Although a Maryland governor's use of military rule has never been at issue in the courts, Maryland's highest court long ago said of the governor's office: "The Chief Magistrate . . . of the State, bears the same relation to the State that the President does to the United States, and in the discharge of his political duties is entitled to the same immunities, privileges, and exemptions."[23] One may call to mind Little Rock and the recent Cambridge, Maryland, affair for a concrete example of the analogy of the president's and governor's military-executive powers.

The same constitution which recognizes the governor's authority to utilize the state's military arm to enforce laws and to quiet disorder also declares "That in all cases, and at all times, the military ought to be under strict subordination to, and control of, the civil power."[24]

This constitutional injunction would not preclude military rule being imposed upon a community by the governor for a proper purpose. Article 30 is not hostile to the use of military power, but rather only "contemplates the request of civil functionaries before the Militia may be called out to assist in the execution of laws."[25]

A more difficult question arises from Article 9 of the Declaration of Rights: "That no power of suspending Laws or the execution of laws, unless by, or derived from the Legislature, ought to be exercised or allowed."[26]

When a governor substitutes the militia in the place of a local civil authority in order to enforce the laws, may it be said that he thereby unconstitutionally "suspends the laws" by temporarily overriding the elected community officials? Put another way, may he suspend some laws in order to enforce others?

The probable answer lies in part in the legislative enactment set out above. Article 9 permits the suspension of laws if authority is "derived from the Legislature." The statute authorizing a "calling out of the militia" may be said to infer that the use of the military may embrace a reasonable, discretionary substitution of military rule for civil laws.

Furthermore, the statute provides that:

> "When the militia shall be on active service as herein provided, the commanding officer thereof, and his subordinates shall be . . . invested with all the authority of sheriffs, and deputy sheriffs, in enforcing the laws of this State, and they may cooperate with the civil authorities or take entire charge of the situation as in the judgment of the commanding officer the exigencies of the situation may require."[27]

The adjutant general is empowered to supersede the lawful community officers if necessity dictates. He, of course, must directly answer to the commander-in-chief. If in the first instance it is proper to say that the Constitution prohibits suspensions of the laws without legislative authority, then it is reasonable to infer that the legislature has granted such authority to the governor.

[23] Miles v. Bradford, 22 Md. 170, 185 (1864).

[24] MD. CONST., Dec. of Rights, art. 30.

[25] R. YOUNG, LEGAL AND TACTICAL CONSIDERATIONS AFFECTING THE EMPLOYMENT OF THE MILITARY IN THE SUPPRESSION OF MOBS 5 (188).

[26] As of 1959, the constitutions of 48 other states had similar provisions.

[27] *Supra* note 22.