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“THE ARMY OF THE CONSTITUTION”: THE MILITARY, AMERICAN VALUES, AND THE EARLY REPUBLIC

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Any man or woman who enlists in the United States Army must take the following oath: “I do solemnly swear (or affirm) that I will support the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same.” In other words, American soldiers are expected to risk their lives for a piece of paper, but that is not as absurd as it sounds. As we all know, the Constitution serves a high purpose, which its framers took pains to articulate in their Preamble—“to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty.” That definition of good government contains a pronounced military component. Governments usually provide for their defense by maintaining armed forces, and those forces are sometimes called upon to keep order at home.¹

Yet while the men who drafted and ratified the Constitution may have agreed on the general purpose of government, they clashed over the proper means for ensuring national security. The years in which the United States won its independence and attempted to assert its viability as a nation also witnessed a prolonged and abrasive debate over military policy. Americans argued about how much military power they were willing to entrust to the national government, as well as when and against whom that power should be employed.

Although anti-militarism permeated the basic political philosophy of America’s Founders, they could not escape the fact that theirs was a nation conceived in war. The more realistic among them acknowledged that the general welfare and blessings of liberty could not be safeguarded without occasional resort to arms. Despite ideological disputes and increasingly bitter partisanship, they managed to construct a military system that would govern America’s responses to its enemies, both foreign and domestic, for a century following George Washington’s presidency. That system, and the assumptions that supported it, continue to influence our current defense establishment. As America’s leaders search for new ways to serve the republic’s security interests in an age of uncertainty, they would do well to revisit the country’s military roots.²

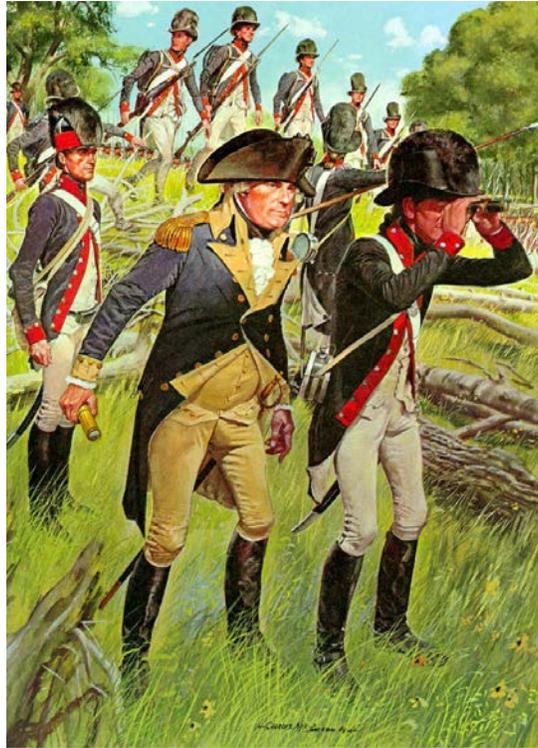
When Englishmen first began colonizing North America in the late 1500s and early 1600s, the institution that we equate with a modern military establishment—a standing (full-time, professional) army—had not yet taken root in their country. Consequently, colonizing bands met their military needs by importing the English militia system.

The militia rested on the principle of universal military obligation. With the exception of Quaker Pennsylvania, all of the Thirteen Colonies passed legislation that turned their adult male inhabitants into part-time soldiers. Each man aged sixteen to sixty was expected to own a modern weapon, train regularly with his neighbors, and stand ready to repel any attack on his

¹ Robert K. Wright, Jr., and Morris J. MacGregor, Jr., *Soldier-Statesmen of the Constitution* (Washington, D.C.: Center of Military History, United States Army, 1987), 57, 214, 234.

² Richard H. Kohn, *Eagle and Sword: The Federalists and the Creation of the Military Establishment in America, 1783-1802* (New York: Free Press, 1975), xii-xiii, 2-3, 6, 73, 75-76, 109-10, 183-86, 277-93.

colony. This standard was rarely realized in full, however, and it tended to deteriorate over time.



H. Charles McBarron's "The American Soldier, 1794," shows Major General Anthony Wayne and his Legion of the United States (America's regular army) winning the Battle of Fallen Timbers on August 20, 1794. (From U.S. Army Center of Military History)

The cost of weaponry and emerging social taboos caused the militia to evolve into an association of white, middle-class, propertied males. As the colonies expanded and prospered, moreover, the militia system grew weaker. Militiamen in settled areas became reluctant to answer distant frontier alarms and defend other people's property and families. Drawing solid citizens from their farms and businesses also unsettled colonial economies.

Thus colonial governments took to guarding their frontiers with paid troops raised for set periods of time (a campaign season or a year). Ironically, these semi-regulars or "Provincials" were often the very men barred from militia service—the poor and propertyless—the start of an enduring recruitment pattern in the American military.

Despite this reliance on semi-regulars and the fact that a large infusion of British regulars proved decisive in eliminating the French threat from North America in the French and Indian War, 18th-century Americans tended to fear standing armies. They believed that regulars without a war to keep them busy posed a threat to popular liberty.³ These words, published under a pseudonym in 1788, summed up what had long been an entrenched attitude in American society:

It has ever been held that standing armies in times of peace are dangerous to a free country; and no observation seems to contain more reason in it. Besides being useless, as having no object of employment, they are inconvenient and expensive. The soldiery, who are generally composed of the dregs of the people, when disbanded, or unfit for military service, being equally unfit for any other employment, become extremely burthensome. ... The severity of discipline necessary to be observed reduces them to a degree of slavery; the unconditional submission to the commands of their superiors, to which they are bound, renders them the fit instruments of tyranny and oppression.—Hence they have in all ages afforded striking examples of contributing, more or less, to enslave mankind.⁴

³ Kohn, *Eagle and Sword*, 7-8; James Kirby Martin and Mark Edward Lender, *A Respectable Army: The Military Origins of the Republic, 1763-1789* (Arlington Heights, Illinois: Harlan Davidson, Inc., 1982), 16-18.

⁴ "Essays by the Impartial Examiner," *Virginia Independent Chronicle*, February-June 1788," in Herbert J. Storing, ed., *The Complete Anti-Federalist*, 7 vols. (Chicago: University of Chicago Press, 1981), 5: 181.

Americans justified these prejudices by drawing on the history of ancient Greece and Rome, and the more recent excesses of Oliver Cromwell and James II. The use that Great Britain made of a few thousand Redcoats to enforce compliance with parliamentary taxes in the Thirteen Colonies between 1763 and 1775 not only intensified American hostility toward standard armies, but it triggered the War of Independence.

Ironically, the men who led America into revolution discovered they could not win independence without creating a regular force of their own—George Washington’s Continental Army. Washington’s Continentals were not the middle-class “embattled farmers” of cherished myth—at least not after the war’s first year or two. The rank and file consisted largely of vagrants, loafers, the unemployed, indentured servants, debtors, free blacks, slaves, enemy deserters, prisoners of war, ordinary criminals, and Loyalists facing execution, along with a healthy sprinkling of enemy deserters. To induce such men “to serve during the present war,” the Continental Congress, the rebellious colonies’ *de facto* central government, began offering recruits economic enticements in the fall of 1776 (100-acre land grants and \$20 bounties—with bounties eventually soaring to \$80).⁵



Donna Neary’s “To Execute the Laws” shows President George Washington (in uniform) and Secretary of the Treasury Alexander Hamilton (in civilian clothes) at Carlisle, PA, reviewing the 15,000 federalized militia called out to quell the Whiskey Rebellion in 1794. These troops are what Washington called “the army of the constitution” at the end of the article. (From National Guard Heritage Gallery, National Guard Bureau)

Due to a chronic shortage of Continentals, the Patriots had to lean on the militia for military operations. While the militia compiled a mixed combat record, it played a crucial role as a revolutionary home guard. Militiamen suppressed local Loyalists, defended the Indian frontier, and made it difficult for the British to penetrate and occupy the countryside. Whenever the British tried to hold a lot of ground by spreading their forces thin, they risked defeat in detail. Thus the inextinguishable hostility of the militia—a perpetual insurgency—created a no-win situation for the British, and they finally washed their hands of the Thirteen Colonies after the Yorktown disaster.

During the War of Independence, the Continental Congress legitimized its authority with a written constitution, the Articles of Confederation. The Articles empowered Congress to wage war and make peace, create a navy, and requisition the states for troops for national service. At the same time, each state was expected to “keep up a well regulated militia, sufficiently armed and accoutred [equipped].” Unfortunately, the Articles provided no mechanism that allowed Congress to force any state to do anything against its will, resulting in a weak and easily ignored national government.⁶

⁵ Kohn, *Eagle and Sword*, 5-6; Wright and MacGregor, *Soldier-Statesmen*, 11; Martin and Lender, *Respectable Army*, 1-3, 20-28, 35-36, 40, 67-78, 87-91, 131-33; Robert K. Wright, Jr., *The Continental Army* (Washington, D.C.: Center of Military History, United States Army, 1983), 20-25.

⁶ Kohn, *Eagle and Sword*, 9-13; Wright and MacGregor, *Soldier-Statesmen*, 14, 23, 183-85, 187-88; John Shy, *A People Numerous*

With the end of the Revolution, American anti-militarism re-emerged, and Congress quickly disbanded the Continental Army. This action was encouraged by the 1781 mutinies of the Pennsylvania and New Jersey Continental Lines and the 1783 Newburgh Conspiracy, an aborted officers' coup. George Washington did his best to persuade his civilian superiors to provide the young United States with at least a rudimentary defensive system. Washington's famous "Sentiments on a Peace Establishment" recommended replacing the Continental Army with a regular force of 2,631 to garrison enough frontier posts to deter Indian attacks and prevent encroachments on American territory by the British in Canada and the Spanish in Florida and Louisiana. Washington also urged revitalizing the militia by classing its members by age and making the youngest (ages eighteen to twenty-five) liable for longer training and the first to respond to military emergencies.

Congress disregarded Washington's counsel and decided to protect the infant republic with a single regiment. Representing the ambiguities inherent in the American military tradition, this 1st American Regiment was initially composed of 700 men drafted for one year from the militias of Pennsylvania, Connecticut, New York, and New Jersey. It was soon converted into a regular force with three-year enlistment terms, but it was never large enough to pacify the frontier, which lay exposed to Indian depredations.

Further proof of America's military vulnerability came in the autumn of 1786, when thousands of debtor farmers rose in revolt in western Massachusetts under Daniel Shays. Although Shays' Rebellion was eventually quelled by the Massachusetts militia, the fact that it lasted more than six months and that Congress made no significant contribution to the outcome convinced what George Washington called "the thinking part of the people of this country" to conclude: "These disorders are evident marks of defective government." Consequently, Washington and fifty-four other delegates gathered in Philadelphia between May and July 1787 to scrap the Articles of Confederates and draft this nation's present constitution.⁷

For the most part, the Founders believed that stable government required a military capacity formidable enough to shield its citizens from outside threats and any lawless elements that might spring up in their midst. As Alexander Hamilton of New York put it: "A certain portion of military force is absolutely necessary in large communities." Thus the Constitutional Convention granted the proposed national government definite military powers. Congress could declare war, raise and support armies, build and maintain a navy, and approve all regulations governing the armed forces. It could also set standards for organizing, training, and disciplining the militia, and call militiamen into national service "to execute the Laws of the Union, suppress Insurrections, and repel Invasions." The office of President received the same military powers as a European monarch—"Commander in Chief of the Army and Navy . . . , and of the Militia . . . , when called into the actual Service of the United States."⁸

The publication of the Constitution in October 1787 inspired as much criticism as praise, and nine months of spirited debate preceded the document's ratification. Anti-Federalists hurled many of their strongest objections at the Constitution's military provisions. What distressed them the most was the national government's power to raise a standing army in peacetime, and they warned that this was deliberately intended to trample states' rights and strip the people of their liberties. Some Anti-Federalists claimed that the power to federalize the militia would be utilized to convert that force into a standing army for nefarious purposes. A few even predicted that the President would wield his military powers to crown himself king.

On the Federalist side of the argument, the most effective reply to these dire pronouncements came from Alexander Hamilton, a former Continental Army officer. Hamilton pointed out that an inability to raise troops in peacetime would leave the United States vulnerable to foreign threats and unable to head off Indian troubles by reinforcing frontier garrisons. "The United States would then exhibit the most extraordinary spectacle which the world has yet seen," he insisted, "that of a nation incapacitated by its Constitution to prepare for defense before it was actually invaded. . . . We must receive the blow before we could even prepare to return it. . . . 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." Hamilton underscored his preparedness argument with a rationale for military professionalism that would pass muster today: "War, like most other things, is a science to be acquired and perfected by diligence, by perseverance, by time and by practice."⁹

and Armed: Reflections on the Military Struggle for American Independence (New York: Oxford University Press, 1976), 165-79, 193-224; David Hackett Fischer, *Washington's Crossing* (New York: Oxford University Press, 2004), 160-203.

⁷ Kohn, *Eagle and Sword*, 17, 23, 25-27, 31-36, 38, 42-53, 74-75; Martin and Lender, *Respectable Army*, 160-65, 186-95; Wright, *Continental Army*, 177-82; Wright and MacGregor, *Soldier-Statesmen*, 29, 32-33, 193-200, 202-7; George Washington to Henry Knox, December 26, 1786, in W. W. Abbott and Dorothy Twohig, eds., *The Papers of George Washington: Confederation Series*, 6 vols. (Charlottesville: University Press of Virginia, 1992-97), 4: 481-82.

⁸ Kohn, *Eagle and Sword*, 75-76; Wright and MacGregor, *Soldier-Statesmen*, 40, 216-17; Max Farrand, ed., *The Records of the Federal Convention of 1787*, 4 vols. (New Haven: Yale University Press, 1966): 1: 246, 285.

⁹ Kohn, *Eagle and Sword*, 82-83. See also Storing, *Complete Anti-Federalist*. Alexander Hamilton, James Madison, and John Jay,

As the head of the first administration to take power under the Constitution, George Washington had to demonstrate that the new national government could actually safeguard the American people and their interests. The populace's enduring anti-militarism and the pressures of partisan politics, however, compelled Washington to proceed cautiously. During the debates over the Constitution, Federalists and Anti-Federalists agreed that the existence of a well-trained and equipped militia would reduce the need for a standing army. Nevertheless, Congress balked at imposing true militia reform on the states. The Uniform Militia Act of 1792 merely empowered the President to call out the militia to execute federal law against "combinations too powerful to be suppressed by the ordinary course of judicial proceedings," and limited such service to three months a year. It took a series of military disasters in the Old Northwest to demonstrate the unreliability of the militia in Indian warfare. In March 1792, Washington finally prevailed on Congress to create a 5,000-man regular army, which the imperious Major General Anthony Wayne literally flogged into shape and led to victory over the Ohio tribes at Fallen Timbers on August 20, 1794.¹⁰

Even as Wayne was creating a respectable regular army, President Washington invoked the Uniform Militia Act to send 15,000 federalized citizen-soldiers into western Pennsylvania to suppress the so-called Whisky Rebellion. Historians still argue over whether the provocation justified the Washington Administration's massive response, but that issue is not as important as the precedents Washington attempted to set. Once Washington decided that the tax resisters had crossed the line into treason with "overt acts of levying war against the United States," he followed the advice of Alexander Hamilton, his Secretary of the Treasury, who urged: "The force ought if attainable to be an imposing one, such if practicable, as will deter from opposition, save the effusion of the blood of Citizens and secure the object to be accomplished." As Hamilton predicted, the dispatch of an overpowering army into the Pennsylvania wilderness intimidated the Whiskey rebels, and the uprising fizzled without a fight. Washington then tempered firmness with mercy, pardoning the only two insurrectionists convicted of treason in federal court.¹¹

Washington's success in the Whisky Rebellion rested on the moderate use of irresistible force. He recognized that republican government depended on the love and support of the people. It should not unleash the military against a disaffected minority simply to punish, but to enforce majority rule as embodied in laws approved by the people's representatives. This wisdom led most Americans to accept the optimistic spin that Washington himself gave to the outcome of the Whiskey Rebellion:

It has demonstrated, that our prosperity rests on solid foundations; by furnishing an additional proof, that my fellow citizens understand the true principles of government and liberty: that they feel their inseparable union: that . . . they are now as ready to maintain the authority of the laws against licentious invasions, as they were to defend their rights against usurpation. It has been a spectacle, displaying to the highest advantage, the value of Republican Government, to behold the most and least wealthy of our citizens standing in the same ranks as private soldiers; pre-eminently distinguished by being the army of the constitution.¹²

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The Federalist Papers (New York: New American Library, 1961), 160-63, 165-68, 178.

¹⁰ Kohn, *Eagle and Sword*, 92, 96, 102-3, 106, 108-10, 114, 120, 122-23, 125-26, 129-35, 174-75; Wright and MacGregor, *Soldier-Statesmen*, 244-45.

¹¹ Kohn, *Eagle and Sword*, 139-40, 170; Wright and MacGregor, *Soldier-Statesmen*, 52; George Washington, "Proclamation," August 7, 1794, in John C. Fitzpatrick, ed., *The Writings of George Washington*, 39 vols. (Washington, D.C.: U.S. Government Printing Office, 1931-44), 33: 458-60; Alexander Hamilton to George Washington, August 2, 1794, in Harold C. Syrett, ed., *The Papers of Alexander Hamilton*, 27 vols. (New York: Columbia University Press, 1961-87), 17: 15-19. See also Steven R. Boyd, ed., *The Whiskey Rebellion: Past and Present Perspectives* (Westport, Connecticut: Greenwood Press, 1985), 3-7, 9-30, 97-100.

¹² George Washington, "Sixth Annual Address to Congress," November 19, 1794, in Fitzpatrick, *Writings of Washington*, 34: 34.