

SECTION FIVE

ON STANDING ARMIES AND MILITIAS



The fear that the new government would institute a standing army—a permanent, professionally trained military force—ranked among the most persistent arguments against the Constitution. Anglo-American political thought considered standing armies a bane to liberty as standing armies enforced the will of the tyrant and destroyed the fabric of constitutional liberty. Since the Constitution granted Congress the power to declare war, raise and support armies, and provide for the regulation and discipline of state militia forces, Anti-Federalists warned that adopting the Constitution guaranteed standing armies and tyranny. The fear of standing armies held such a sway on the American mind that Publius devoted six essays rebutting Anti-Federalist charges.

Publius concedes that the Constitution permits a permanent military force. In *Federalist 25*, *Federalist 26*, and *Federalist 28*, Publius connects the need for a permanent military force to the practical needs for the external and internal defense of the Union. Surrounded by the imperial holdings of European powers, a standing army offered bordering states the mutual protection not possible if those states relied solely on their militias. Should a significant, internal rebellion occur that threatened a state or several states, the militias would not be capable of suppressing such a large-scale challenge. Although militias fought bravely, they were no match for the professional British military. As Publius notes, only a professional army can defeat a professional army—and had Americans relied solely upon militias in the Revolution, they would not have achieved independence.

Publius devotes most of the essays in this series, however, to chiding as chimerical the Anti-Federalists' assertions on standing armies. Publius takes two approaches in attacking Anti-Federalist claims: textual and theoretical. In his textual response, which consumes all of *Federalist 24* and is referenced throughout the other essays, Publius asserts that, in their desire to castigate the Constitution in the darkest terms, critics

ignore the actual text of the Constitution. If they bothered to look at the Constitution, critics would see how it limits military funding to only two years at a time. This requirement ensures that a standing army could never be independent of the purse nor detached from the people's representatives. Even as they ignore the text of the Constitution, Anti-Federalists overlook the fact that the Articles of Confederation lack any textual probations of any kind against standing armies. If anything, then, the proposed Constitution offers better protection against traditional standing armies than the Articles of Confederation, or so Publius claims.

Moving away from the text of the Constitution, the thrust of these essays concentrates on assuaging American fears over standing armies. As Publius explains in *Federalist* 26, Americans inherited the fears toward standing armies from experiences in 17th-century England. The Revolution's zeal for liberty led Americans to erase the "salutary boundary" between an energetic government and the security of rights in exclusive favor of the latter. This imbalance explains the Confederation's predicament: its framers devoted themselves too much to the protection of rights and not enough to energetic government. The disparity created a government barely capable of defending itself out of fear that it would establish a tyranny. This overzealousness for liberty, moreover, overlooked how England, after the Glorious Revolution of 1688, embraced standing armies precisely because Parliament, and not the Crown, controlled them.

Even with this overzealous concern for liberty, Publius notes how only two states, North Carolina and Pennsylvania, carried their fears of standing armies into their constitutions, explicitly prohibiting them. Others made the creation of standing armies "monitory" ("ought not") rather than "prohibitory" ("shall not"). This distinction matters. It revealed that Americans, despite their fears, risked having the power of creating standing armies rather than "embarrassing" their government and hindering them in times of emergencies.

Nor do Americans need to fear the Constitution's ability to create standing armies, Publius argues. In *Federalist* 27, he says that people's familiarity and comfort with a well-administered general government, coupled with the fact that the government operates directly upon the people, will dramatically lessen the probability of the government using force. Should the unthinkable occur, and the general government attempt to tyrannize Americans, "the state legislatures, who will always not only be vigilant, but suspicious and jealous guardians of the rights of the citizens, against encroachments from the federal government, will constantly have their attention awake to the conduct of the national rulers, and will be ready enough, if anything improper appears, to sound the alarm to the people, and not only to be the voice, but if necessary, the arm of their discontent."

For all of Publius' reassurances that Americans need not fear standing armies, the Anti-Federalists remained unconvinced. Brutus' Essay IX references Publius' arguments, dismissing them as the teachings of a "pedantic pedagogue who had been accustomed to deliver his dogmas to pupils, who always placed implicit faith

in what he delivered.” Brutus asks why, when everyone—including Publius—admits that peacetime standing armies are evil, would they approve a constitution that permits that evil? Brutus warns readers that even in a representative government, a distinction between the people and their rulers remains. Rulers often have different sentiments and interests from those they govern. People should not place their hope in the idea that their rulers will act in the interest of the common good. Since Publius favors standing armies, it is not a leap in logic to assume that those in the general government will share that sentiment. Thus, they will find every excuse necessary to establish one. As Brutus explains in both Essays VIII and IX, history shows that when all free states adopt a standing army, tyranny and slavery quickly follow.

Brutus then challenged Publius’ assertion that the Confederation lacked any authority to create a standing army. The Confederation Congress possessed the power to raise troops and, by definition, a standing army. Yet, it could never establish a standing army because it required the state legislatures to raise the troops. State governments, being closer to the people, would never consent to an army “opposed to the common good.” Under the Confederation scheme, then, the states check any potential misuse of the military. Removing that barrier only increases the probability of tyranny.

QUESTIONS FOR OUR TIME

1. Most 18th-century Americans considered standing armies a threat to liberty. Today, however, most Americans honor, trust, and celebrate the military and consider its size and strength as vital to American freedom. What accounts for this change? Did the Anti-Federalists miscalculate the threat posed by standing armies?
2. When Publius and the Anti-Federalists wrote about standing armies, the United States was a small collection of weak republican states. Since the mid-20th century, the United States is the world's superpower with territorial possessions and historically unprecedented social, economic, and military strength. In what ways are the arguments regarding standing armies still relevant for us today?
3. The Constitution provided Congress with the power to call forth the state militias to help suppress invasions or domestic insurrection. In *Federalist 29*, Publius argues that federal control over state militias were “natural incidents” of collective protection and internal peace. Over the past several decades, the U.S. military has deployed state militias (known as the National Guard) overseas. Does this overseas deployment violate Publius’ rationale for why the federal government needed this power?
4. Why did Publius believe that a standing army could never threaten American liberty? Was his assessment correct? Should the military ever pose a threat, what recourses do Americans have? Military coups have happened throughout world history, but America has remained immune so far. What helps ensure “civilian control of the military” in America today?

FEDERALIST NO. 24

THE SUBJECT CONTINUED, WITH AN ANSWER TO AN OBJECTION CONCERNING STANDING ARMIES

To the powers proposed to be conferred upon the federal government, in respect to the creation and direction of the national forces, I have met with but one specific objection; which is, that proper provision has not been made against the existence of standing armies in time of peace: an objection which I shall now endeavour to show rests on weak and unsubstantial foundations.

It has indeed been brought forward in the most vague and general form, supported only by bold assertions, without the appearance of argument; without even the sanction of theoretical opinions, in contradiction to the practice of other free nations, and to the general sense of America, as expressed in most of the existing constitutions. The propriety of this remark will appear, the moment it is recollected that the objection under consideration turns upon a supposed necessity of restraining the LEGISLATIVE authority of the nation, in the article of military establishments; a

principle unheard of, except in one or two of our state constitutions, and rejected in all the rest.

A stranger to our politics, who was to read our newspapers at the present juncture, without having previously inspected the plan reported by the convention, would be naturally led to one of two conclusions: either that it contained a positive injunction, that standing armies should be kept up in time of peace; or, that it vested in the EXECUTIVE the whole power of levying troops, without subjecting his discretion in any shape to the control of the legislature.

If he came afterwards to peruse the plan itself, he would be surprised to discover, that neither the one nor the other was the case; that the whole power of raising armies was lodged in the *legislature*, not in the *executive*: that this legislature was to be a popular body, consisting of the representatives of the people periodically elected; and that instead of the provision he had supposed in favour of standing

armies, there was to be found in respect to this object, an important qualification even of the legislative discretion, in that clause which forbids the appropriation of money for the support of an army for any longer period than two years: a precaution which, upon a nearer view of it, will appear to be a great and real security against military establishments without evident necessity.

Disappointed in his first surmise, the person I have supposed would be apt to pursue his conjectures a little further. He would naturally say to himself, it is impossible that all this vehement and pathetic declamation can be without some colourable pretext. It must needs be that this people, so jealous of their liberties, have, in all the preceding models of the constitutions which they have established, inserted the most precise and rigid precautions on this point, the omission of which in the new plan, has given birth to all this apprehension and clamour.

If, under this impression, he proceeded to pass in review the several state constitutions, how great would be his disappointment to find that *two only* of them²⁸ contained an interdiction of standing armies in time of peace; that

the other eleven had either observed a profound silence on the subject, or had in express terms admitted the right of the legislature to authorize their existence.

Still, however, he would be persuaded that there must be some plausible foundation, for the cry raised on this head. He would never be able to imagine, while any source of information remained unexplored, that it was nothing more than an experiment upon the public credulity, dictated either by a deliberate intention to deceive, or by the overflowings of a zeal too intemperate to be ingenuous. It would probably occur to him, that he would be likely to find the precautions he was in search of, in the primitive compact between the states. Here, at length, he would expect to meet with a solution of the enigma. No doubt, he would observe to himself, the existing confederation must contain the most explicit provisions against military establishments in time of peace; and a departure from this model in a favourite point, has occasioned the discontent, which appears to influence these political champions.

If he should now apply himself to a careful and critical survey of the articles of confederation, his astonishment would

28 This statement of the matter is taken from the printed collections of state constitutions. Pennsylvania and North Carolina are the two which contain the interdiction in these words: "As standing armies in time of peace are dangerous to liberty, they ought not to be kept up." This is, in truth, rather a CAUTION than a PROHIBITION. New Hampshire, Massachusetts, Delaware and Maryland have, in each of their bills of rights, a clause to this effect: "Standing armies are dangerous to liberty, and ought not be raised or kept up WITHOUT THE CONSENT OF THE LEGISLATURE;" which is a formal admission of the authority of the legislature. New York has no bill of rights, and her constitution says not a word about the matter. No bills of rights appear annexed to the constitutions of the other states, and their constitutions are equally silent. I am told, however, that one or two states have bills of rights, which do not appear in this collection; but that those also recognize the right of the legislative authority in this respect.

not only be increased, but would acquire a mixture of indignation, at the unexpected discovery, that these articles, instead of containing the prohibition he looked for, and though they had, with jealous circumspection, restricted the authority of the state legislatures in this particular, had not imposed a single restraint on that of the United States. If he happened to be a man of quick sensibility, or ardent temper, he could now no longer refrain from pronouncing these clamours to be the dishonest artifices of a sinister and unprincipled opposition to a plan, which ought at least to receive a fair and candid examination from all sincere lovers of their country! How else, he would say, could the authors of them have been tempted to vent such loud censures upon that plan, about a point, in which it seems to have conformed itself to the general sense of America as declared in its different forms of government, and in which it has even super-added a new and powerful guard unknown to any of them? If, on the contrary, he happened to be a man of calm and dispassionate feelings, he would indulge a sigh for the frailty of human nature, and would lament, that in a matter so interesting to the happiness of millions, the true merits of the question should be perplexed and obscured by expedients so unfriendly to an impartial and right determination. Even such a man could hardly forbear remarking, that a conduct of this kind, has too much the appearance of an intention to mislead the people by alarming their passions, rather than to convince them by arguments addressed to their understandings.

But however little this objection may

be countenanced, even by precedents among ourselves, it may be satisfactory to take a nearer view of its intrinsic merits. From a close examination, it will appear, that restraints upon the discretion of the legislature, in respect to military establishments, would be improper to be imposed; and if imposed, from the necessities of society, would be unlikely to be observed.

Though a wide ocean separates the United States from Europe, yet there are various considerations that warn us against an excess of confidence or security. On one side of us, stretching far into our rear, are growing settlements subject to the dominion of Britain. On the other side, and extending to meet the British settlements, are colonies and establishments subject to the dominion of Spain. This situation, and the vicinity of the West India islands, belonging to these two powers, create between them, in respect to their American possessions, and in relation to us, a common interest. The savage tribes on our western frontier, ought to be regarded as our natural enemies; their natural allies: because they have most to fear from us, and most to hope from them. The improvements in the art of navigation, have, as to the facility of communication, rendered distant nations, in a great measure, neighbours. Britain and Spain, are among the principal maritime powers of Europe. A future concert of views between these nations, ought not to be regarded as improbable. The increasing remoteness of consanguinity, is every day diminishing the force of the family compact between France and Spain. And politicians have

ever, with great reason, considered the ties of blood, as feeble and precarious links of political connexion. These circumstances, combined, admonish us not to be too sanguine in considering ourselves as entirely out of the reach of danger.

Previous to the revolution, and ever since the peace, there has been a constant necessity for keeping small garrisons on our western frontier. No person can doubt, that these will continue to be indispensable, if it should only be to guard against the ravages and depredations of the Indians. These garrisons must either be furnished by occasional detachments from the militia, or by permanent corps in the pay of the government. The first is impracticable; and if practicable, would be pernicious. The militia, in times of profound peace, would not long, if at all, submit to be dragged from their occupations and families, to perform that most disagreeable duty. And if they could be prevailed upon, or compelled to do it, the increased expense of a frequent rotation of service, and the loss of labour, and disconcertion of the industrious pursuits of individuals, would form conclusive objections to the scheme. It would be as burthensome and injurious to the public, as ruinous to private citizens. The latter resource of permanent corps in the pay of government, amounts to a standing army in time of peace; a small one, indeed, but not the less real for being small.

Here is a simple view of the subject, that shows us at once the impropriety of a constitutional interdiction of such establishments, and the necessity of leaving the matter to the discretion and prudence of the legislature.

In proportion to our increase in

strength, it is probable, nay, it may be said certain, that Britain and Spain would augment their military establishments in our neighbourhood. If we should not be willing to be exposed, in a naked and defenceless condition, to their insults or encroachments, we should find it expedient to increase our frontier garrisons, in some ratio to the force by which our western settlements might be annoyed. There are, and will be, particular posts, the possession of which will include the command of large districts of territory, and facilitate future invasions of the remainder. It may be added, that some of those posts will be keys to the trade with the Indian nations. Can any man think it would be wise, to leave such posts in a situation to be at any instant seized by one or the other of two neighbouring and formidable powers? To act this part, would be to desert all the usual maxims of prudence and policy.

If we mean to be a commercial people, or even to be secure on our Atlantic side, we must endeavour, as soon as possible, to have a navy. To this purpose, there must be dock yards and arsenals; and, for the defence of these, fortifications, and probably garrisons. When a nation has become so powerful by sea, that it can protect its dock yards by its fleets, this supercedes the necessity of garrisons for that purpose; but where naval establishments are in their infancy, moderate garrisons will, in all likelihood, be found an indispensable security against descents for the destruction of the arsenals and dock yards, and sometimes of the fleet itself.

PUBLIUS

FEDERALIST NO. 25

THE SUBJECT CONTINUED, WITH THE SAME VIEW

It may perhaps be urged, that the objects enumerated in the preceding number ought to be provided by the state governments, under the direction of the union. But this would be an inversion of the primary principle of our political association; as it would in practice transfer the care of the common defence from the federal head to the individual members: a project oppressive to some states, dangerous to all, and baneful to the confederacy.

The territories of Britain, Spain, and of the Indian nations in our neighbourhood, do not border on particular states; but encircle the union from MAINE to GEORGIA. The danger, though in different degrees, is therefore common. And the means of guarding against it, ought, in like manner, to be the objects of common councils, and of a common treasury. It happens that some states, from local situation, are more directly exposed. NEW YORK is of this class. Upon the plan of separate provisions, New York would

have to sustain the whole weight of the establishments requisite to her immediate safety, and to the mediate, or ultimate protection of her neighbours. This would neither be equitable as it respected New York, nor safe as it respected the other states. Various inconveniences would attend such a system. The states, to whose lot it might fall to support the necessary establishments, would be as little able as willing, for a considerable time to come, to bear the burthen of competent provisions. The security of all would thus be subjected to the parsimony, improvidence, or inability of a part. If, from the resources of such part becoming more abundant, its provisions should be proportionably enlarged, the other states would quickly take the alarm at seeing the whole military force of the union in the hands of two or three of its members; and those probably amongst the most powerful. They would each choose to have some counterpoise; and pretences could easily be contrived. In this situation, military establishments,

nourished by mutual jealousy, would be apt to swell beyond their natural or proper size; and being at the separate disposal of the members, they would be engines for the abridgment, or demolition, of the national authority.

Reasons have been already given to induce a supposition, that the state governments will too naturally be prone to a rivalry with that of the union, the foundation of which will be the love of power; and that in any contest between the federal head and one of its members, the people will be most apt to unite with their local government. If, in addition to this immense advantage, the ambition of the members should be stimulated by the separate and independent possession of military forces, it would afford too strong a temptation, and too great facility to them to make enterprises upon, and finally to subvert, the constitutional authority of the union. On the other hand, the liberty of the people would be less safe in this state of things, than in that which left the national forces in the hands of the national government. As far as an army may be considered as a dangerous weapon of power, it had better be in those hands, of which the people are most likely to be jealous, than in those of which they are least likely to be so. For it is a truth which the experience of all ages has attested, that the people are commonly most in danger, when the means of injuring their rights are in the possession of those of whom they entertain the least suspicion.

The framers of the existing confederation, fully aware of the danger to the union from the separate possession of military forces by the states, have in express terms

prohibited them from having either ships or troops, unless with the consent of congress. The truth is, that the existence of a federal government and military establishments, under state authority, are not less at variance with each other, than a due supply of the federal treasury and the system of quotas and requisitions.

There are other views besides those already presented, in which the impropriety of restraints on the discretion of the national legislature will be equally manifest. The design of the objection, which has been mentioned, is to preclude standing armies in time of peace; though we have never been informed how far it is desired the prohibition should extend: whether to raising armies, as well as to *keeping them up*, in a season of tranquillity, or not. If it be confined to the latter, it will have no precise signification, and it will be ineffectual for the purpose intended. When armies are once raised, what shall be denominated “keeping them up,” contrary to the sense of the constitution? What time shall be requisite to ascertain the violation? Shall it be a week, a month, a year? Or shall we say, they may be continued as long as the danger which occasioned their being raised continues? This would be to admit that they might be kept up *in time of peace*, against threatening or impending danger; which would be at once to deviate from the literal meaning of the prohibition, and to introduce an extensive latitude of construction. Who shall judge of the continuance of the danger? This must undoubtedly be submitted to the national government, and the matter would then be brought to this issue, that the national government,

to provide against apprehended danger, might, in the first instance, raise troops, and might afterwards keep them on foot, as long they supposed the peace or safety of the community was in any degree of jeopardy. It is easy to perceive, that a discretion so latitudinary as this, would afford ample room for eluding the force of the provision.

The utility of a provision of this kind, can only be vindicated on the hypothesis of a probability, at least possibility, of combination between the executive and legislature, in some scheme of usurpation. Should this at any time happen, how easy would it be to fabricate pretences of approaching danger? Indian hostilities, instigated by Spain or Britain, would always be at hand. Provocations to produce the desired appearances, might even be given to some foreign power, and appeased again by timely concessions. If we can reasonably presume such a combination to have been formed, and that the enterprise is warranted by a sufficient prospect of success; the army when once raised, from whatever cause, or on whatever pretext, may be applied to the execution of the project.

If to obviate this consequence, it should be resolved to extend the prohibition to the *raising* of armies in time of peace, the United States would then exhibit the most extraordinary spectacle, which the world has yet seen... that of a nation incapacitated by its constitution to prepare for defence, before it was actually invaded. As the ceremony of a formal denunciation of war has of late fallen into disuse, the presence of an enemy within our territories must be waited for, as the legal warrant to the

government to begin its levies of men for the protection of the state. We must receive the blow, before we could even prepare to return it. All that kind of policy by which nations anticipate distant danger, and meet the gathering storm, must be abstained from, as contrary to the genuine maxims of a free government. We must expose our property and liberty to the mercy of foreign invaders, and invite them by our weakness, to seize the naked and defenceless prey, because we are afraid that rulers, created by our choice, dependent on our will, might endanger that liberty, by an abuse of the means necessary to its preservation.

Here I expect we shall be told, that the militia of the country is its natural bulwark, and would at all times be equal to the national defence. This doctrine, in substance, had like to have lost us our independence. It cost millions to the United States, that might have been saved. The facts, which from our own experience forbid a reliance of this kind, are too recent to permit us to be the dupes of such a suggestion. The steady operations of war against a regular and disciplined army, can only be successfully conducted by a force of the same kind. Considerations of economy, not less than of stability and vigour, confirm this position. The American militia, in the course of the late war, have, by their valour on numerous occasions, erected eternal monuments to their fame; but the bravest of them feel and know, that the liberty of their country could not have been established by their efforts alone, however great and valuable they were. War, like most other things, is a science to be acquired and perfected by

diligence, by perseverance, by time, and by practice.

All violent policy, as it is contrary to the natural and experienced course of human affairs, defeats itself. Pennsylvania at this instant affords an example of the truth of this remark. The bill of rights of that state declares, that standing armies are dangerous to liberty, and ought not to be kept up in time of peace. Pennsylvania, nevertheless, in a time of profound peace, from the existence of partial disorders in one or two of her counties, has resolved to raise a body of troops; and in all probability, will keep them up as long as there is any appearance of danger to the public peace. The conduct of Massachusetts affords a lesson on the same subject, though on different ground. That state (without waiting for the sanction of congress, as the articles of the confederation require) was compelled to raise troops to quell a domestic insurrection, and still keeps a corps in pay to prevent a revival of the spirit of revolt. The particular constitution of Massachusetts opposed no obstacle to the measure; but the instance is still of use to instruct us, that cases are likely to occur under our governments, as well as under those of other nations, which will sometimes render a military force in time of peace, essential to the security of the society, and that it is therefore improper, in this respect, to control the legislative discretion. It also teaches us, in its application to the United States, how little the rights of a feeble government are likely to be respected,

even by its own constituents. And it teaches us, in addition to the rest, how unequal are parchment provisions, to a struggle with public necessity.

It was a fundamental maxim of the Lacedemonian commonwealth, that the post of admiral should not be conferred twice on the same person. The Peloponnesian confederates, having suffered a severe defeat at sea from the Athenians, demanded Lysander, who had before served with success in that capacity, to command the combined fleets. The Lacedemonians, to gratify their allies, and yet preserve the semblance of an adherence to their ancient institutions, had recourse to the flimsy subterfuge of investing Lysander with the real power of admiral, under the nominal title of vice admiral. This instance is selected from among a multitude that might be cited, to confirm the truth already advanced and illustrated by domestic examples; which is, that nations pay little regard to rules and maxims, calculated in their very nature to run counter to the necessities of society. Wise politicians will be cautious about fettering the government with restrictions, that cannot be observed; because they know, that every breach of the fundamental laws, though dictated by necessity, impairs that sacred reverence, which ought to be maintained in the breast of rulers towards the constitution of a country, and forms a precedent for other breaches, where the same plea of necessity does not exist at all, or is less urgent and palpable.

PUBLIUS

FEDERALIST NO. 26

THE SUBJECT CONTINUED WITH THE SAME VIEW

It was a thing hardly to have been expected, that in a popular revolution, the minds of men should stop at that happy mean which marks the salutary boundary between POWER and PRIVILEGE, and combines the energy of government with the security of private rights. A failure in this delicate and important point, is the great source of the inconveniences we experience; and if we are not cautious to avoid a repetition of the error, in our future attempts to rectify and ameliorate our system, we may travel from one chimerical project to another: we may try change after change; but we shall never be likely to make any material change for the better.

The idea of restraining the legislative authority, in the means for providing for the national defence, is one of those refinements, which owe their origin to a zeal for liberty more ardent than enlightened. We have seen, however, that it has not had thus far an extensive prevalence; that even in this country,

where it made its first appearance, Pennsylvania and North Carolina are the only two states by which it has been in any degree patronized; and that all the others have refused to give it the least countenance. They wisely judged that confidence must be placed somewhere; that the necessity of doing it, is implied in the very act of delegating power; and that it is better to hazard the abuse of that confidence, than to embarrass the government and endanger the public safety, by impolitic restrictions on the legislative authority. The opponents of the proposed constitution, combat in this respect the general decision of America; and instead of being taught by experience the propriety of correcting any extremes into which we may have heretofore run, they appear disposed to conduct us into others still more dangerous, and more extravagant. As if the tone of government had been found too high, or too rigid, the doctrines they teach are calculated to induce us to depress, or to relax it, by

expedients which, upon other occasions, have been condemned or forborne. It may be affirmed without the imputation of invective, that if the principles they inculcate on various points, could so far obtain as to become the popular creed, they would utterly unfit the people of this country for any species of government whatever. But a danger of this kind is not to be apprehended. The citizens of America have too much discernment to be argued into anarchy. And I am much mistaken, if experience has not wrought a deep and solemn conviction in the public mind, that greater energy of government is essential to the welfare and prosperity of the community.

It may not be amiss in this place, concisely to remark the origin and progress of the idea, which aims at the exclusion of military establishments in time of peace. Though in speculative minds, it may arise from a contemplation of the nature and tendency of such institutions, fortified by the events that have happened in other ages and countries; yet, as a national sentiment, it must be traced to those habits of thinking which we derive from the nation, from which the inhabitants of these states have in general sprung.

In England, for a long time after the Norman conquest, the authority of the monarch was almost unlimited. Inroads were gradually made upon the prerogative, in favour of liberty, first by the barons, and afterwards by the people, till the greatest part of its most formidable pretensions became extinct. But it was not till the revolution in 1688, which elevated the prince of Orange to the throne of Great Britain, that English liberty was

completely triumphant. As incident to the undefined power of making war, an acknowledged prerogative of the crown, Charles II had, by his own authority, kept on foot in time of peace a body of 5,000 regular troops. And this number James II, increased to 30,000; who were paid out of his civil list. At the revolution, to abolish the exercise of so dangerous an authority, it became an article of the bill of rights then framed, that "raising or keeping a standing army within the kingdom in time of peace, *unless with the consent of parliament*, was against law."

In that kingdom, when the pulse of liberty was at its highest pitch, no security against the danger of standing armies was thought requisite, beyond a prohibition of their being raised or kept up by the mere authority of the executive magistrate. The patriots, who effected that memorable revolution, were too temperate, and too well informed, to think of any restraint on the legislative discretion. They were aware, that a certain number of troops for guards and garrisons were indispensable; that no precise bounds could be set to the national exigencies; that a power equal to every possible contingency must exist somewhere in the government; and that when they referred the exercise of that power to the judgment of the legislature, they had arrived at the ultimate point of precaution, which was reconcileable with the safety of the community.

From the same source, the people of America may be said to have derived an hereditary impression of danger to liberty, from standing armies in time of peace. The circumstances of a revolution quickened the public sensibility on every

point connected with the security of popular rights, and in some instances raised the warmth of our zeal beyond the degree, which consisted with the due temperature of the body politic. The attempts of two of the states, to restrict the authority of the legislature in the article of military establishments, are of the number of these instances. The principles which had taught us to be jealous of the power of an hereditary monarch, were, by an injudicious excess, extended to the representatives of the people in their popular assemblies. Even in some of the states, where this error was not adopted, we find unnecessary declarations, that standing armies ought not to be kept up, in time of peace, *without the consent of the legislature*. I call them unnecessary, because the reason which had introduced a similar provision into the English bill of rights, is not applicable to any of the state constitutions. The power of raising armies at all, under those constitutions, can by no construction be deemed to reside any where else, than in the legislatures themselves; and it was superfluous, if not absurd, to declare, that a matter should not be done without the consent of a body, which alone had the power of doing it. Accordingly, in some of those constitutions, and among others, in that of the state of New York, which has been justly celebrated, both in Europe and America, as one of the best of the forms of government established in this country, there is a total silence upon the subject.

It is remarkable, that even in the two states, which seem to have meditated an interdiction of military establishments in time of peace, the mode of expression

made use of is rather monitory, than prohibitory. It is not said, that standing armies *shall not be* kept up, but that they *ought not* to be kept up in time of peace. This ambiguity of terms appears to have been the result of a conflict between jealousy and conviction; between the desire of excluding such establishments at all events, and the persuasion that an absolute exclusion would be unwise and unsafe.

Can it be doubted that such a provision, whenever the situation of public affairs was understood to require a departure from it, would be interpreted by the legislature into a mere admonition, and would be made to yield to the actual or supposed necessities of the state? Let the fact already mentioned with respect to Pennsylvania, decide. What then, it may be asked, is the use of such a provision, if it cease to operate, the moment there is an inclination to disregard it?

Let us examine whether there be any comparison, in point of efficacy, between the provision alluded to, and that which is contained in the new constitution, for restraining the appropriations of money for military purposes to the period of two years. The former, by aiming at too much, is calculated to effect nothing: the latter, by steering clear of an imprudent extreme, and by being perfectly compatible with a proper provision for the exigencies of the nation, will have a salutary and powerful operation.

The legislature of the United States will be *obliged*, by this provision, once at least in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the

point; and to declare their sense of the matter, by a formal vote in the face of their constituents. They are not at *liberty* to vest in the executive department, permanent funds for the support of an army; if they were even incautious enough to be willing to repose in it so improper a confidence. As the spirit of party, in different degrees, must be expected to infect all political bodies, there will be, no doubt, persons in the national legislature willing enough to arraign the measures, and criminate the views of the majority. The provision for the support of a military force, will always be a favourable topic for declamation. As often as the question comes forward, the public attention will be roused and attracted to the subject, by the party in opposition: and if the majority should be really disposed to exceed the proper limits, the community will be warned of the danger, and will have an opportunity of taking measures to guard against it. Independent of parties in the national legislature itself, as often as the period of discussion arrived, the state legislatures, who will always be not only vigilant, but suspicious and jealous guardians of the rights of the citizens, against encroachments from the federal government, will constantly have their attention awake to the conduct of the national rulers, and will be ready enough, if any thing improper appears, to sound the alarm to the people, and not only to be the VOICE, but if necessary, the ARM of their discontent.

Schemes to subvert the liberties of a great community, *require time* to mature them for execution. An army, so large as seriously to menace those liberties, could only be formed by progressive

augmentations; which would suppose, not merely a temporary combination between the legislature and executive, but a continued conspiracy for a series of time. Is it probable that such a combination would exist at all? Is it probable that it would be persevered in, and transmitted through all the successive variations in the representative body, which biennial elections would naturally produce in both houses? Is it presumable, that every man, the instant he took his seat in the national senate or house of representatives, would commence a traitor to his constituents and to his country? Can it be supposed, that there would not be found one man, discerning enough to detect so atrocious a conspiracy, or bold or honest enough to apprise his constituents of their danger? If such presumptions can fairly be made, there ought at once to be an end of all delegated authority. The people should resolve to recal all the powers they have heretofore parted with; and to divide themselves into as many states as there are counties, in order that they may be able to manage their own concerns in person.

If such suppositions could even be reasonably made, still the concealment of the design, for any duration, would be impracticable. It would be announced, by the very circumstance of augmenting the army to so great an extent, in time of profound peace. What colourable reason could be assigned, in a country so situated, for such vast augmentations of the military force? It is impossible that the people could be long deceived; and the destruction of the project, and of the projectors, would quickly follow the discovery.

It has been said, that the provision

which limits the appropriation of money for the support of an army to the period of two years, would be unavailing; because the executive, when once possessed of a force large enough to awe the people into submission, would find resources in that very force, sufficient to enable him to dispense with supplies from the votes of the legislature. But the question again recurs: upon what pretence could he be put in possession of a force of that magnitude in time of peace? If we suppose it to have been created in consequence of some domestic insurrection or foreign war, then it becomes a case not within the principle of the objection; for this is levelled against the power of keeping up troops in time of peace. Few persons will be so visionary, as seriously to contend that military forces ought not to be raised to quell a rebellion, or resist an invasion; and if the defence of the community, under such circumstances, should make it necessary to have an army, so numerous as to hazard its liberty, this is one of those calamities

for which there is neither preventative nor cure. It cannot be provided against by any possible form of government: it might even result from a simple league offensive and defensive; if it should ever be necessary for the confederates or allies, to form an army for common defence.

But it is an evil infinitely less likely to attend us in an united, than in a disunited state; nay, it may be safely asserted, that it is an evil altogether unlikely to attend us in the latter situation. It is not easy to conceive a possibility, that dangers so formidable can assail the whole union, as to demand a force considerable enough to place our liberties in the least jeopardy; especially if we take into view the aid to be derived from the militia, which ought always to be counted upon as a valuable and powerful auxiliary. But in a state of disunion, as has been fully shown in another place, the contrary of this supposition would become not only probable, but almost unavoidable.

PUBLIUS

FEDERALIST NO. 27

THE SUBJECT CONTINUED, WITH THE SAME VIEW

It has been urged, in different shapes, that a constitution of the kind proposed by the convention, cannot operate without the aid of a military force to execute its laws. This, however, like most other things that have been alleged on that side, rests on mere general assertion, unsupported by any precise or intelligible designation of the reasons upon which it is founded. As far as I have been able to divine the latent meaning of the objectors, it seems to originate in a pre-supposition, that the people will be disinclined to the exercise of federal authority, in any matter of an internal nature. Wa[i]ving any exception that might be taken to the inaccuracy, or inexplicitness, of the distinction between internal and external, let us inquire what ground there is to pre-suppose that disinclination in the people. Unless we presume, at the same time, that the powers of the general government will be worse administered than those of the state governments, there seems to be no room for the presumption of ill will, disaffection,

or opposition in the people. I believe it may be laid down as a general rule, that their confidence in, and their obedience to, a government, will commonly be proportioned to the goodness or badness of its administration. It must be admitted, that there are exceptions to this rule; but these exceptions depend so entirely on accidental causes, that they cannot be considered as having any relation to the intrinsic merits or demerits of a constitution. These can only be judged of by general principles and maxims.

Various reasons have been suggested, in the course of these papers, to induce a probability, that the general government will be better administered than the particular governments: the principal of which are, that the extension of the spheres of election will present a greater option, or latitude of choice, to the people; that, through the medium of the state legislatures, who are select bodies of men, and who are to appoint the members of the national senate, there

is reason to expect, that this branch will generally be composed with peculiar care and judgment; that these circumstances promise greater knowledge, and more comprehensive information, in the national councils; and that, on account of the extent of the country from which will be drawn those to whose direction they will be committed, they will be less apt to be tainted by the spirit of faction, and more out of the reach of those occasional ill humours, or temporary prejudices and propensities, which, in smaller societies, frequently contaminate the public deliberations, beget injustice and oppression towards a part of the community, and engender schemes, which, though they gratify a momentary inclination or desire, terminate in general distress, dissatisfaction, and disgust. Several additional reasons of considerable force, will occur, to fortify that probability, when we come to survey, with a more critical eye, the interior structure of the edifice which we are invited to erect. It will be sufficient here to remark, that until satisfactory reasons can be assigned to justify an opinion, that the federal government is likely to be administered in such a manner as to render it odious or contemptible to the people, there can be no reasonable foundation for the supposition, that the laws of the union will meet with any greater obstruction from them, or will stand in need of any other methods to enforce their execution, than the laws of the particular members.

The hope of impunity, is a strong incitement to sedition: the dread of punishment, a proportionably strong discouragement to it. Will not the

government of the union, which, if possessed of a due degree of power, can call to its aid the collective resources of the whole confederacy, be more likely to repress the *former* sentiment, and to inspire the *latter*, than that of a single state, which can only command the resources within itself? A turbulent faction in a state, may easily suppose itself able to contend with the friends to the government in that state; but it can hardly be so infatuated, as to imagine itself equal to the combined efforts of the union. If this reflection be just, there is less danger of resistance from irregular combinations of individuals, to the authority of the confederacy, than to that of a single member.

I will, in the first place, hazard an observation, which will not be the less just, because to some it may appear new; which is, that the more the operations of the national authority are intermingled in the ordinary exercise of government; the more the citizens are accustomed to meet with it in the common occurrences of their political life; the more it is familiarized to their sight, and to their feelings; the further it enters into those objects, which touch the most sensible chords, and put in motion the most active springs of the human heart; . . . the greater will be the probability, that it will conciliate the respect and attachment of the community. Man is very much a creature of habit. A thing that rarely strikes his senses, will have but a transient influence upon his mind. A government continually at a distance and out of sight, can hardly be expected to interest the sensations

of the people. The inference is, that the authority of the union, and the affections of the citizens towards it, will be strengthened, rather than weakened, by its extension to what are called matters of internal concern; and that it will have less occasion to recur to force, in proportion to the familiarity and comprehensiveness of its agency. The more it circulates through those channels and currents, in which the passions of mankind naturally flow, the less will it require the aid of the violent and perilous expedients of compulsion.

One thing, at all events, must be evident, that a government like the one proposed, would bid much fairer to avoid the necessity of using force, than the species of league contended for by most of its opponents; the authority of which should only operate upon the states in their political or collective capacities. It has been shown, that in such a confederacy there can be no sanction for the laws but force; that frequent delinquencies in the members, are the natural offspring of the very frame of the government; and that as often as these happen, they can only be redressed, if at all, by war and violence.

The plan reported by the convention, by extending the authority of the federal head to the individual citizens of the several states, will enable the government to employ the ordinary magistracy of each, in the execution of its laws. It is easy to perceive, that this will tend to destroy, in the common apprehension,

all distinction between the sources from which they might proceed; and will give the federal government the same advantage for securing a due obedience to its authority, which is enjoyed by the government of each state; in addition to the influence on public opinion, which will result from the important consideration, of its having power to call to its assistance and support the resources of the whole union. It merits particular attention in this place, that the laws of the confederacy, as to the *enumerated* and *legitimate* objects of its jurisdiction, will become the SUPREME LAW of the land; to the observance of which, all officers, legislative, executive, and judicial, in each state, will be bound by the sanctity of an oath. Thus the legislatures, courts, and magistrates, of the respective members, will be incorporated into the operations of the national government, *as far as its just and constitutional authority extends*; and will be rendered auxiliary to the enforcement of its laws.²⁹ Any man, who will pursue, by his own reflections, the consequences of this situation, will perceive, that if its powers are administered with a common share of prudence, there is good ground to calculate upon a regular and peaceable execution of the laws of the union. If we will arbitrarily suppose the contrary, we may deduce any inferences we please from the supposition; for it is certainly possible, by an injudicious exercise of the authorities of the best government that ever was, or ever can be instituted,

29 The sophistry which has been employed, to show that this will tend to the destruction of the state governments will, in its proper place, be fully detected.

to provoke and precipitate the people into the wildest excesses. But though the adversaries of the proposed constitution should presume, that the national rulers would be insensible to the motives of

public good, or to the obligations of duty; I would still ask them, how the interests of ambition, or the views of encroachment, can be promoted by such a conduct?

PUBLIUS

FEDERALIST NO. 28

THE SAME SUBJECT CONTINUED

That there may happen cases, in which the national government may be under the necessity of resorting to force, cannot be denied. Our own experience has corroborated the lessons taught by the examples of other nations; that emergencies of this sort will sometimes exist in all societies, however constituted; that seditions and insurrections are, unhappily, maladies as inseparable from the body politic, as tumours and eruptions from the natural body; that the idea of governing at all times by the simple force of law, (which we have been told is the only admissible principle of republican government) has no place but in the reverie of those political doctors, whose sagacity disdains the admonitions of experimental instruction.

Should such emergencies at any time happen under the national government, there could be no remedy but force. The means to be employed, must be proportioned to the extent of the mischief. If it should be a slight commotion in

a small part of a state, the militia of the residue would be adequate to its suppression: and the natural presumption is, that they would be ready to do their duty. An insurrection, whatever may be its immediate cause, eventually endangers all government. Regard to the public peace, if not to the rights of the union, would engage the citizens, to whom the contagion had not communicated itself, to oppose the insurgents: and if the general government should be found in practice conducive to the prosperity and felicity of the people, it were irrational to believe that they would be disinclined to its support.

If, on the contrary, the insurrection should pervade a whole state, or a principal part of it, the employment of a different kind of force might become unavoidable. It appears that Massachusetts found it necessary to raise troops for suppressing the disorders within that state; that Pennsylvania, from the mere apprehension of commotions among a part

of her citizens, has thought proper to have recourse to the same measure. Suppose the state of New York had been inclined to re-establish her lost jurisdiction over the inhabitants of Vermont; could she have hoped for success in such an enterprise, from the efforts of the militia alone? Would she not have been compelled to raise, and to maintain, a more regular force for the execution of her design? If it must then be admitted, that the necessity of recurring to a force different from the militia, in cases of this extraordinary nature, is applicable to the state governments themselves, why should the possibility, that the national government might be under a like necessity in similar extremities, be made an objection to its existence? Is it not surprising that men, who declare an attachment to the union in the abstract, should urge, as an objection to the proposed constitution, what applies with ten-fold weight to the plan for which they contend; and what, as far as it has any foundation in truth, is an inevitable consequence of civil society upon an enlarged scale? Who would not prefer that possibility, to the unceasing agitations, and frequent revolutions, which are the continual scourges of petty republics?

Let us pursue this examination in another light. Suppose, in lieu of one general system, two or three, or even four confederacies were to be formed, would not the same difficulty oppose itself to the operations of either of these confederacies? Would not each of them be exposed to the same casualties; and,

when these happened, be obliged to have recourse to the same expedients for upholding its authority, which are objected to a government for all the states? Would the militia, in this supposition, be more ready or more able to support the federal authority, than in the case of a general union? All candid and intelligent men must, upon due consideration, acknowledge, that the principle of the objection is equally applicable to either of the two cases; and that whether we have one government for all the states, or different governments for different parcels of them, or as many unconnected governments as there are states, there might sometimes be a necessity to make use of a force constituted differently from the militia, to preserve the peace of the community, and to maintain the just authority of the laws against those violent invasions of them, which amount to insurrections and rebellions.

Independent of all other reasonings upon the subject, it is a full answer to those who require a more peremptory provision against military establishments in time of peace, to say, that the whole power of the proposed government is to be in the hands of the representatives of the people. This is the essential, and, after all, the only efficacious security for the rights and privileges of the people, which is attainable in civil society.³⁰

If the representatives of the people betray their constituents, there is then no resource left but in the exertion of that original right of self-defence, which is paramount to all positive forms of

30 Its full efficacy will be examined hereafter.

government; and which, against the usurpation of the national rulers, may be exerted with an infinitely better prospect of success, than against those of the rulers of an individual state. In a single state, if the persons intrusted with supreme power become usurpers, the different parcels, subdivisions, or districts, of which it consists, having no distinct government in each, can take no regular measures for defence. The citizens must rush tumultuously to arms, without concert, without system, without resource; except in their courage and despair. The usurpers, clothed with the forms of legal authority, can too often crush the opposition in embryo. The smaller the extent of territory, the more difficult will it be for the people to form a regular, or systematic plan of opposition; and the more easy will it be to defeat their early efforts. Intelligence can be more speedily obtained of their preparations and movements; and the military force in the possession of the usurpers, can be more rapidly directed against the part where the opposition has begun. In this situation, there must be a peculiar coincidence of circumstances to ensure success to the popular resistance.

The obstacles to usurpation, and the facilities of resistance, increase with the increased extent of the state: provided the citizens understand their rights, and are disposed to defend them. The natural strength of the people in a large community, in proportion to the artificial strength of the government, is greater than in a small; and of course more competent to a struggle with the attempts of the government to establish a tyranny. But in a confederacy, the people, without

exaggeration, may be said to be entirely the masters of their own fate. Power being almost always the rival of power, the general government will, at all times, stand ready to check the usurpations of the state governments; and these will have the same disposition towards the general government. The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other, as the instrument of redress. How wise will it be in them, by cherishing the union, to preserve to themselves an advantage which can never be too highly prized!

It may safely be received as an axiom in our political system, that the state governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority. Projects of usurpation cannot be masked under pretences so likely to escape the penetration of select bodies of men, as of the people at large. The legislatures will have better means of information; they can discover the danger at a distance; and possessing all the organs of civil power, and the confidence of the people, they can at once adopt a regular plan of opposition, in which they can combine all the resources of the community. They can readily communicate with each other in the different states; and unite their common forces, for the protection of their common liberty.

The great extent of the country is a further security. We have already experienced its utility against the attacks of a foreign enemy. And it would have

precisely the same effect against the enterprises of ambitious rulers in the national councils. If the federal army should be able to quell the resistance of one state, the distant states would have it in their power to make head with fresh forces. The advantages obtained in one place must be abandoned, to subdue the opposition in others; and the moment the part which had been reduced to submission was left to itself, its efforts would be renewed, and its resistance revive.

We should recollect, that the extent of the military force must, at all events, be regulated by the resources of the country. For a long time to come, it will not be possible to maintain a large army;

and as the means of doing this, increase the population, and the natural strength of the community will proportionably increase. When will the time arrive, that the federal government can raise and maintain an army capable of creating a despotism over the great body of the people of an immense empire, who are in a situation, through the medium of their state governments, to take measures for their own defence, with all the celerity, regularity, and system, of independent nations? The apprehension may be considered as a disease, for which there can be found no cure in the resources of argument and reasoning.

PUBLIUS

FEDERALIST NO. 29

CONCERNING THE MILITIA

The power of regulating the militia, and of commanding its services in times of insurrection and invasion, are natural incidents to the duties of superintending the common defence, and of watching over the internal peace of the confederacy.

It requires no skill in the science of war to discern, that uniformity in the organization and discipline of the militia, would be attended with the most beneficial effects, whenever they were called into service for the public defence. It would enable them to discharge the duties of the camp, and of the field, with mutual intelligence and concert . . . an advantage of peculiar moment in the operations of an army; and it would fit them much sooner to acquire the degree of proficiency in military functions, which would be essential to their usefulness. This desirable uniformity can only be accomplished, by confiding the regulation of the militia to the direction of the national authority. It is, therefore, with the most evident propriety, that the plan

of the convention proposes to empower the union “to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, *reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress.*”

Of the different grounds which have been taken in opposition to this plan, there is none that was so little to have been expected, or is so untenable in itself, as the one from which this particular provision has been attacked. If a well regulated militia be the most natural defence of a free country, it ought certainly to be under the regulation, and at the disposal of that body, which is constituted the guardian of the national security. If standing armies are dangerous to liberty, an efficacious power over the militia, in the same body, ought, as far as possible, to take away the inducement and the pretext, to such unfriendly institutions. If the federal

government can command the aid of the militia in those emergencies, which call for the military arm in support of the civil magistrate, it can the better dispense with the employment of a different kind of force. If it cannot avail itself of the former, it will be obliged to recur to the latter. To render an army unnecessary, will be a more certain method of preventing its existence, than a thousand prohibitions upon paper.

In order to cast an odium upon the power of calling forth the militia to execute the laws of the union, it has been remarked, that there is no where any provision in the proposed constitution for requiring the aid of the POSSE COMITATUS, to assist the magistrate in the execution of his duty; whence it has been inferred, that military force was intended to be his only auxiliary. There is a striking incoherence in the objections which have appeared, and sometimes even from the same quarter, not much calculated to inspire a very favourable opinion of the sincerity or fair dealing of their authors. The same persons who tell us in one breath, that the powers of the federal government will be despotic and unlimited, inform us in the next, that it has not authority sufficient even to call out the POSSE COMITATUS. The latter, fortunately, is as much short of the truth, as the former exceeds it. It would be as absurd to doubt, that a right to pass all laws *necessary* and *proper* to execute its declared powers, would include that of requiring the assistance of the citizens to the officers who may be intrusted with the execution of those laws; as it would be to believe, that a right to enact laws

necessary and proper for the imposition and collection of taxes, would involve that of varying the rules of descent, and of the alienation of landed property, or of abolishing the trial by jury in cases relating to it. It being therefore evident, that the supposition of a want of power to require the aid of the POSSE COMITATUS is entirely destitute of colour, it will follow, that the conclusion which has been drawn from it, in its application to the authority of the federal government over the militia, is as uncandid, as it is illogical. What reason could there be to infer, that force was intended to be the sole instrument of authority, merely because there is a power to make use of it when necessary? What shall we think of the motives which could induce men of sense to reason in this extraordinary manner? How shall we prevent a conflict between charity and conviction?

By a curious refinement upon the spirit of republican jealousy, we are even taught to apprehend danger from the militia itself, in the hands of the federal government. It is observed, that select corps may be formed, composed of the young and the ardent, who may be rendered subservient to the views of arbitrary power. What plan for the regulation of the militia may be pursued by the national government, is impossible to be foreseen. But so far from viewing the matter in the same light with those who object to select corps as dangerous, were the constitution ratified, and were I to deliver my sentiments to a member of the federal legislature on the subject of a militia establishment, I should hold to him in substance the following discourse:

“The project of disciplining all the militia of the United States, is as futile as it would be injurious, if it were capable of being carried into execution. A tolerable expertness in military movements, is a business that requires time and practice. It is not a day, nor a week, nor even a month, that will suffice for the attainment of it. To oblige the great body of the yeomanry, and of the other classes of the citizens, to be under arms for the purpose of going through military exercises and evolutions, as often as might be necessary to acquire the degree of perfection which would entitle them to the character of a well regulated militia, would be a real grievance to the people, and a serious public inconvenience and loss. It would form an annual deduction from the productive labour of the country, to an amount, which, calculating upon the present numbers of the people, would not fall far short of a million of pounds. To attempt a thing which would abridge the mass of labour and industry to so considerable an extent, would be unwise; and the experiment, if made, could not succeed, because it would not long be endured. Little more can reasonably be aimed at, with respect to the people at large, than to have them properly armed and equipped; and in order to see that this be not neglected, it will be necessary to assemble them once or twice in the course of a year.

“But, though the scheme of disciplining the whole nation must be abandoned as mischievous or impracticable; yet it is a matter of the utmost importance, that a well digested plan should, as soon as possible, be adopted for the proper

establishment of the militia. The attention of the government ought particularly to be directed to the formation of a select corps of moderate size, upon such principles as will really fit it for service in case of need. By thus circumscribing the plan, it will be possible to have an excellent body of well trained militia, ready to take the field whenever the defence of the state shall require it. This will not only lessen the call for military establishments; but if circumstances should at any time oblige the government to form an army of any magnitude, that army can never be formidable to the liberties of the people, while there is a large body of citizens, little, if at all, inferior to them in discipline and the use of arms, who stand ready to defend their own rights, and those of their fellow citizens. This appears to me the only substitute that can be devised for a standing army; and the best possible security against it, if it should exist.”

Thus differently from the adversaries of the proposed constitution should I reason on the same subject; deducing arguments of safety from the very sources which they represent as fraught with danger and perdition. But how the national legislature may reason on the point, is a thing which neither they nor I can foresee.

There is something so far fetched, and so extravagant, in the idea of danger to liberty from the militia, that one is at a loss whether to treat it with gravity or with raillery; whether to consider it as a mere trial of skill, like the paradoxes of rhetoricians; as a disingenuous artifice, to instil prejudices at any price; or as the serious offspring of political fanaticism. Where, in the name of common sense,

are our fears to end, if we may not trust our sons, our brothers, our neighbours, our fellow citizens? What shadow of danger can there be from men, who are daily mingling with the rest of their countrymen; and who participate with them in the same feelings, sentiments, habits, and interests? What reasonable cause of apprehension can be inferred from a power in the union to prescribe regulations for the militia, and to command its services when necessary; while the particular states are to have the *sole and exclusive appointment of the officers*? If it were possible seriously to indulge a jealousy of the militia, upon any conceivable establishment under the federal government, the circumstance of the officers being in the appointment of the states, ought at once to extinguish it. There can be no doubt, that this circumstance will always secure to them a preponderating influence over the militia.

In reading many of the publications against the constitution, a man is apt to imagine that he is perusing some ill written tale or romance; which, instead of natural and agreeable images, exhibits to the mind nothing but frightful and distorted shapes. . .

“Gorgons, Hydras, and Chimeras dire;” discolouring and disfiguring whatever it represents, and transforming every thing it touches into a monster.

A sample of this is to be observed in the exaggerated and improbable suggestions which have taken place respecting the power of calling for the services of the militia. That of New Hampshire is to be marched to Georgia, of Georgia to New Hampshire, of New York to Kentucky, and

of Kentucky to Lake Champlain. Nay, the debts due to the French and Dutch, are to be paid in militia men, instead of Louis d’ors and ducats. At one moment, there is to be a large army to lay prostrate the liberties of the people; at another moment, the militia of Virginia are to be dragged from their homes, five or six hundred miles, to tame the republican contumacy of Massachusetts; and that of Massachusetts is to be transported an equal distance, to subdue the refractory haughtiness of the aristocratic Virginians. Do the persons, who rave at this rate, imagine, that their art or their eloquence can impose any conceits or absurdities upon the people of America for infallible truths?

If there should be an army to be made use of as the engine of despotism, what need of the militia? If there should be no army, whither would the militia, irritated at being required to undertake a distant and distressing expedition, for the purpose of rivetting the chains of slavery upon a part of their countrymen, direct their course, but to the seat of the tyrants, who had meditated so foolish, as well as so wicked a project; to crush them in their imagined entrenchments of power, and make them an example of the just vengeance of an abused and incensed people? Is this the way in which usurpers stride to dominion over a numerous and enlightened nation? Do they begin by exciting the detestation of the very instruments of their intended usurpations? Do they usually commence their career by wanton and disgusting acts of power, calculated to answer no end, but to draw upon themselves universal hatred and execration? Are suppositions of this sort, the sober admonitions of discerning

patriots to a discerning people? Or are they the inflammatory ravings of chagrined incendiaries, or distempered enthusiasts? If we were even to suppose the national rulers actuated by the most ungovernable ambition, it is impossible to believe that they would employ such preposterous means to accomplish their designs.

In times of insurrection, or invasion, it would be natural and proper, that the militia of a neighbouring state should be marched into another, to resist a common enemy, or to guard the republic against the violences of

faction or sedition. This was frequently the case, in respect to the first object, in the course of the late war; and this mutual succour is, indeed, a principal end of our political association. If the power of affording it be placed under the direction of the union, there will be no danger of a supine and listless inattention to the dangers of a neighbour, till its near approach had superadded the incitements of self-preservation, to the too feeble impulses of duty and sympathy.

PUBLIUS

THE ANTI-FEDERALIST PERSPECTIVE

BRUTUS VIII

For the New York Journal

The next powers vested by this constitution in the general government, which we shall consider, are those, which authorise them to “borrow money on the credit of the United States, and to raise and support armies.” I take these two together and connect them with the power to lay and collect taxes, duties, imposts and excises, because their extent, and the danger that will arise from the exercise of these powers, cannot be fully understood, unless they are viewed in relation to each other.

The power to borrow money is general and unlimited, and the clause so often before referred to, authorises the passing any laws proper and necessary to carry this into execution. Under this authority, the Congress may mortgage any or all the revenues of the union, as a fund to loan money upon, and it is probable, in this way, they may borrow of foreign nations, a principal sum, the interest of which will be equal to the annual revenues of the country.—By this means, they may create a national debt, so large, as to exceed the ability of the country ever to sink. I can scarcely contemplate a greater calamity that could befall this country, than to be loaded with a debt exceeding their ability ever to discharge. If this be a just remark, it is unwise and improvident to vest in the general government, a power to borrow at discretion, without any limitation or restriction.

It may possibly happen that the safety and welfare of the country may require, that money be borrowed, and it is proper when such a necessity arises that the power should be exercised by the general government. —But it certainly ought never to be exercised, but on the most urgent occasions, and then we should not borrow of foreigners if we could possibly avoid it.

The constitution should therefore have so restricted, the exercise of this power as to have rendered it very difficult for the government to practise it. The present confederation requires the assent of nine states to exercise

this, and a number of the other important powers of the confederacy—and it would certainly have been a wise provision in this constitution, to have made it necessary that two thirds of the members should assent to borrowing money—when the necessity was indispensable, this assent would always be given, and in no other cause ought it to be.

The power to raise armies, is indefinite and unlimited, and authorises the raising forces, as well in peace as in war. Whether the clause which impowers the Congress to pass all laws which are proper and necessary, to carry this into execution, will not authorise them to impress men for the army, is a question well worthy consideration? If the general legislature deem it for the general welfare to raise a body of troops, and they cannot be procured by voluntary enlistments, it seems evident, that it will be proper and necessary to effect it, that men be impressed from the militia to make up the deficiency.

These powers taken in connection, amount [to] this: that the general government have unlimited authority and controul over all the wealth and all the force of the union. The advocates for this scheme, would favor the world with a new discovery, if they would shew, what kind of freedom or independency is left to the state governments, when they cannot command any part of the property or of the force of the country, but at the will of the Congress. It seems to me as absurd, as it would be to say, that I was free and independent, when I had conveyed all my property to another, and was tenant to will to him, and had beside, given an indenture of myself to serve him during life. —The power to keep upstanding armies in time of peace, has been justly objected, to this system, as dangerous and improvident. The advocates who have wrote in its favor, have some of them ridiculed the objection, as though it originated in the distempered brain of its opponents, and others have taken pains to shew, that it is a power that was proper to be granted to the rulers in this constitution. That you may be enabled to form a just opinion on this subject, I shall first make some remarks, tending to prove, that this power ought to be restricted, and then animadvert on the arguments which have been adduced to justify it.

I take it for granted, as an axiom in politic, that the people should never authorise their rulers to do any thing, which if done, would operate to their injury.

It seems equally clear, that in a case where a power, if given and exercised, will generally produce evil to the community, and seldom good—and which,

experience has proved, has most frequently been exercised to the great injury, and very often to the total destruction of the government; in such a case, I say, this power, if given at all, should if possible be so restricted, as to prevent the ill effect of its operation.

Let us then enquire, whether standing armies in time of peace, would be ever beneficial to our country—or if in some extraordinary cases, they might be necessary; whether it is not true, that they have generally proved a scourge to a country, and destructive of their liberty. I shall not take up much of your time in proving point, in which the friends of liberty, in all countries, have so universally agreed. The following extract from Mr. Pultney's speech, delivered in the house of commons of Great-Britain, on a motion for reducing the army, is so full to the point, and so much better than any thing I can say, that I shall be excused for inserting it. He says, "I have always been, and always shall be against a standing army of any kind; to me it is a terrible thing, whether under that of a parliamentary, or any other designation; a standing army is still a standing army by whatever name it is called; they are a body of men distinct from the body of the people; they are governed by different laws, and blind obedience, and an entire submission to the orders of their commanding officer, is their only principle; the nations around us, sir, are already enslaved, and have been enslaved by those very means; by means of their standing armies they have every one lost their liberties; it is indeed impossible that the liberties of the people in any country can be preserved where a numerous standing army is kept up. Shall we then take our measures from the example of our neighbours? No, sir, on the contrary, from their misfortunes we ought to learn to avoid those rocks upon which they have split.

"It signifies nothing to tell me that our army is commanded by such gentlemen as cannot be supposed to join in any measures for enslaving their country; it may be so; I have a very good opinion of many gentlemen now in the army; I believe they would not join in any such measures; but their lives are uncertain, nor can we be sure how long they will be kept in command, they may all be dismissed in a moment, and proper tools of power put in their room. Besides, sir, we know the passions of men, we know how dangerous it is to trust the best of men with too much power. Where was a braver army than that under Jul. Caesar? Where was there ever an army that had served their country more faithfully? That army was commanded generally by the best citizens of Rome, by men of great fortune and figure

in their country, yet that army enslaved their country. The affections of the soldiers towards their country, the honor and integrity of the under officers, are not to be depended on. By the military law the administration of justice is so quick, and the punishment so severe, that neither the officer nor soldier dare dispute the orders of his supreme commander; he must not consult his own inclination. If an officer were commanded to pull his own father out of his house, he must do it; he dares not disobey; immediate death would be the sure consequence of the least grumbling; and if an officer were sent into the court of request, accompanied by a body of musketeers with screwed bayonets, and with orders to tell us what we ought to do, and how we were to vote: I know what would be the duty of this house; I know it would be our duty to order the officer to be hanged at the door of the lobby: but I doubt, sir, I doubt much, if such a spirit could be found in the house, or in any house of commons that will ever be in England.

“Sir, I talk not of imaginary things? I talk of what has happened to an English house of commons, from an English army; not only from an English army, but an army that was raised by that very house of commons, an army that was paid by them, and an army that was commanded by generals appointed by them; therefore do not let us vainly imagine, that an army, raised and maintained by authority of parliament, will always be submissive to them. If an army be so numerous as to have it in their power to overawe the parliament, they will be submissive as long as the parliament does nothing to disoblige their favourite general; but when that case happens I am afraid, that in place of the parliament’s dismissing the army, the army will dismiss the parliament.” —If this great man’s reasoning be just, it follows, that keeping up a standing army, would be the highest degree dangerous to the liberty and happiness of the community—and if so, the general government ought not to have authority to do it; for no government should be empowered to do that which if done, would tend to destroy public liberty.

FEDERAL FARMER XVIII

For the Poughkeepsie *Country Journal*

In the present state of mankind, and of conducting war, the government of every nation must have power to raise and keep up regular troops: the question is, how shall this power be lodged? In an entire government, as in Great-Britain, where the people assemble by their representatives in one legislature, there is no difficulty, it is of course properly lodged in that legislature: But in a confederated republic, where the organization consists of a federal head, and local governments,

there is no one part in which it can be solely, and safely lodged. By art. 1. sect. 8. “congress shall have power to raise and support armies.” &c. By art. 1 sect. 10. “no state, without the consent of congress, shall keep troops, or ships of war, in time of peace.” It seems fit the union should direct the raising of troops, and the union may do it in two ways; by requisitions on the states, or by direct taxes—the first is most conformable to the federal plan, and safest; and it may be improved, by giving the union power, by its own laws and officers, to raise the states quota that may neglect, and to charge it with the expence; and by giving a fixed quorum of the state legislatures power to disapprove the requisition. There would be less danger in this power to raise troops, could the state governments keep a proper controul over the purse and over the militia; but after all the precautions we can take, without evidently fettering the union too much, we must give a large accumulation of powers to it, in these and other respects. There is one check, which, I think, may be added with great propriety—that is, no land forces shall be kept up, but by legislative acts annually passed by congress, and no appropriation of monies for their support shall be for a longer term than one year. This is the constitutional practice in Great-Britain, and the reasons for such checks in the United States appear to be much stronger. We may also require that these acts be passed by a special majority, as before mentioned. There is another mode still more guarded, and which seems to be founded in the true spirit of a federal system: it seems proper to divide those powers we can with safety, lodge them in no one member of the government alone; yet substantially to preserve their use, and to ensure duration to the government, by modifying the exercise of them—it is to empower congress to raise troops by direct levies, not exceeding a given number, say 2000 in time of peace, and 12,000 in a time of war, and for such further troops as may be wanted, to raise them by requisitions qualified as before mentioned. By the above recited clause no state shall keep troops, &c. in time of peace—this clearly implies, it may do it in time of war: this must be on the principle, that the union cannot defend all parts of the republic, and suggests an idea very repugnant to the general tendency of the system proposed, which is to disarm the state governments: a state in a long war may collect forces sufficient to take the field against the neighbouring states. This clause was copied from the confederation, in which it was of more importance than in the plan proposed, because under this the separate states, probably, will have but small revenues.

BRUTUS IX

For the *New York Journal*

That standing armies are dangerous to the liberties of a people was proved in my last number—If it was necessary, the truth of the position might be confirmed by the history of almost every nation in the world. A cloud of the most illustrious patriots of every age and country, where freedom has been enjoyed, might be adduced as witnesses in support of the sentiment. But I presume it would be useless, to enter into a laboured argument, to prove to the people of America, a position, which has so long and so generally been received by them as a kind of axiom.

Some of the advocates for this new system controvert this sentiment, as they do almost every other that has been maintained by the best writers on free government. —Others, though they will not expressly deny, that standing armies in times of peace are dangerous, yet join with these in maintaining, that it is proper the general government should be vested with the power to do it. I shall now proceed to examine the arguments they adduce in support of their opinions.

A writer, in favor of this system, treats this objection as a ridiculous one. He supposes it would be as proper to provide against the introduction of Turkish janizaries, or against making the Alcoran a rule of faith.

From the positive, and dogmatic manner, in which this author delivers his opinions, and answers objections made to his sentiments—one would conclude, that he was some pedantic pedagogue who had been accustomed to deliver his dogmas to pupils, who always placed implicit faith in what he delivered.

But, why is this provision so ridiculous? because, says this author, it is unnecessary. But, why is it unnecessary? “because, the principles and habits, as well as the power of the Americans are directly opposed to standing armies; and there is as little necessity to guard against them by positive constitutions, as to prohibit the establishment of the Mahometan religion.” It is admitted then, that a standing army in time of peace, is an evil. I ask then, why should this government be authorised to do evil? If the principles and habits of the people of this country are opposed to standing armies in time of peace, if they do not contribute to the public good, but would endanger the public liberty and happiness, why should the government be vested with the power? No reason can be given, why rulers should be authorised to do, what, if done, would oppose the principles and habits of the people, and endanger the public

safety, but there is every reason in the world, that they should be prohibited from the exercise of such a power. But this author supposes, that no danger is to be apprehended from the exercise of this power, because, if armies are kept up, it will be by the people themselves, and therefore, to provide against it, would be as absurd as for a man to “pass a law in his family, that no troops should be quartered in his family by his consent.” This reasoning supposes, that the general government is to be exercised by the people of America themselves—But such an idea is groundless and absurd. There is surely a distinction between the people and their rulers, even when the latter are representatives of the former. —They certainly are not identically the same, and it cannot be disputed, but it may and often does happen, that they do not possess the same sentiments or pursue the same interests. I think I have shewn, that as this government is constituted, there is little reason to expect, that the interest of the people and their rulers will be the same.

Besides, if the habits and sentiments of the people of America are to be relied upon, as the sole security against the encroachment of their rulers, all restrictions in constitutions are unnecessary; nothing more is requisite, than to declare who shall be authorized to exercise the powers of government, and about this we need not be very careful—for the habits and principles of the people will oppose every abuse of power. This I suppose to be the sentiments of this author, as it seems to be of many of the advocates of this new system. An opinion like this, is as directly opposed to the principles and habits of the people of America, as it is to the sentiments of every writer of reputation on the science of government, and repugnant to the principles of reason and common sense.

The idea that there is no danger of the establishment of a standing army, under the new constitution, is without foundation.

It is a well known fact, that a number of those who had an agency in producing this system, and many of those who it is probable will have a principal share in the administration of the government under it, if it is adopted, are avowedly in favour of standing armies. It is a language common among them, “That no people can be kept in order, unless the government have an army to awe them into obedience; it is necessary to support the dignity of government, to have a military establishment.” And there will not be wanting a variety of plausible reason[s] to justify the raising one, drawn from the danger we are in from the Indians on our frontiers, or from the European provinces in our neighbourhood. If to this we add, that an army will afford a decent support, and agreeable employment to the young men of

many families, who are too indolent to follow occupations that will require care and industry, and too poor to live without doing any business[:] we can have little reason to doubt, but that we shall have a large standing army, as soon as this government can find money to pay them, and perhaps sooner.

A writer, who is the boast of the advocates of this new constitution, has taken great pains to shew, that this power was proper and necessary to be vested in the general government.

He sets out with calling in question the candour and integrity of those who advance the objection, and with insinuating, that it is their intention to mislead the people, by alarming their passions, rather than to convince them by arguments addressed to their understandings.

The man who reproves another for a fault, should be careful that he himself be not guilty of it. How far this writer has manifested a spirit of candour, and has pursued fair reasoning on this subject, the impartial public will judge, when his arguments pass before them in review.

He first attempts to shew, that this objection is futile and disingenuous, because the power to keep up standing armies, in time of peace, is vested, under the present government, in the legislature of every state in the union, except two. Now this is so far from being true, that it is expressly declared, by the present articles of confederation, that no body of forces “shall be kept up by any state, in time of peace, except such number only, as in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state.” Now, was it candid and ingenuous to endeavour to persuade the public, that the general government had no other power than your own legislature have on this head; when the truth is, your legislature have no authority to raise and keep up any forces?

He next tells us, that the power given by this constitution, on this head, is similar to that which Congress possess under the present confederation. As little ingenuity is manifested in this representation as in that of the former.

I shall not undertake to enquire whether or not Congress are vested with a power to keep up a standing army in time of peace; it has been a subject warmly debated in Congress, more than once, since the peace; and one of the most respectable states in the union, were so fully convinced that they had no such power, that they expressly instructed their delegates to enter a solemn protest against it on the journals of Congress, should they attempt to exercise it.

But should it be admitted that they have the power, there is such a striking dissimilarity between the restrictions under which the present Congress can exercise it, and that of the proposed government, that the comparison will

serve rather to shew the impropriety of vesting the proposed government with the power, than of justifying it.

It is acknowledged by this writer, that the powers of Congress, under the present confederation, amount to little more than that of recommending. If they determine to raise troops, they are obliged to effect it through the authority of the state legislatures. This will, in the first instance, be a most powerful restraint upon them, against ordering troops to be raised. But if they should vote an army, contrary to the opinion and wishes of the people, the legislatures of the respective states would not raise them. Besides, the present Congress hold their places at the will and pleasure of the legislatures of the states who send them, and no troops can be raised, but by the assent of nine states out of the thirteen. Compare the power proposed to be lodged in the legislature on this head, under this constitution, with that vested in the present Congress, and every person of the least discernment, whose understanding is not totally blinded by prejudice, will perceive, that they bear no analogy to each other. Under the present confederation, the representatives of nine states, out of thirteen, must assent to the raising of troops, or they cannot be levied: under the proposed constitution, a less number than the representatives of two states, in the house of representatives, and the representatives of three states and an half in the senate, with the assent of the president, may raise any number of troops they please. The present Congress are restrained from an undue exercise of this power, from this consideration, they know [that] the state legislatures, through whose authority it must be carried into effect, would not comply with the requisition for the purpose, if it was evidently opposed to the public good: the proposed constitution authorizes the legislature to carry their determinations into execution, without the intervention of any other body between them and the people. The Congress under the present form are amenable to, and removable by, the legislatures of the respective states, and are chosen for one year only: the proposed constitution does not make the members of the legislature accountable to, or removeable by the state legislatures at all; and they are chosen, the one house for six, and the other for two years; and cannot be removed until their time of service is expired, let them conduct [themselves] ever so badly. —The public will judge, from the above comparison, how just a claim this writer has to that candour he affects to possess. In the mean time, to convince him, and the advocates for this system, that I possess some share of candor, I pledge myself to give up all opposition to it, on the head of standing armies, if the power to raise them be restricted as it is in the present confederation; and I believe I may safely answer, not only for myself, but for all who make the objection, that they will be satisfied with less.

