

Cliff Snyder's Notes on the Federalist Papers
(As those Papers were published online by the Yale Law School, Avalon project)

The Papers were written in 1787 and 1788 by people who collectively had rebelled against Britain (1775), won a war of independence with Britain, (1781), established a government (Articles of Confederation, proposed in 1777, ratified in 1781), and, after years under the Articles, saw weaknesses in that government. They proposed the Constitution and argued for its ratification.

Extracts are reproduced below, with comments added.

#1. General Introduction. For the Independent Journal. HAMILTON.

“It has been frequently remarked that it seems to have been reserved to the people of **this country**, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing **good** government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.”

What is “this country”? What binds us together? Does use of “this country” reflect Hubris? Pride? Note use of “good.” What are the standards for good? Consider boundaries in 1787.

#2. Concerning Dangers from Foreign Force and Influence. For the Independent Journal. JAY.

“ . . . I have as often taken notice that Providence has been pleased to give this **one connected country** to **one united people**--a people descended from the **same** ancestors, speaking the **same** language, professing the **same** religion, attached to the **same** principles of government, very **similar** in their manners and customs, and who, by their **joint** counsels, arms, and efforts, fighting side by side throughout a long and bloody war, have nobly established general liberty and independence.”

Consider boundaries of America in 1787. What is a country? What is “connected?” Are we now, in 2019, one united people? Are we descended from the same ancestors? Do we speak the same language? Do we profess the same religion? Have we been brought together by a great effort? Have we earned a country?

#3. The Same Subject Continued: Concerning Dangers From Foreign Force and Influence. For the Independent Journal. JAY.

“The **JUST** causes of war, for the most part, arise either from violation of treaties or from direct violence.” “Because when once an **efficient** national government is established, the best men in the country will not only consent to serve, but also will generally be appointed to manage it; for, although town or country, or other contracted influence, may place men in State assemblies, or senates, or courts of justice, or executive departments, yet more general and extensive reputation for talents and other qualifications will be necessary to recommend men to offices under the national government,--especially as it will have the widest field for choice, and never experience

that want of proper persons which is not uncommon in some of the States. Hence, it will result that the administration, the political counsels, and the judicial decisions of the national government will be more wise, systematical, and judicious than those of individual States, and consequently more satisfactory with respect to other nations, as well as more SAFE with respect to us.”

What is an “efficient” national; government? Do we, in 2019, have one? Note the risk that the U.S. will go to war, imposing a burden on all the states, because of action by the president without due consideration by Congress. The Congress and/or the president may go to war to make their mark on the world, rather than for good reasons.

#4. The Same Subject Continued: Concerning Dangers From Foreign Force and Influence. For the Independent Journal. JAY.

“It is too true, however disgraceful it may be to human nature, that nations in general will make war whenever they have a prospect of getting anything by it; nay, absolute monarchs will often make war when their nations are to get nothing by it, but for the purposes and objects merely personal, such as thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans.”

“One government can collect and avail itself of the talents and experience of the ablest men, in whatever part of the Union they may be found. It can move on uniform principles of policy. It can harmonize, assimilate, and protect the several parts and members, and extend the benefit of its foresight and precautions to each. In the formation of treaties, it will regard the interest of the whole, and the particular interests of the parts as connected with that of the whole. It can apply the resources and power of the whole to the defense of any particular part, and that more easily and expeditiously than State governments or separate confederacies can possibly do, for want of concert and unity of system. It can place the militia under one plan of discipline, and, by putting their officers in a proper line of subordination to the Chief Magistrate, will, as it were, consolidate them into one corps, and thereby render them more efficient than if divided into thirteen or into three or four distinct independent companies.”

Jay extols the unity of command.

#5. The Same Subject Continued: Concerning Dangers From Foreign Force and Influence. For the Independent Journal. JAY.

“From these considerations it appears that those gentlemen are greatly mistaken who suppose that alliances offensive and defensive might be formed between these confederacies, and would produce that combination and union of wills of arms and of resources, which would be necessary to put and keep them in a formidable state of defense against foreign enemies.”

“Hence it might and probably would happen that the foreign nation with whom the SOUTHERN confederacy might be at war would be the one with whom the NORTHERN confederacy would be the most desirous of preserving peace and friendship.”

“Considering our distance from Europe, it would be more natural for these confederacies to apprehend danger from one another than from distant nations, and therefore that each of them should be more desirous to guard against the others by the aid of foreign alliances, than to guard against foreign dangers by alliances between themselves.”

Jay argues against that confederacies might enter into foreign alliances as a way of guarding against each other.

#6. Concerning Dangers from Dissensions Between the States. For the Independent Journal. HAMILTON.

“A man must be far gone in Utopian speculations who can seriously doubt that, if these States should either be wholly disunited, or only united in partial confederacies, the subdivisions into which they might be thrown would have frequent and violent contests with each other. To presume a want of motives for such contests as an argument against their existence, would be to forget that **men are ambitious, vindictive, and rapacious**. To look for a continuation of harmony between a number of independent, unconnected sovereignties in the same neighborhood, would be to disregard the **uniform course** of human events, and to set at defiance the **accumulated experience** of ages.”

How does Hamilton know the accumulated experience of ages? Presumably, he learned through a study of history and literature. He was in his early 30's in 1787 and had lived through momentous times, giving him a perspective peculiar to those times.

#7. Concerning Dangers from Dissensions Between the States. For the Independent Journal. HAMILTON.

“**Territorial disputes** have at all times been found one of the most fertile sources of hostility among nations. Perhaps the greatest proportion of wars that have desolated the earth have sprung from this origin. This cause would exist among us in full force.”

“There is, perhaps, nothing more likely to disturb the tranquillity of nations than their being bound to mutual contributions for any common object that does not yield an equal and coincident benefit. For it is an observation, as true as it is trite, that **there is nothing men differ so readily about as the payment of money**.”

Hamilton sees the risk of war of the sword as real, given four identified areas of contention (territory; commerce; public debt; laws in violation of private contracts).

#8. The Consequences of Hostilities Between the States. From the New York Packet. Tuesday, November 20, 1787. HAMILTON.

‘The violent destruction of life and property incident to war, the continual effort and alarm attendant on a state of continual danger, will compel nations the most attached to liberty to resort for repose and security to institutions which have a tendency to destroy their civil and political

rights. To be more safe, they at length become willing to run the risk of being less free. The institutions chiefly alluded to are STANDING ARMIES and the correspondent appendages of military establishments . . . If we are wise enough to preserve the Union we may for ages enjoy an advantage similar to that of an insulated situation. Europe is at a great distance from us. Her colonies in our vicinity will be likely to continue too much disproportioned in strength to be able to give us any dangerous annoyance. Extensive military establishments cannot, in this position, be necessary to our security. But if we should be disunited, and the integral parts should either remain separated, or, which is most probable, should be thrown together into two or three confederacies, we should be, in a short course of time, in the predicament of the continental powers of Europe --our liberties would be a prey to the means of defending ourselves against the ambition and jealousy of each other. . . **It is of the nature of war to increase the executive at the expense of the legislative authority.**”

Hamilton warns against a powerful standing army; he sees it as a threat to civil and political rights. He says that the existence of several confederacies would likely lead to standing armies within the confederacies, as they seek to defend themselves against their neighbors.

#9. The Union as a Safeguard Against Domestic Faction and Insurrection. For the Independent Journal. HAMILTON.

Hamilton endorses, “The utility of a Confederacy, as well to suppress faction and to guard the internal tranquillity of States, as to increase their external force and security.” He mentions, “The **science of politics**” and says it “has received great improvement” since ancient times: “The regular distribution of power into distinct departments; the introduction of legislative balances and checks; the institution of courts composed of judges holding their offices during good behavior; the representation of the people in the legislature by deputies of their own election: these are wholly new discoveries, or have made their principal progress towards perfection in modern times. They are means, and powerful means, by which the excellences of republican government may be retained and its imperfections lessened or avoided.”

#10. The Same Subject Continued. The Union as a Safeguard Against Domestic Faction and Insurrection. From the New York Packet. Friday, November 23, 1787. MADISON.

“So strong is this propensity of mankind to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts. **But the most common and durable source of factions has been the various and unequal distribution of property.** Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation, and involves the spirit of party and faction in the necessary and ordinary operations of the government.”

“A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union.”

“It must be confessed that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representatives too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the State legislatures.”

Hamilton’s thesis is that faction cannot be prevented but it can be managed by a republican government (with proper guardians) and in particular by a large, not small, republic.

#11. The Utility of the Union in Respect to Commercial Relations and a Navy. For the Independent Journal. HAMILTON.

“By a steady adherence to the Union we may hope, ere long, to become the arbiter of Europe in America, and to be able to incline the balance of European competitions in this part of the world as our interest may dictate. But in the reverse of this eligible situation, we shall discover that the rivalships of the parts would make them checks upon each other, and would frustrate all the tempting advantages which nature has kindly placed within our reach. In a state so insignificant our commerce would be a prey to the wanton intermeddlings of all nations at war with each other; who, having nothing to fear from us, would with little scruple or remorse, supply their wants by depredations on our property as often as it fell in their way. The rights of neutrality will only be respected when they are defended by an adequate power. A nation, despicable by its weakness, forfeits even the privilege of being neutral.”

“Facts have too long supported these arrogant pretensions of the Europeans. It belongs to us to vindicate the honor of the human race, and to teach that assuming brother, moderation. Union will enable us to do it. Disunion will will (sic) add another victim to his triumphs. Let Americans disdain to be the instruments of European greatness! Let the thirteen States, bound together in a strict and indissoluble Union, concur in erecting one great American system, superior to the control of all transatlantic force or influence, and able to dictate the terms of the connection between the old and the new world!”

Hamilton praises trade, shipping as an aid to trade, and a Navy as protection for shipping; note the word “indissoluble” applied to the Union.

#12. The Utility of the Union In Respect to Revenue. From the New York Packet. Tuesday, November 27, 1787. HAMILTON.

“The ability of a country to pay taxes must always be proportioned, in a great degree, to the quantity of money in circulation, and to the celerity with which it circulates. Commerce,

contributing to both these objects, must of necessity render the payment of taxes easier, and facilitate the requisite supplies to the treasury. The hereditary dominions of the Emperor of Germany contain a great extent of fertile, cultivated, and populous territory, a large proportion of which is situated in mild and luxuriant climates. In some parts of this territory are to be found the best gold and silver mines in Europe. And yet, from the want of the fostering influence of commerce, that monarch can boast but slender revenues. He has several times been compelled to owe obligations to the pecuniary succors of other nations for the preservation of his essential interests, and is unable, upon the strength of his own resources, to sustain a long or continued war.”

Hamilton says that a government needs revenue and proposes a tax on imports of liquor (“ardent spirits”) as a good source of revenue. He says that the union could, with a Navy, readily regulate imports coming across the Atlantic Ocean. Without enforcement by a union of states, individual states would find it difficult to collect revenue from commerce, because people would evade revenue collectors situated on roads or in ports. He says that securing revenue from commerce is preferable to securing revenue from ownership of real or personal property; direct taxation has been impractical. He says that a tax on consumption might work.

#13. Advantage of the Union in Respect to Economy in Government. For the Independent Journal. HAMILTON.

Hamilton says that people are envisioning three possible confederacies (“four Northern [NH, MA, RI, CN], another of the four Middle [NY, NJ, PA, DE], and a third of the five Southern [MD, VA, NC, SC, GA] States”). He seems to think that in the absence of a union there would actually be two, not three confederacies: NY, NJ, and PA would join NH, MA, RI, and CN. “Nothing can be more evident than that the thirteen States will be able to support a national government better than one half, or one third, or any number less than the whole. This reflection must have great weight in obviating that objection to the proposed plan, which is founded on the principle of expense; an objection, however, which, when we come to take a nearer view of it, will appear in every light to stand on mistaken ground. If, in addition to the consideration of a plurality of civil lists, we take into view the number of persons who must necessarily be employed to guard the inland communication between the different confederacies against illicit trade, and who in time will infallibly spring up out of the necessities of revenue; and if we also take into view the military establishments which it has been shown would unavoidably result from the jealousies and conflicts of the several nations into which the States would be divided, we shall clearly discover that a separation would be not less injurious to the economy, than to the tranquillity, commerce, revenue, and liberty of every part.”

#14. Objections to the Proposed Constitution From Extent of Territory Answered. From the New York Packet. Friday, November 30, 1787. MADISON.

“All that remains, within this branch of our inquiries, is to take notice of an objection that may be drawn from the great extent of country which the Union embraces.” “It is, that in a democracy, the people meet and exercise the government in person; in a republic, they assemble and administer it by their representatives and agents. A democracy, consequently, will be confined to a small spot. A republic may be extended over a large region.”

Madison is confident that the proposed republic can be effective within its boundaries. “Is it not the glory of the people of America, that, whilst they have paid a decent regard to the opinions of former times and other nations, they have not suffered a blind veneration for antiquity, for custom, or for names, to overrule the suggestions of their own good sense, the knowledge of their own situation, and the lessons of their own experience? To this manly spirit, posterity will be indebted for the possession, and the world for the example, of the numerous innovations displayed on the American theatre, in favor of private rights and public happiness.”

Madison praises American innovations.

#15. The Insufficiency of the Present Confederation to Preserve the Union. For the Independent Journal. HAMILTON.

“We may indeed with propriety be said to have reached almost the last stage of national humiliation. There is scarcely anything that can wound the pride or degrade the character of an independent nation which we do not experience.” “The great and radical vice in the construction of the existing Confederation is in the principle of LEGISLATION for STATES or GOVERNMENTS, in their CORPORATE or COLLECTIVE CAPACITIES, and as contradistinguished from the INDIVIDUALS of which they consist.” “Except as to the rule of appointment, the United States has an indefinite discretion to make requisitions for men and money; but they have no authority to raise either, by regulations extending to the individual citizens of America. The consequence of this is, that though in theory their resolutions concerning those objects are laws, constitutionally binding on the members of the Union, yet in practice they are mere recommendations which the States observe or disregard at their option.”

“Government implies the power of making laws. It is essential to the idea of a law, that it be attended with a sanction; or, in other words, a penalty or punishment for disobedience. If there be no penalty annexed to disobedience, the resolutions or commands which pretend to be laws will, in fact, amount to nothing more than advice or recommendation. This penalty, whatever it may be, can only be inflicted in two ways: by the agency of the courts and ministers of justice, or by military force; by the COERCION of the magistracy, or by the COERCION of arms. The first kind can evidently apply only to men; the last kind must of necessity, be employed against bodies politic, or communities, or States. It is evident that there is no process of a court by which the observance of the laws can, in the last resort, be enforced. Sentences may be denounced against them for violations of their duty; but these sentences can only be carried into execution by the sword. In an association where the general authority is confined to the collective bodies of the communities, that compose it, every breach of the laws must involve a state of war; and military execution must become the only instrument of civil obedience. Such a state of things can certainly not deserve the name of government, nor would any prudent man choose to commit his happiness to it.” “Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice, without constraint.”

“If, therefore, the measures of the Confederacy cannot be executed without the intervention of the particular administrations, there will be little prospect of their being executed at all.” “Each State, yielding to the persuasive voice of immediate interest or convenience, has successively withdrawn its support, till the frail and tottering edifice seems ready to fall upon our heads, and

to crush us beneath its ruins.”

Hamilton says that law without enforcement is ineffective at regulating behavior. He endorses a form of government that can punish individuals for misdeeds, so that it is not necessary to punish states, a punishment that would amount to war. He does not see people as inherently good.

#16. The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union. From the New York Packet. Tuesday, December 4, 1787. HAMILTON.

“The majesty of the national authority must be manifested through the medium of the courts of justice. **The government of the Union**, like that of each State, must be able to address itself immediately to the hopes and fears of individuals; and to attract to its support those passions which have the strongest influence upon the human heart. It **must, in short, possess all the means, and have a right to resort to all the methods, of executing the powers with which it is intrusted, that are possessed and exercised by the government of the particular States.**” “And as to those mortal feuds which, in certain conjunctures, spread a conflagration through a whole nation, or through a very large proportion of it, proceeding either from weighty causes of discontent given by the government or from the contagion of some violent popular paroxysm, they do not fall within any ordinary rules of calculation. When they happen, they commonly amount to revolutions and dismemberments of empire. No form of government can always either avoid or control them. It is in vain to hope to guard against events too mighty for human foresight or precaution, and it would be idle to object to a government because it could not perform impossibilities.”

Hamilton says that the Union must be given power over individuals; that’s the kind of power enforceable through the courts. If the Union could only punish states, that’s the kind of power that would either lead to war, or, more likely, result in non-enforcement for fear of inciting war.

#17. The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union. For the Independent Journal. HAMILTON.

“**The regulation of the mere domestic police of a State appears to me to hold out slender allurements to ambition.** Commerce, finance, negotiation, and war seem to comprehend all the objects which have charms for minds governed by that passion; and all the powers necessary to those objects ought, in the first instance, to be lodged in the national depository.”

Hamilton says there is little danger that the national government will threaten individual rights; ambitious men on the national stage will seek power over national issues, not over individuals. The states will retain police power.

#18. The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union. For the Independent Journal. HAMILTON AND MADISON.

Hamilton discusses the Amphictyonic council and the Achaean league and concludes with “the tendency of federal bodies rather to anarchy among the members, than to tyranny in the head.” Hamilton writes of the “science of federal government.”

#19. The Same Subject Continued: The Insufficiency of the Present Confederation to Preserve the Union. For the Independent Journal. HAMILTON AND MADISON.

Hamilton analyzes the Germanic body, a confederation. “The fundamental principle on which it rests, that the empire is a community of sovereigns, that the diet is a representation of sovereigns and that the laws are addressed to sovereigns, renders the empire a nerveless body, incapable of regulating its own members, insecure against external dangers, and agitated with unceasing fermentations in its own bowels. The history of Germany is a history of wars between the emperor and the princes and states; of wars among the princes and states themselves; of the licentiousness of the strong, and the oppression of the weak; of foreign intrusions, and foreign intrigues; of requisitions of men and money disregarded, or partially complied with; of attempts to enforce them, altogether abortive, or attended with slaughter and desolation, involving the innocent with the guilty; of general inebecility, confusion, and misery.” He also discusses Poland and the Swiss confederation and finds them without merit.

#20. The Same Subject Continued: The Insufficiency fo the Present Confederation to Preserve the Union. From the New York Packet. Tuesday, December 11, 1787. HAMILTON AND MADISON.

Hamilton analyzes the United Netherlands (Belgium, Netherlands, Luxembourg) and finds it without merit. “The important truth, which it unequivocally pronounces in the present case, is that a sovereignty over sovereigns, a government over governments, a legislation for communities, as contradistinguished from individuals, as it is a solecism in theory, so in practice it is subversive of the order and ends of civil polity, by substituting VIOLENCE in place of LAW, or the destructive COERCION of the SWORD in place of the mild and salutary COERCION of the MAGISTRACY.”

#21. Other Defects of the Present Confederation. For the Independent Journal. HAMILTON.

Hamilton identifies three deficiencies of the Confederation government: (1) It lacks the power to impose sanctions on non-compliant states; (2) It lacks the power to deal with tyranny in a state; and (3) It imposes irrational quotas based on land value (apparently used as a measure of wealth) on states for contributions to the common treasury (“The consequence clearly is that there can be no common measure of national wealth, and, of course, no general or stationary rule by which the ability of a state to pay taxes can be determined. The attempt, therefore, to regulate the contributions of the members of a confederacy by any such rule, cannot fail to be productive of glaring inequality and extreme oppression”). Hamilton proposes “authorizing the national government to raise its own revenues in its own way. Imposts, excises, and, in general, all duties upon articles of consumption, may be compared to a fluid, which will, in time, find its level with the means of paying them.”

#22. The Same Subject Continued: Other Defects of the Present Confederation. From the New York Packet. Friday, December 14, 1787. HAMILTON.

Hamilton identifies other weaknesses of the Confederation: (1) Lack of power to regulate commerce with foreign nations; (2) Lack of power to raise armies; (3) Equality of voting power among the states, creating a risk that states having less than a majority of the population could obstruct the will of a majority of the population; and (4) Lack of a supreme judicial tribunal. “In this review of the Confederation, I have confined myself to the exhibition of its most material defects; passing over those imperfections in its details by which even a great part of the power intended to be conferred upon it has been in a great measure rendered abortive. It must be by this time evident to all men of reflection, who can divest themselves of the prepossessions of preconceived opinions, that it is a system so radically vicious and unsound, as to admit not of amendment but by an entire change in its leading features and characters.”

Hamilton argues against simply enlarging the powers of Congress, a single assembly. He seeks popular action to create a government and he says a compact cannot be broken by a party to the compact: “However gross a heresy it may be to maintain that a PARTY to a COMPACT has a right to revoke that COMPACT, the doctrine itself has had respectable advocates. The possibility of a question of this nature proves the necessity of laying the foundations of our national government deeper than in the mere sanction of delegated authority. The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE. The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority.”

#23. The Necessity of a Government as Energetic as the One Proposed to the Preservation of the Union. From the New York Packet. Tuesday, December 18, 1787. HAMILTON.

Hamilton says that the national government must have powers commensurate with its responsibilities; if it is entrusted with defense then it must have the power to defend. This means, presumably, a national army and navy rather than a collection of state forces.

“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.”

#24. The Powers Necessary to the Common Defense Further Considered. For the Independent Journal. HAMILTON.

Hamilton says that a standing national army is needed even in times of peace, one raised by the legislature with an appropriation for that purpose limited to two years. He notes that none of the

states prohibit standing armies. He says that an army and navy are needed to protect American interests against Spain, Britain, and the Indians. “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.”

#25. The Same Subject Continued (The Powers Necessary to the Common Defense Further Considered). From the New York Packet. Friday, December 21, 1787. HAMILTON.

Hamilton says that it is necessary and appropriate for the national government to raise and maintain armies. He points to possible danger from Britain, Spain, and Indians as grounds for establishing and maintaining an army. He says that reliance on state militias would be impractical (some states would have inadequate militias) and dangerous (a state might threaten or attack its neighbor). “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.”

Hamilton cautions against writing a prohibition that cannot be expected to be respected: “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.”

#26. The Idea of Restraining the Legislative Authority in Regard to the Common Defense Considered. For the Independent Journal. HAMILTON.

Hamilton argues against a prohibition on enactment of legislation that would create a standing national army in the time of peace. He notes that Britain restrained the power of the monarch to raise an army in time of peace; it did not so restrain parliament. He also notes that Pennsylvania and North Carolina, the constitutions for which endorse a limitation on a standing army in time of peace, do not actually prohibit such action. He says that the Constitutional limitation on the duration of an appropriation for an army is a wise one; it allows a standing army, which is a necessity, but places a limit on the threat it may pose to liberty: “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.”

#27. The Same Subject Continued (The Idea of Restraining the Legislative Authority in Regard to the Common Defense Considered). From the New York Packet. Tuesday, December 25, 1787. HAMILTON.

Hamilton argues that the national government will not need to use military force to execute its laws; the national government will be no stranger to the people and all officials in each state will swear an oath to the Confederacy under the Constitution.

“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 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.”

“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.”

#28. The Same Subject Continued (The Idea of Restraining the Legislative Authority in Regard to the Common Defense Considered). For the Independent Journal. HAMILTON.

Hamilton sees the national army as a guarantor of liberty in the states and the state militias as a counterweight to any national tyranny.

“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.”

#29. Concerning the Militia. From the Daily Advertiser. Thursday, January 10, 1788. HAMILTON.

Hamilton defends the proposal for militia organized at the state level, led by state-appointed officers, who could be employed in service to the federal government when needed. The existence of such a national militia would mean that the size of the standing army could be smaller than it would be if there were no militia to supplement the army when needed.

“It requires no skill in the science of war to discern that uniformity in the organization and discipline of the militia would be attended with the most beneficial effects, whenever they were called into service for the public defense. It would enable them to discharge the duties of the camp and of the field with mutual intelligence and concert an advantage of peculiar moment in the operations of an army; and it would fit them much sooner to acquire the degree of proficiency in military functions which would be essential to their usefulness. This desirable uniformity can only be accomplished by confiding the regulation of the militia to the direction of the national authority. It is, therefore, with the most evident propriety, that the plan of the convention proposes to empower the Union "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, RESERVING TO THE STATES RESPECTIVELY THE APPOINTMENT OF THE OFFICERS, AND THE AUTHORITY OF TRAINING THE MILITIA ACCORDING TO THE DISCIPLINE PRESCRIBED BY CONGRESS."

#30. Concerning the General Power of Taxation. From the New York Packet. Friday, December 28, 1787. HAMILTON.

#31. The Same Subject Continued. Concerning the General Power of Taxation. From the New York Packet. Tuesday, January 1, 1788. HAMILTON.

#32. The Same Subject Continued. Concerning the General Power of Taxation. From the Daily Advertiser. Thursday, January 3, 1788. HAMILTON.