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# FOOTNOTES

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## UNDERSTANDING THE CREATION OF THE U.S. ARMED FORCES

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The creation of the United States' military forces was a prolonged, complicated process that unfolded in three distinct periods, beginning with the Revolution but continuing through the Confederation and early Constitutional eras.<sup>1</sup>

### THE AMERICAN REVOLUTION

The armed forces date their official birth to 1775. First, on June 14 of that year, the Continental Congress created the Continental Army by accepting national responsibility for the New England militia forces, especially those besieging the British in Boston, and authorizing ten companies of riflemen from Pennsylvania, Maryland, and Virginia to give the new army a more "national" composition. Then on October 13 Congress authorized the procurement and manning of two armed vessels to capture British ships carrying supplies to North America, and established a Naval Committee to supervise the colonists' seaborne effort. Finally, on November 10 Congress passed a resolution creating two battalions of Continental Marines.

However, identifying any single date as the birth of the Army, Navy, or Marine Corps is arbitrary. In regard to the Army, the United States never had one single army.

<sup>1</sup> I have previously discussed many of the issues raised in this essay in Allan R. Millett and Peter Maslowski, *For the Common Defense: A Military History of the United States of America* (Free Press, 1994 revised and expanded edition), chapters 3 and 4, and in "To the Edge of Greatness: The United States, 1783-1865," in Williamson Murray, MacGregor Knox, and Alvin Bernstein, *The Making of Strategy: Rulers, States, and War* (Cambridge University Press, 1994).

Instead it always had a dual army that emerged from the colonial background and was solidified during the Revolution. Each of the two armies derived from a distinct strand of British ideology regarding land forces, which the colonists had inherited from the mother country.

So-called Radical Whigs emphasized the domestic political and social reliability of military forces above all else. Drawing lessons supposedly learned from studying the Greek and Roman republics, ancient Goths and Germans, and Machiavelli's writings, they gleaned two important insights. One was that citizen-soldier militias were essential for the preservation of civil liberties and for maintaining constitutional stability. Tyranny, they believed, was impossible when citizens and soldiers were one and same. Because they had nothing to gain from curtailing their own freedoms, citizen-soldiers were incorruptible. The other was that professional armies and despotism went fist-in-gloved because ambitious rulers could easily manipulate a regular army and use it as a repressive instrument. After all, the hierarchal and authoritarian nature of military life bred a spirit of obedience, and long-serving professionals lost their sensitivity to the freedoms that civilians enjoyed.

Competing in the ideological arena against the Radical Whig perspective were Moderate Whigs, who emphasized military effectiveness against external threats as their foremost goal. They believed that a small professional army rather than citizen-soldiers would best protect the realm against a foreign threat. Indeed, the Moderates argued that the survival of free institutions depended on a professional army. Only a regular army could obtain the military proficiency to preserve freedom from external assault. Historically, citizen-soldiers performed adequately against other militias, but they would not fare well against the regular armies that the Continental powers were deploying. Raw courage alone was no longer sufficient; it had to be honed with intense, prolonged training and discipline. Moreover, Moderate Whigs asserted that having a professional army and being free could co-exist as long as the army was under proper constitutional safeguards, such as those embodied in the British Bill of Rights (1689).

Colonial military affairs combined the Radical and Moderate Whig ideologies. On the one hand, every colony

(except Pennsylvania) established a militia system. Collectively the militias performed adequately during the seventeenth century, but they had deteriorated by the early eighteenth century. On the other hand, as the 1700s progressed, Britain increasingly dispatched small numbers of British Regulars to North America. The relationship between those Regulars and the colonists was not altogether pleasant. By the mid-1700s many Americans--especially those who avidly embraced Radical Whig ideology--were convinced that the King was a tyrant, intent on using the Army to quash civil liberties. Nonetheless, those Americans not blinded by Radical Whig anti-army ideology recognized that it was those despised British Regulars, not colonial militiamen, who increasingly carried the combat burden against French forces in America, especially during the French and Indian War, the last of the four colonial wars.

In addition to relying on British Regulars as the common militia declined, colonists often recruited ad hoc, expeditionary forces composed of volunteers to perform garrison duty, patrol the front, and undertake campaigns against either Native American or European foes. Serving for extended enlistments rather than the three months that were normal for a militia unit, these expeditionary forces sometimes took on the attributes of a professional army. Perhaps the foremost example occurred during the French and Indian War, when Colonel George Washington commanded the Virginia Regiment. Washington was so impressed with the British Regular Army's skill, toughness, and persistence that he not only sought a commission in that Army for himself but also tried to have his regiment incorporated into it. Because he was unsuccessful in both endeavors, the Virginia Regiment did not become part of the standing regular army; instead, as happened with all previous colonial expeditionary forces, the regiment disbanded when the emergency was over.

Considering the contested ideology concerning land forces and the colonial experience with both militias and British Regulars (and American pseudo-regulars), it should come as no surprise that the Revolution embodied both ideological strands. Between 1763 and 1775 the militia underwent a dramatic renaissance. The colonies refurbished their citizen-soldier forces to resist alleged oppression by a professional British army being wielded by a tyrannical king. These revitalized militias not only fought the Revolution's initial battles, but also served in important capacities throughout the war. Representing a reserve force that provided large numbers of partially trained soldiers for short enlistments, the continued reliance on militias reflected the Radical Whig suspicion of a regular army in a free society. But the Moderate Whigs were right: the military expertise needed to defend freedom against a professional army was beyond the capability of citizen-soldiers alone. The Continental Army, reflecting the Moderate Whig insistence on a small regular army, provided the requisite military expertise and staying power during the long and arduous war.

Under the exigencies of war Americans had created a military system that blended both strands of British ideology. The militia system and the Continental Army nicely complemented one another at critical junctures such

as the battles at Trenton, Princeton, Saratoga, and Yorktown. True, even in combination they usually did not make a lethal weapon. Yet without both citizen-soldiers and Continental Army regulars, American victory is difficult to envision.

As for the Continental Navy, no one advocated building a fleet to challenge British supremacy on the high seas. In 1775 the British had 270 ships in the three largest categories of warships (ships of line, frigates, and sloops); America had none, which meant that directly challenging the Royal Navy was an impossible task. But an American naval effort could still hurt England by attacking its seaborne commerce and disrupting its military supply and communications lines. So the Americans raised a Continental Navy to match their Continental Army. Ultimately the Continental Navy consisted of approximately fifty ships, though never more than twenty were in service at any one time, and most of the ships were small and of limited usefulness.

Just as the militia and Continental Army worked together, so the Continental Navy was not alone out on the oceans attacking the British. Three other types of naval forces were also afloat. All the colonies except for New Jersey and Delaware organized state navies, which were akin to state militias. For the most part consisting of shallow-draft barges, galleys, and gunboats, their most important contributions were, first, preventing British raiding parties from going ashore, and second, interdicting Loyalists' efforts to supply British ships lying offshore. Privateers, privately owned armed ships sailing under a commission from the Continental Congress or a state government authorizing them to attack enemy merchant ships, essentially engaged in licensed piracy. The idea of plundering the seaborne wealth of the British Empire was so appealing that approximately 2,000 privateers set sail during the war. And then there was the French Navy, which was vital to American victory. The Yorktown campaign of 1781, which was perhaps the Revolution's most decisive campaign because it broke Parliament's will to continue fighting the Americans, would have been impossible without the French Navy. That navy's "victory" over the British fleet at the Battle of the Virginia Capes insured that Lord Cornwallis' army would not be rescued by sea, and thus would ultimately be compelled to surrender.

The inspiration for the Continental Marines came from British tradition. Ever since 1664 the British periodically mobilized marine regiments during a war, demobilized them when peace came, and then reestablished them during the next war. Following British precedent, on November 10, 1775 the Congress authorized those two Marine battalions, but they were never formed. Naval authorities simply began enlisting small groups of Marines and organizing them into small companies that were never organized into larger units. Ultimately, some Marines served aboard each Continental Navy ship, where perhaps their foremost purpose was serving as a ship's guards. Almost every Navy crew contained its share of criminals, thugs, and malcontents, so shipboard discipline was never strong. On more than one occasion, Marines had to support a ship's officers against a hostile crew. Marines

also served as part of “prize crews,” boarding captured enemy ships. In addition, Marines provided a ship captain with a landing party that was somewhat better trained for land warfare than the ship’s sailors. And finally, during combat at sea, which in the age of smoothbore cannons was invariably fought at close quarters, Marine musketry swept the enemy’s decks, adding to their ship’s combat effectiveness.

## THE CONFEDERATION ERA

As the newly minted nation emerged from the Revolution, it confronted a fundamental question: could a military establishment be created that met both the ideological concerns for liberty and the necessity for internal and external security? For a constellation of reasons, under the Articles of Confederation ratified by the states in 1781, the answer was a resounding “No!” The Confederation faced severe economic problems, in part resulting from war-induced dislocations but made worse because Congress did not have the power to tax. And many people asked why the country needed an expensive peacetime preparedness program. After all, the colonists had very little mobilized military power in 1775 and yet had gone on to victory against the mighty British Empire.

Equally disturbing, in 1783-84 the climate of opinion was hostile toward regular forces because the Revolution ended on three discordant notes for civil-military relations that reanimated Radical Whig ideological fears. One crisis was the so-called Newburgh Conspiracy, with its implied threat by Continental Army officers against the Continental Congress. In this ugly affair, when Congress refused to accede to officers’ demands for half-pay for life as a postwar pension, some of the officers appeared to threaten civil supremacy. Also raising civil-military tensions was the Society of the Cincinnati, which was officially founded in the spring of 1783 to bind Continental Army officers together in a fraternal and charitable organization. To those sympathetic to Radical Whig ideology, the Society seemed anti-democratic in several ways. For example, membership was hereditary, passing to the oldest male descendent of a Continental Army officer, and thereby seemingly creating a privileged class based on birth, not merit. Finally, a mutiny occurred among some enlisted men after news of the preliminary peace arrived. Having served honorably for years under often dire conditions, the men demanded immediate discharge and payment. Nearly bankrupt and still not positive that peace was really at hand, Congress promised a financial settlement at some later date and offered the men furloughs, not discharges. Several hundred disgruntled Continental Army soldiers from Pennsylvania mutinied; they held Congress and the Pennsylvania state government hostage with fixed bayonets for several hours before the incident ended, fortunately, without bloodshed.

As a result of all these factors an outburst of antimilitarism swept the country in the Revolution’s aftermath. The Confederation government was unable to maintain anything other than a minuscule military establishment. It completely disbanded the Continental Navy and Marines, and disbanded the Continental Army, keeping only eighty men and a handful of officers in

service. The military institutions founded in 1775 disappeared completely. Thus no modern regiment directly traces its lineage to the Continental Army, which was not, then, a standing regular army in the sense that the British Army was. The latter had existed in war and peace ever since 1645. On the other hand, the Continental Army was akin to Washington’s Virginia Regiment: just another in a long line of ad hoc, volunteer, expeditionary forces that disbanded when the emergency ended.

The only concession the Confederation Congress made to military preparedness came on June 3, 1784, the day after it disbanded the Continental Army, when it created the First American Regiment. At an authorized strength totaling 700 militiamen enlisted for one year, this regiment was the first national peacetime force in American history. The 1<sup>st</sup> American Regiment was a hybrid, neither a strictly state-based militia unit nor a completely national regular force; instead, its formation depended on the goodwill of four states to provide militiamen, but Congress organized, paid, and disciplined the regiment, which was to serve four times longer than the normal militia enlistment. In addition, the commander, Josiah Harmar of Pennsylvania, reported both to the Pennsylvania commonwealth government and to the Confederation Congress.

When the regiment’s one-year enlistments expired in 1785, the Confederation continued the unit, but made it strictly a regular force by omitting any reference to militiamen and calling for three-year recruits. As the end of this three-year enlistment period approached, the government reauthorized the regiment for another three years. Thus the Confederation created a very small standing army, providing a second possible birth date for the American Army: June 3, 1784, not June 14, 1775.

With no navy or marines and only a minuscule “army,” the Confederation was incapable of solving a host of security problems. In the trans-Appalachian west, powerful Indian tribes contested American expansion. The British refused to evacuate their forts in the Old Northwest, from which they conducted a lucrative fur trade; gave aid to the Native Americans, who were hostile to the United States; and threatened to contain American expansion themselves. In the Southwest, Spain exerted similar influences, and kept a stranglehold on the Mississippi River. As long as the Americans had no access to the Mississippi, their sovereignty over the region between the Appalachians and that river would always be tenuous. In the Mediterranean Sea, the Barbary pirates ravaged American commerce, compelling the United States to buy protection by paying tribute. And then there was Shays’ Rebellion (1786) of debt-ridden farmers in western Massachusetts, which revealed the government’s abject military weakness. The Confederation could raise neither the men nor the money to suppress it, but instead had to rely on Massachusetts volunteers to quell the outbreak.

Americans who favored a stronger central government--collectively known as the nationalists--fumed at the Confederation’s ineptitude and feared the country was degenerating into anarchy. Nationalists were especially distraught because they envisioned the United States becoming a great empire. “However unimportant America

may be considered at present,” wrote George Washington, “there will assuredly come a day when this country will have some weight in the scale of Empires.”<sup>2</sup> Perhaps, but not if the United States remained under the Articles of Confederation. That government’s weakness provoked nationalists to seek a stronger union.

Asserting that the central government needed more power still left the fundamental question unanswered: how could statesmen infuse that government with enough power to provide security against all enemies, foreign and domestic, and yet not transform it into a despotic regime?

## THE EARLY YEARS UNDER THE CONSTITUTION

The Constitution solved the puzzle of balancing power and liberty through a separation of powers and a complex system of checks and balances that diffused power throughout the governmental structure: between the states and the central government; between the latter’s legislative and executive branches; and within the legislative branch’s two houses.

At one level, the Constitution divided military power between the federal government and the states. While the Articles of Confederation had also split power along these lines, it had given paramount power to the states. The Constitution reversed this power division, in part by placing significant limitations on state military power. Without Congress’ permission, a state could not maintain non-militia troops or warships in peacetime, form alliances with other states or with foreign governments, or engage in war “unless actually invaded, or in such imminent danger as will not admit of delay.” In return for the states’ accepting these restrictions on their military power, the government pledged to guarantee each state a republican form of government and to protect the states from invasion or domestic insurrection. Perhaps most importantly in regard to state military power, the states implicitly retained their militias because the Constitution gave them the authority to appoint militia officers and to train their militias “according to the discipline prescribed by Congress.” The Second Amendment explicitly guaranteed the states’ militia authority.

At the national level the Constitution further guarded against despotism by dividing national military power between two masters, Congress and the President. Congress was given the power to “declare war,” “provide and maintain a navy,” and “raise and support armies.” To ensure money for these purposes it could “lay and collect taxes, duties, imposts and excises” and “borrow money.” As a major obstacle to despotism, no appropriation for the Army could be for more than two years, a constitutional constraint that kept the Army under tight legislative control. In addition, Congress could “make rules for the government and regulation of the land and naval forces”; “grant letters of marque and reprisal, [and] make rules concerning captures on land and water”; provide for “calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;” and provide

for “organizing, arming, and disciplining” the militia and for governing the militia when it was nationalized.

Despite these vast powers, both explicit and potential, Congressional despotism was unlikely because the president was commander-in-chief of the army and navy and of the militia “when called into the actual service of the United States.” He also appointed officers, though only with the Senate’s advice and consent.

One of the Constitution’s most important aspects relating to military affairs was that it institutionalized the dual-army tradition that had been so important during the colonial and Revolutionary eras. However, it radically departed from tradition in that the militia was no longer strictly a state-based institution. In a major victory for the nationalists, the states and the national government now exercised concurrent control over the militia.

Considered as a whole, the Constitution’s military provisions represented a stunning nationalist victory. The new government was potentially far more powerful than the Confederation; the question was whether this potential military power could be converted into flesh and blood institutions. The answer was “yes,” although it was not done quickly or without strident controversy.

The first decade under the Constitution represented a new founding for all three services. But Congress first had to create an agency to administer military affairs. The Confederation had a War Department headed by a Secretary at War (Henry Knox since 1785). In August 1789 Congress maintained continuity by creating a Department of War, with Knox remaining as Secretary of War. Then Congress formally adopted the First American Regiment (and an artillery battalion raised during Shays’ Rebellion) on September 29th of that year, a date that represents the Army’s third birthday--and perhaps this is the one that should really count. The government soon augmented the regiment with four additional companies, and in subsequent years it slowly expanded the Regular Army. By the early 1800s, the United States had made the critical decision to maintain at least a small standing Regular Army in both peace and war, which was a clear-cut victory for the nationalists and for Moderate Whig ideology.

Nationalists hoped to gain another victory by reorganizing the militia into an effective force under federal control, arguing that a well-regulated militia would insure that the nation needed only a modest sized Regular Army. But the militia was an unusually sensitive political issue that struck at the heart of national versus state power. No matter what the Constitution said about the federal government’s potential power over the militia, the heirs to Radical Whig ideology struggled to limit that control. Not until 1792 did Congress pass the Uniform Militia Act, which remained the nation’s basic militia law until 1903. No law was ever more ironically titled: the Act guaranteed that the United States would in fact not have a uniform militia system. In a virtual abdication of its Constitutional responsibility over the militia, the Congress allowed each state to respond to the Act’s “suggestions” as it saw fit. No two states saw fit to respond the same way.

<sup>2</sup> John C. Fitzpatrick, ed., *The Writings of George Washington* (U.S. Government Printing Office, 1931-44), vol. 2, p. 520.

Convinced that preparedness deterred war, nationalists wanted a standing Navy to match the standing Army. But the United States still had no navy in 1793 when trouble loomed on two fronts. First, the French Revolution exploded into a world war, putting neutral American commerce at risk. Second, with the Europeans preoccupied, the Barbary state pirates, whom the European powers had earlier bottled up in the Mediterranean Sea, were now sending their ships into the Atlantic to prey on American shipping. In response to this dual crisis, Congress passed a Naval Act on March 27, 1794 authorizing the construction of six frigates; each frigate was to have a Marine detachment of one officer and approximately fifty enlisted men. Those six frigates had a tangled history, but a reasonable argument can be made that the 1794 Naval Act marked the real birth date of an American Navy.

Finally, as the Quasi-War with France approached in 1798, Congress passed a spate of military preparedness legislation. Among other things, it dramatically increased the naval forces. Until then the Secretary of War handled both land and naval affairs. To ease the secretary's burgeoning administrative burden, Congress cleaved the

Secretary of War's responsibilities in half by creating a separate Department of Navy. Then on July 11, 1798 Congress passed a law organizing the Navy's Marines as a Corps of Marines, thus marking the real birth of the U.S. Marine Corps.

#### CONCLUSION

The Constitution initially threw those who embraced Radical Whig ideology into the deepest, most profound depths of despair. They feared that the United States would soon have "a military king, with a standing army devoted to his will," which he would use to suppress civil liberties.<sup>3</sup> Exercising its explicit authority and ample power, the new Constitutional government overrode Radical Whig fears to create a regular standing Army (that is, a permanent army that existed in both war and peace), a regular standing Navy, and a regular standing Marine Corps. But as it has turned out, for more than two centuries and counting, it created neither tyranny nor a despotic government.

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<sup>3</sup> Cecelia M. Kenyon, *The Antifederalists* (Bobbs-Merrill, 1966) pp. 361, 363.