

FEDERALIST No. 23

The Necessity of a Government at Least Equally Energetic to the One Proposed Hamilton

*From the New York Packet
Tuesday, December 18, 1787*

To the People of the State of New York:

THE NECESSITY of a Constitution, at least equally energetic with the one proposed, to the preservation of the Union, is the point at the examination of which we are now arrived.

This inquiry will naturally divide itself into three branches the objects to be provided for by the federal government, the quantity of power necessary to the accomplishment of those objects, the persons upon whom that power ought to operate. Its distribution and organization will more properly claim our attention under the succeeding head.

The principal purposes to be answered by union are these the common defense of the members; the preservation of the public peace as well against internal convulsions as external attacks; the regulation of commerce with other nations and between the States; the superintendence of our intercourse, political and commercial, with foreign countries.

The authorities essential to the common defense are these: to raise armies; to build and equip fleets; to prescribe rules for the government of both; to direct their operations; to provide for their support. These powers ought to exist without limitation, BECAUSE IT IS IMPOSSIBLE TO FORESEE OR DEFINE THE EXTENT AND VARIETY OF NATIONAL EXIGENCIES, OR THE CORRESPONDENT EXTENT AND VARIETY OF THE MEANS WHICH MAY BE NECESSARY TO SATISFY THEM. The circumstances that endanger the safety of nations are infinite, and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. This power ought to be coextensive with all the possible combinations of such circumstances; and ought to be under the direction of the same councils which are appointed to preside over the common defense.

This is one of those truths which, to a correct and unprejudiced mind, carries its own evidence along with it; and may be obscured, but cannot be made plainer by argument or reasoning. It rests upon axioms as simple as they are universal; the MEANS ought to be proportioned to the END; the persons, from whose agency the attainment of any END is expected, ought to possess the MEANS by which it is to be attained.

Whether there ought to be a federal government entrusted with the care of the common defense, is a question in the first instance, open for discussion; but the moment it is decided in the affirmative, it will follow, that that government ought to be clothed with all the powers requisite to complete execution of its trust. And unless it can be shown that the circumstances which may affect the public safety are reducible within certain determinate limits; unless the contrary of this position can be fairly and rationally disputed, it must be admitted, as a necessary consequence, that there can be no limitation of that authority which is to provide for the defense and protection

of the community, in any matter essential to its efficacy that is, in any matter essential to the FORMATION, DIRECTION, or SUPPORT of the NATIONAL FORCES.

Defective as the present Confederation has been proved to be, this principle appears to have been fully recognized by the framers of it; though they have not made proper or adequate provision for its exercise. Congress have an unlimited discretion to make requisitions of men and money; to govern the army and navy; to direct their operations. As their requisitions are made constitutionally binding upon the States, who are in fact under the most solemn obligations to furnish the supplies required of them, the intention evidently was that the United States should command whatever resources were by them judged requisite to the “common defense and general welfare.” It was presumed that a sense of their true interests, and a regard to the dictates of good faith, would be found sufficient pledges for the punctual performance of the duty of the members to the federal head.

The experiment has, however, demonstrated that this expectation was ill-founded and illusory; and the observations, made under the last head, will, I imagine, have sufficed to convince the impartial and discerning, that there is an absolute necessity for an entire change in the first principles of the system; that if we are in earnest about giving the Union energy and duration, we must abandon the vain project of legislating upon the States in their collective capacities; we must extend the laws of the federal government to the individual citizens of America; we must discard the fallacious scheme of quotas and requisitions, as equally impracticable and unjust. The result from all this is that the Union ought to be invested with full power to levy troops; to build and equip fleets; and to raise the revenues which will be required for the formation and support of an army and navy, in the customary and ordinary modes practiced in other governments.

If the circumstances of our country are such as to demand a compound instead of a simple, a confederate instead of a sole, government, the essential point which will remain to be adjusted will be to discriminate the OBJECTS, as far as it can be done, which shall appertain to the different provinces or departments of power; allowing to each the most ample authority for fulfilling the objects committed to its charge. Shall the Union be constituted the guardian of the common safety? Are fleets and armies and revenues necessary to this purpose? The government of the Union must be empowered to pass all laws, and to make all regulations which have relation to them. The same must be the case in respect to commerce, and to every other matter to which its jurisdiction is permitted to extend. Is the administration of justice between the citizens of the same State the proper department of the local governments? These must possess all the authorities which are connected with this object, and with every other that may be allotted to their particular cognizance and direction. Not to confer in each case a degree of power commensurate to the end, would be to violate the most obvious rules of prudence and propriety, and improvidently to trust the great interests of the nation to hands which are disabled from managing them with vigor and success.

Who is likely to make suitable provisions for the public defense, as that body to which the guardianship of the public safety is confided; which, as the centre of information, will best understand the extent and urgency of the dangers that threaten; as the representative of the WHOLE, will feel itself most deeply interested in the preservation of every part; which, from the responsibility implied in the duty assigned to it, will be most sensibly impressed with the

necessity of proper exertions; and which, by the extension of its authority throughout the States, can alone establish uniformity and concert in the plans and measures by which the common safety is to be secured? Is there not a manifest inconsistency in devolving upon the federal government the care of the general defense, and leaving in the State governments the EFFECTIVE powers by which it is to be provided for? Is not a want of co-operation the infallible consequence of such a system? And will not weakness, disorder, an undue distribution of the burdens and calamities of war, an unnecessary and intolerable increase of expense, be its natural and inevitable concomitants? Have we not had unequivocal experience of its effects in the course of the revolution which we have just accomplished?

Every view we may take of the subject, as candid inquirers after truth, will serve to convince us, that it is both unwise and dangerous to deny the federal government an unconfined authority, as to all those objects which are entrusted to its management. It will indeed deserve the most vigilant and careful attention of the people, to see that it be modeled in such a manner as to admit of its being safely vested with the requisite powers. If any plan which has been, or may be, offered to our consideration, should not, upon a dispassionate inspection, be found to answer this description, it ought to be rejected. A government, the constitution of which renders it unfit to be trusted with all the powers which a free people OUGHT TO DELEGATE TO ANY GOVERNMENT, would be an unsafe and improper depository of the NATIONAL INTERESTS. Wherever THESE can with propriety be confided, the coincident powers may safely accompany them. This is the true result of all just reasoning upon the subject. And the adversaries of the plan promulgated by the convention ought to have confined themselves to showing, that the internal structure of the proposed government was such as to render it unworthy of the confidence of the people. They ought not to have wandered into inflammatory declamations and unmeaning cavils about the extent of the powers. The POWERS are not too extensive for the OBJECTS of federal administration, or, in other words, for the management of our NATIONAL INTERESTS; nor can any satisfactory argument be framed to show that they are chargeable with such an excess. If it be true, as has been insinuated by some of the writers on the other side, that the difficulty arises from the nature of the thing, and that the extent of the country will not permit us to form a government in which such ample powers can safely be reposed, it would prove that we ought to contract our views, and resort to the expedient of separate confederacies, which will move within more practicable spheres. For the absurdity must continually stare us in the face of confiding to a government the direction of the most essential national interests, without daring to trust it to the authorities which are indispensable to their proper and efficient management. Let us not attempt to reconcile contradictions, but firmly embrace a rational alternative.

I trust, however, that the impracticability of one general system cannot be shown. I am greatly mistaken, if any thing of weight has yet been advanced of this tendency; and I flatter myself, that the observations which have been made in the course of these papers have served to place the reverse of that position in as clear a light as any matter still in the womb of time and experience can be susceptible of. This, at all events, must be evident, that the very difficulty itself, drawn from the extent of the country, is the strongest argument in favor of an energetic government; for any other can certainly never preserve the Union of so large an empire. If we embrace the tenets of those who oppose the adoption of the proposed Constitution, as the standard of our political

creed, we cannot fail to verify the gloomy doctrines which predict the impracticability of a national system pervading entire limits of the present Confederacy.

PUBLIUS.

FEDERALIST No. 24
The Same Subject Continued with an Answer to an Objection Concerning Standing
Armies
Hamilton

For the Independent Journal
Wednesday, December 19, 1787

To the People of the State of New York:

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, if I understand it right, is this, that proper provision has not been made against the existence of standing armies in time of peace; an objection which, I shall now endeavor 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 favor 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 the keeping up of troops 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 colorable 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 clamor.

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 them 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 favorite 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 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 regarding these clamors as 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 superadded 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 entangled 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 in time of peace, 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, and 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, neighbors. 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 connection. 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 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 would not long, if at all, submit to be dragged from their occupations and families to perform that most disagreeable duty in times of profound peace. 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 labor and disconcertion of the industrious pursuits of individuals, would form conclusive objections to the scheme. It would be as burdensome and injurious to the public as ruinous to private citizens. The latter resource of permanent corps in the pay of the 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 neighborhood. If we should not be willing to be exposed, in a naked and defenseless condition, to their insults and 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 neighboring 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 endeavor, as soon as possible, to have a navy. To this purpose there must be dock-yards and arsenals; and for the defense 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 supersedes 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 Same Subject Continued with the Same View
Hamilton

From the New York Packet
Friday, December 21, 1787

To the People of the State of New York:

IT MAY perhaps be urged that the objects enumerated in the preceding number ought to be provided for by the State governments, under the direction of the Union. But this would be, in reality, an inversion of the primary principle of our political association, as it would in practice transfer the care of the common defense 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 neighborhood 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 neighbors. 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 burden of competent provisions. The security of all would thus be subjected to the parsimony, improvidence, or inability of a part. If the resources of such part becoming more abundant and extensive, its provisions should be proportionally 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 pretenses 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 a 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 jealous. For it is a truth, which the experience of ages has attested, that the people are always 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 lights besides those already taken notice of, 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 designed the prohibition should extend; whether to raising armies as well as to KEEPING THEM UP in a season of tranquility 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 as 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 supposed utility of a provision of this kind can only be founded on the supposed probability, or at least possibility, of a combination between the executive and the legislative, in some scheme of usurpation. Should this at any time happen, how easy would it be to fabricate pretenses 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 defense, 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 defenseless 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 be at all times equal to the national defense. 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 vigor, confirm this position. The American militia, in the course of the late war, have, by their valor 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 government, 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 parchment provisions are to a struggle with public necessity.

It was a fundamental maxim of the Lacedaemonian 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 Lacedaemonians, 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.

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FEDERALIST No. 26
The Same Subject Continued with the Same View
Hamilton

For the Independent Journal
Saturday, December 22, 1787

To the People of the State of New York:

IT WAS a thing hardly to be 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 of providing for the national defense, 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 prevalency; 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; wisely judging 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 whom 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 favor 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 “the 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, 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 reconcilable 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 raise 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 anywhere 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 these constitutions, and among others, in that of this 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 cautionary 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 necessities 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 favorable 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 along through all the successive variations in a 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 recall all the powers they have heretofore parted with out of their own hands, 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 colorable 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 acts of the legislature. But

the question again recurs, upon what pretense 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 principles of the objection; for this is leveled 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 defense 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 defense.

But it is an evil infinitely less likely to attend us in a 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 our 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 Same Subject Continued with the Same View
Hamilton

From the New York Packet
Tuesday, December 25, 1787

To the People of the State of New York:

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 presupposition that the people will be disinclined to the exercise of federal authority in any matter of an internal nature. Waiving 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 presuppose 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

government, 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 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 reasons 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 which are select bodies of men, and which 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 extensive information in the national councils, and that they will be less apt to be tainted by the spirit of faction, and more out of the reach of those occasional ill-humors, or temporary prejudices and propensities, which, in smaller societies, frequently contaminate the public councils, beget injustice and oppression of 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, to fortify that probability, will occur 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 proportionately 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 a match for 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 this 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 generally have but little 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 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 that species of league contend 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. Any man who will pursue, by his own reflections, the consequences of this situation, will perceive that there is good ground to calculate upon a regular and peaceable execution of the laws of the Union, if its powers are administered with a common share of prudence. 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, 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 Concluded
Hamilton

For the Independent Journal
Wednesday, December 26, 1787

To the People of the State of New York:

THAT THERE may happen cases in which the national government may be necessitated to resort 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 arise in all societies, however constituted; that seditions and insurrections are, unhappily, maladies as inseparable from the body politic as tumors 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 reveries 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 national 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 repressing 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 tenfold 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 in 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 even if there should be an entire separation of the 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, only efficacious security for the rights and privileges of the people, which is attainable in civil society.

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-defense which is paramount to all positive forms of government, and which against the usurpations of the national rulers, may be exerted with infinitely better prospect of success than against those of the rulers of an individual state. In a single state, if the persons entrusted 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 defense. 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 the 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 insure 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 pretenses 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 power. 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 natural strength of the community will proportionately increase. When will the time arrive that the federal government can raise and maintain an army capable of erecting 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 defense, 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.