shifted to the question of costs. Regulars were too expensive, no money was to be had to support them, and militia cost almost nothing. The increasing prominence of arguments based on costs did not, however, mean that the fear of regulars no longer clutched Republican hearts. This fear and the complementary preference for the militia were like two good soldiers that never deserted.

At the height of the Indian trouble in 1792 the army had been built up to a total of five regiments of infantry (four of twelve companies each and one of eight), one battalion of artillery, and four companies of cavalry. During the British crisis in 1794 three battalions of artillery were added. By the mid-winter of that year most of the military threats, both on the frontier and on the seas, were disappearing. Though the Federalists were able at first to fight off Republican demands for military reductions, they finally gave way in the spring of 1796. At that time the strength of the army was set at four small regiments of infantry (eight companies each), the four battalions of artillery, and two companies of cavalry.

These reductions of force, however, were only temporary. Trouble with France on the seas, the growing Federalist fear of insurrection, and the XYZ incident brought new military increases during the Fifth Congress. These consisted of several small, immediate additions to the regulars, a provisional army, some volunteer associations, and an additional

army of twelve regiments, only a fraction of which was ever raised. They also included a measure to expand the unit strength of the regular regiments in case of war. When the provisional army expired in less than a year it was renewed as the eventual army. Navy increases including six ships of the line and numerous smaller vessels were also authorized. As in the past the military estimates of the administration were frequently pared down to meet Republican objections.

President Adams, who wanted no war with France, did not push military legislation with the same fervor as his predecessor. Indeed, Alexander Hamilton through his influence on Secretary of War McHenry and on many Federalists in Congress appears to have been the driving force behind most military legislation. He also suggested most, if not all, of the military programs that the administration presented to Congress. Some of his suggestions, particularly the provisional army and the expansible army, which first appeared in his committee report of 1783, were original and advanced. He thus emerged as the leading organizational theorist of the era.

Viewed in the perspective of the present day, the provisional army was in effect a federalized volunteer militia very similar to the current national guard. At the time, the Republicans were extremely doubtful of the constitutionality of such a force. During the debate on the measure they properly treated the troops as militia and pointed out that

the federal government could not legally appoint their officers. The Federalists avoided a show-down by maintaining that the provisionals were essentially regulars. The legislation, which was fabricated in the same arsenal as the alien and sedition acts, reflected the Federalist impatience with constitutional niceties.

Though no effort has been made in the present study to evaluate the ultimate political significance of the military measures of the Fifth Congress, they undoubtedly had an effect on public opinion similar to that of the alien and sedition acts. In all likelihood the role that is usually assigned to the latter measures as causes of the Federalist decline in 1800 should be shared on an equal basis by the provisional and additional army acts. In the provisional troops, the volunteer associations, and the army increases, these acts provided the largest peacetime federal force that had ever been authorized up to the moment. Fears of federal encroachment, military suppression, and dictatorship hardly failed to take notice, particularly in that Robert Goodloe Harper and other Federalist ultras had made no secret of their intention to use the troops to suppress trouble-makers if necessary.

The Republicans in opposing the acts made use of most of their traditional arguments. They emphasized costs somewhat less and the lack of any real need for military increases somewhat more than usual. Basic in their strategy

was an effort to substitute for the Federalist program a defense plan which called for a large detachment of militia similar to that of 1794. The Federalists, who saw no harm in the proposal, allowed it to ride through Congress and continued to enact their own measures providing federal or federalized troops. When the detachment expired, the Federalists in the Senate refused to permit its renewal.

In the Sixth Congress, rising public revulsion against the Federalists and the possibility of a settlement with France resulted in a return to peace establishments for both the army and navy. The few troops that had been raised for the additional army were discharged, and the navy was cut back to six frigates. Since the eventual army had expired with the close of the first session of the Congress, the army reverted to its strength under the act of 30 May 1796--four regiments of infantry, four battalions of artillery, and two companies of dragoons. With this disappearance of much of its army, the Federalist Party abandoned its military pretensions in favor of a new program calling for a small force of regulars, a military academy, and a better type of artillery.

The efforts to reform the militia that had been cut off by an indifferent Congress in 1783 were resumed in early Constitutional days almost as though there had been no interruption. The passage of a few years, however, had brought new complications to the problem. Formerly the federal government had possessed no constitutional powers relating to

the militia. As a result, the question of states' rights had been an absorbing but essentially abstract consideration. Under the Constitution, on the other hand, the militia powers of Congress were real and extensive. The states, or some of them, were alarmed by the implications.

Unfortunately these powers were not well defined in the militia clauses. The general statements delegating certain functions to Congress and reserving others to the states were subject to two widely variant interpretations. According to one, they permitted Congress to enter into "the minutiae of the matter," even to the extent of supervising training in the states. According to the other, Congress could do no more than lay down the most general regulations. Extremists went so far as to claim that it had no powers whatsoever except over troops called to the federal service.

Disagreements arising from the two incompatible interpretations dominated debates on militia matters. The most important subjects of conflict included the right of Congress to determine the composition of the militia and to require that militiamen provide their own arms. The authority of Congress to delegate to the President some of its responsibilities, such as the power to call out the troops in military emergencies, also brought on bitter words. These Congressional battles represented only one phase of a general war that was fought over the interpretation of almost every part of the Constitution.

Militia legislation during the early Constitutional period was also affected by a variety of other factors. These included such traditional shibboleths as the militia myth and the fear of regulars and such new influences as the rise of the party system and the success of French troops in Europe. Though the parties did not play an important role in the passage of the Uniform Militia Act of 1792, their militia policies became increasingly important as time passed. The French victories resulted for the moment in the addition of a new chapter to the militia myth, but fortunately for American military affairs the Federalists were able to tear the new pages from the book during a House debate.

All of the factors mentioned above were incorporated into the militia doctrines of the two sides. The nationalists (and their counterparts the Federalists) advocated the maximum possible extension of the federal militia powers. They thought the general government should define the militia, directly supervise its training, prescribe the arms requirements, and enter into the detail of every aspect of the militia life of the nation. The anti-nationalists (and their counterparts the Republicans) stood for the strict limitation of the federal militia powers in all of these respects and extolled the virtues of the existing or unreformed militia organization. Though they thought that the United States should rely only on the militia, they opposed the suggested reform bills because of their federalizing

features.

The era produced no new theories of militia organization. Though von Steuben's ideas had been discarded, bills were brought forward based upon the plans of Knox and Washington. In 1790 a fairly exact facsimile of the Knox proposals of 1786 drew little interest. During the same year a version of the Washington plan of 1783 was introduced as the Boudinot Bill. After it had been shorn of many of its most significant features, such as the federal inspectors, the segregation of the younger men in the light companies, and the provisions for federal use, it was reintroduced as the Wadsworth Bill, which was eventually passed to become the Uniform Militia Act of 1792.

The new act was severely criticized from the beginning. In the main, as the efforts to use the militia proved, it did not produce well-trained soldiers and an efficacious mobilization system. According to commentators, both contemporary and recent, it did not provide an adequate select corps, its requirement that all militiamen arm themselves was either unrealistic or ineffective, and it contained no enforcement provisions. In the last respect its execution was permitted to rest in the hands of the states, and the formation of an effective and uniform militia system depended upon their concurrent action. The act did, however, contain several constructive features, such as the uniform system of tactical organization, the incorporation of the independent

companies into the general militia, and the requirement that all states use von Steuben's training manual. Be all these facts as they may, the act was a product of the times. It was neither more nor less than the current states' rights influences, public indifference, and financial considerations permitted it to be.

From the passage of the act of 1792 to the end of the Federalist administrations in 1801, some effort was made in almost every session of Congress to further improve the militia. In January 1795 a bill containing a simplified version of the Knox plan was brought forward. It soon became standard and was reintroduced in session after session. It was rejected to the end. It seems to have failed as a result of the operation of the same factors that had determined the ineffectual form of the act of 1792.

Although the objective of the federal act as indicated by its title was to establish a "uniform militia," the laws the states passed to implement the act hardly achieved this end. Their provisions varied widely with respect to almost every requirement of the act. These variations in most cases reflected one or another of such influences as the persistence of characteristics of the old laws, regional differences in social organization, and so on. While the last named of these influences produced a few minor sectional patterns, it did not result in anything approaching sectional uniformity.

The more significant variations may be summarized as follows:

(1) Age of obligation. Five states departed from the standard, and in three of these large groups were excused from service as a result.

(2) Exemptions. Out of a total of some forty-four occupational groups, one state exempted three groups, one state forty, and the average for all states was nineteen.

(3) Tactical organization. Two states neglected to specify divisions and four left out battalions; the number of brigades per division was four or five in some states and two in others; the number of regiments per brigade varied from two to eight; and there was some variation in the number of companies per battalion.

(4) Selection of officers. Almost invariably general officers, adjutant generals, brigade inspectors, and regimental staff officers were appointed. Field officers of the line were elected in six cases out of the ten available and appointed in the remaining four. Company officers were elected in nine of twelve cases and appointed in three.

(5) Mobilization. Though some states neglected to establish procedures, twelve authorized the governors to call out troops in time of emergency, at least eight prescribed draft procedures, and most permitted the embodiment of complete units in time of sudden danger. Many also permitted the use of fines and substitutes in lieu of service.

(6) Training requirements. The number of musters per year varied from two to eight with the average being four and a half.

(7) Punitive features. Almost all states utilized fines rather than corporal punishment, and these varied widely from state to state for all offenses.

(8) Volunteer companies. Eight states required all five types of units, seven omitted one or more of the battalion types, and two omitted one or more of the brigade types. Ten states followed the standard proportions for the battalion companies. Four states adopted the standard proportions for the brigade companies; but among the remainder seven set limits for artillery that ranged from one to four times the federal minimum, and eight set limits for cavalry that ranged from one to eight times the federal minimum.

Few of these variations represented outright violations of the federal act. It should be remembered that the act left the questions of exemptions, number of training days, and selection of officers to the states. It was silent on the matter of penalties and mobilization. Furthermore, its requirements as to the composition of units permitted some latitude, and those governing volunteer companies were quite elastic. However, the differences do reflect the fact that the federal law permitted too much leeway in too many places.

Though the UMA failed to provide a uniform militia, it did result in some gains. More states adhered to the standards than violated them, and thus a certain measure of order was brought to the disparate establishments that had previously existed. While the President in ordering up troops might not get the same number of men in each brigade, he would obtain more brigades of the same size than he could have hoped for in the past. He would find that more of them contained the same types of sub-units and the same complements of officers and men. He would also find that the individual equipment and the training of the men were more uniform. In a word though the units might not be identical they would be considerably less non-descript than a few years earlier.

The Militia under the UMA

In the 1790's the militia was called out for a variety of purposes including frontier defense, the suppression

of public disturbances, and the discouragement of aggression. To give it its just due, it always straggled on to the field and stumbled through its duties. But this is about the best that can be said. Mobilization was frequently slow and cumbersome, the troops were usually poorly armed and poorly trained, and they sometimes contained too few artillerymen and cavalrymen. In many cases, the militiamen proved to be highly susceptible to the partisan passions of the day. To make matters worse, the federal government was sometimes unable to control their use by the states, and frequently the states found that actual control was in the hands of local commanders. Many of these defects pointed to deficiencies in the federal and state acts.

The draft system of mobilization provided by the laws of many states was seldom utilized. Virginia and Pennsylvania in the defense of their frontiers formed select corps of volunteers to serve for relatively long terms. In Georgia and the Southwest Territory complete units were frequently ordered out for short tours. When large numbers of troops were required for the detachments of 1794 and 1797, most states established unit quotas to be filled by volunteers. During the crisis of 1798-1801 special associations of volunteers were organized under federal supervision.

When the method of embodiment by volunteer quotas was employed in 1794 and 1797 many states encountered extreme difficulty in raising their men, and the mobilization

procedures that were part of the method proved to be inefficient. Many of the difficulties may be attributed to the general lack of organization among the troops of the states concerned. This condition resulted from failures to enforce the militia laws in such matters as the appointment of officers, the enrollment of the men, the holding of musters, and the making of returns. Neglect went so far in some states that it was hardly known whether or not the militia actually existed.

The procedures were so slow that months sometimes passed before the detachments were formed. While part of the delay was due to poor communications, and the lack of an immediate military threat, much of it resulted from the leisurely attitude of commanders, who seldom hurried to assign quotas to their subordinate units. Once the names of the volunteers had finally been listed on paper, the mobilization was considered to be complete. It is doubtful that the detachments were ever brought together to form companies and higher units.

The method of embodiment by complete units functioned much more satisfactorily. However, in the cases in which it was employed only a few men were involved. Furthermore, it was used for the most part only on the frontier, and in a few exposed coastal cities, where the militia was generally well organized and the emergencies were immediate and real. A large scale effort to raise troops by the method in other

areas might not have been so successful, particularly if the danger had been distant and illusory as it was in the years of the detachments.

In the most important case in which the draft was employed, that of Pennsylvania in the Whiskey Rebellion, it failed miserably. The state found itself forced to depend upon the persuasive powers of the governor and a special militia act permitting the enlistment of volunteers at large. The experience of Pennsylvania reflected two things, the political involvement of the militiamen and the lack of enforcement features strong enough to cause them to go against their political inclinations.

The lack of arms severely limited the effectiveness of the militia every time it was utilized. In 1794, according to the Secretary of War's estimates, only about one-fourth of all the militiamen in the country were properly armed. The experiences of the Whiskey Rebellion, during which two-thirds of the troops mobilized had to be supplied from the public stores, almost justified the Secretary's estimates. The shortages disclosed during the raising of the detachments of 1794 and 1797 made them appear overly optimistic.

The states took measures of their own to supply the needed weapons. Virginia, which had the most extensive program, issued large numbers of muskets to her troops from its existing supplies and entered into contracts to purchase four thousand new ones per year. This program failed, as did

those of other states, because of the worldwide shortage. In 1798, the federal government attempted to make arms available for sale to the militia, but by 1801 its measures had not delivered a single musket.

In judging the efficiency, or the state of training of the militia, one must distinguish between the cases in which it actually fought the enemy and those in which it did not. Disregarding the Northwest, the former are limited to the Indian campaigns south of the Ohio. Among the soldiers of this area, the Georgia militiaman spent much of his time marching part of the way to his objective, pausing to think things over, and then marching back home. Though he encountered the enemy on a few occasions, he had a tendency to find him in friendly villages rather than in his own more heavily defended lairs. The Tennessean, that is the militiaman of the Southwest Territory, appears to have been an entirely different article. Steady and resolute, he completed the campaigns he started, and he did not hesitate to search the enemy out. His superior qualities reflected good leadership and years of constant Indian fighting.

In the other cases there was little or no fighting. The huge force raised during the Whiskey Rebellion overawed the insurgents by mere weight of numbers. The Pennsylvania troopers sent after Fries did little more than scour the countryside for the rioters. The special units formed in 1794 and 1797 were not actually embodied, and the volunteer

associations that came later were never called into service. However, circumstances surrounding the raising of most of these forces, as reflected in corrective legislation, point to the conclusion that they could hardly be considered highly trained troops.

In the general case, whether on the frontiers or in the East, training deficiencies resulted primarily from the inadequate provisions of the state laws, which seldom required more than three or four muster days a year. In some states it was due also to the failure of the company officers to assemble their men even at these times. It may also be attributed in other cases to the inertia and disinterest that pervaded the troops. While a few states attempted to correct these last two conditions, primarily by instituting special short courses for the officers and by attempting to improve discipline, most did nothing. None attacked the main problem by doubling or tripling the number of training days.

Although many writers, including this one, consider the volunteer companies to have been the backbone of the militia system, their restricted opportunities during this period did not permit them to demonstrate their capabilities. The mounted companies that were used to the almost complete exclusion of other types of troops in Georgia and the Southwest Territory may have been composed of volunteers, but they did not constitute volunteer units in the sense that the term has been used throughout this study. In the Whiskey Rebellion

volunteer companies were the first to offer their services in Pennsylvania, and they made up a large fraction of the contingents of several states. However, since no fighting occurred, there is little basis for a judgment as to their efficiency. Volunteer cavalry did good work in Fries Rebellion, but again there was no fighting.

The disproportion between the infantry on the one hand and the cavalry and the artillery on the other resulted partially from the failure of the states to organize and maintain at full strength the quotas of the two special arms as provided by their militia acts. Even though this were the case, a new threat, the possibility of coastal landings, which could be effectively countered only with heavier firepower and greater mobility, increased the requirements beyond what the laws provided. Many states, led by New York, attempted to add new units of artillery and horse and to bring the existing ones up to their authorized strengths.

The fact that militiamen should have been stirred by social, economic, and political currents is hardly surprising. The Republicans were fond of referring to them as citizen-soldiers, and with so few muster days a year it is only natural that they should have been more of the former than the latter. The call of the trumpet hardly had the magical power to reverse these proportions with the first blast or even the tenth. That the carry-over of civilian opinions often constituted a danger, or at the least a major inconvenience, to

established government, there can be no doubt. The failure of the Pennsylvania draft in the Whiskey Rebellion amply illustrates this. The result could have been so serious that the lesson was not soon forgotten. In Fries' Rebellion a few years later the central government was careful indeed in the selection of the units it sent into the field. The lesson, however, was misapplied in the principles upon which the associations of 1798-1801 were formed. In deliberately creating companies of a certain political alignment, the Congress made inevitable the political split that occurred in the Philadelphia militia. That this did not produce serious consequences was due more to level heads on both sides than to lack of opportunity.

Nor was it surprising that in such places as Georgia, Kentucky, and the Southwest Territory the problem of control should have arisen. The general philosophy of the militia system itself was little help in this respect, nor were the poor communications that made it necessary to leave the ultimate authority to embody men in the hands of local commanders. The Constitution and the laws contemplated that the troops should serve the states on some occasions and the federal government on others. However, they neglected the equally important point as to whether the federal government could restrain or veto state use. Although the President might attempt to exercise such restraint by withholding funds, this expedient, in the initial stages at least, could be applied

only after the damage had been done, and it was always subject to nullification by a sympathetic Congress.

Local commanders paid little attention in many cases to higher policy in exercising the enormous powers that were necessarily delegated to them. While one may sympathize with the sufferings of the frontier settlers, he must conclude that the small raids so often employed in retaliation did little to alleviate the situation. Frequently directed against friendly villages, they solidified the opposition and brought counter raids in their turn. On the other hand, it must be admitted that large scale, well-conducted operations, such as John Sevier's campaign of 1793, could produce beneficial results.

It will be noticed that some of the defects discussed above were hardly susceptible to correction for practical reasons. Arms simply could not be obtained whether or not the militiamen were willing to buy them. The training days could not be increased beyond a certain total, probably not a great deal greater than that already in the laws, without seriously affecting the economic life of both the men and their communities. Nor could federal control over operations be expanded to any appreciable extent if the militia's essential character as state troops was to be retained, as the spirit of the time dictated.

There were two ways in which the arms problem might have been alleviated to some extent. The federal government

or the states might have bought up all the muskets in sight, grouped them into pools in the various communities, and permitted the several local units to use them in turn. Though there was little practice at targets, some such solution as this would have familiarized the men with the mechanisms of the weapons and the manual of arms. The other possible solution involves the reduction of the number of militiamen to parity with the number of arms. This would have required the abandonment of the principle of universal service in favor of complete reliance on some kind of strong select corps. It would also have necessitated the redistribution of the available arms, probably through public ownership as in the first case. Unfortunately no such solutions as these were politically feasible if for no other reasons than the shortage of money and the general animosity toward public ownership of anything.

The efficiency of the militia could have been improved through better use of the training days available. It should also have been possible through legislation and top-level supervision to correct the conditions that had led to disorganization in many states. While such legislation was passed by some states, it is doubtful that the necessary supervision accompanied it for any length of time. The control question might have been worked out in several ways. Congress might have made the reimbursement of militia that had engaged in campaigns completely dependent upon the

President's approval and stuck by its decision in the face of all importunities from frontier heroes. Closer liaison between the central government and the states concerned might have been equally effective. The Georgians, for example, might have learned that they were not considered orphans and outcasts at the same time that the United States went to the assistance of the settlers in the Northwest. Best of all, and of course completely unfeasible, would have been the exclusive use of federal troops on all frontiers.

A Requiem for Federalist Military Policy

Though the Federalists had enjoyed transitory successes, usually under the auspices of some severe military threat, their military program failed in the end. The militia act of 1792 did not provide a completely uniform militia nor even a reasonably efficient one as the experiences of the remainder of the decade showed. The military cuts made by the Sixth Congress left the regular forces with an authorized strength of 5038 enlisted men.¹ The fact that this was approximately six times the number inherited from the Confederation meant little. The addition of little more than four thousand men was a small gain for twelve years of hard effort.

A kind of requiem for Federalist military policy was intoned in December 1800 during the second session of the

¹Emory Upton, The Military Policy of the United States (Washington, 1917), 89.

Sixth Congress. It was Harrison G. Otis who said the last words and laid to final rest in the swashbuckling past all the ghostly array of federalized militiamen, provisional armies, additional armies, eventual armies, volunteer associations, and seventy-four gun ships of the line. In the debate on a typically prosaic Republican resolution to fix the strength of the second regiment of artillerists and engineers at three battalions instead of four, he urged his friends to oppose measures betraying "regret and contrition for the past" and hoped that they "would do nothing that should be construed into a death-bed repentance of a conduct which constituted their glory and their pride." It was a fitting salute that the Republican motion should have been rejected.²

Within a few weeks the Federalists themselves joined the dead symbols of their military might, never to return to power again. Their departure left the army that they had cherished and the navy that they had nurtured to the sharp hatchets and dour oratory of the Republicans. With them too went much of the color and excitement of the military scene. No longer, for good or bad, would it be enlivened by the imaginative organizational projects of Hamilton, the lionlike roars of John Allen, the mercurial virtuosity of Harper, and the matchless sarcasm of Dana. In the next years all of this would be replaced by the matter of fact monologues of the

²Annals, 6 Cong., 2 Sess., 821, 829, 836.

economizers, who smelled mustily of receipted bills stuffed in safes, cannon rusting in arsenals, and frigates laid up in mothballs. But this too would pass, for time was to prove that Hamilton and his colleagues were right--as to military theory, at least. They would have looked with familiar affection upon the regular armies and the highly federalized militia--or national guard--of the United States today.

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