

Vanguard of the Civic Republic: Civic Virtue Armed and the American Military

Rebecca Burgess, PhD

America's military has no formal role in the nation's civil society, but it is an indelible part of America's civic fabric. From the days of the Continental Army through the contemporary All-Volunteer Force, the military has played an essential role in shaping a distinct American character. Not only does it perform a type of garrison duty for the regime, making civic life possible; it also exemplifies the need for "a positive passion for the public good" in a rights-based democracy. True to the vision of the Founders, the U.S. military has also helped to transform the ancient notions of martial virtue applicable for the few into a more vigilant, robust civic virtue for the many.

For 250 years, from the Continental Army, arguably the first major transcolonial (and thus American) institution showcasing the necessity of public service in a rights-based regime, to the contemporary All-Volunteer Force (AVF) and its adherence to duty, honor, discipline, and loyalty in support of the public good, the military has played an essential role in shaping a distinct American character and transforming the ancient martial virtue for the few into a more vigilant, robust civic virtue for the many—a civic virtue armed for the citizen's defense of liberty and the rule of law.

After each of America's major wars, veterans have redonned their war gear to march in celebration or remembrance before their fellow citizens,

becoming an indelible part of America's civic fabric. Today, American sports venues, both professional and amateur, have taken on the comfortable habit of initiating games to the tune of the national anthem with flags flanked by color guards composed of military-affiliated men and women and occasionally accompanied by heart-stopping flyovers of impressive military technology and power.

To the extent that America's military is visible in its civilian life, it is predominantly in such ceremonial or celebratory roles. But while its symbolic position at the head of civic parades is widespread, recognized, and understood, the military's tangible role as the vanguard of America's civic life is obscured, unacknowledged, and frequently misunderstood. Less obscured—but hardly less understood today—is the military's role in contributing to the distinct character of the American people.

“A Faithful Image of the Nation”

Just as it is shaped by the American political nation, by virtue of being a major public institution, the military inevitably helps to shape the internal dynamics of our democratic society. In *Democracy and America*, Alexis de Tocqueville warned that nothing is so dangerous as an army in the heart of a democratic nation.¹ The ancient martial virtue of an Achilles or Alexander, a Coriolanus or Caesar, shot through as it was with an insatiable love of honor, glory, power, and dominance, is ill-suited to a political community founded on the principles of universal equality, freedom, and the rule of law. America's Founders had therefore set the nation on a path to revolutionize—or more properly democratize—that ancient martial virtue by reframing it as something else: “civic virtue armed.”²

Civic virtue armed does not negate the need or ability of the nation's military to practice courage, discipline, resilience, or excellence in arms. Nor does it negate the necessary development of what John Adams characterized as a “positive Passion for the public good, the public Interest, Honour, Power, and Glory.”³ It does not even delegitimize the role of ambition, military valor, and the love of fame.⁴ Rather, by insisting on every citizen's need to be vigilant about his rights, to cultivate in each and every one a spirited defense of liberty, even a sense of personal responsibility for the same, the Founders imparted a martial-like robustness to civic virtue, thereby softening the threatening edges of the older, rougher variety better suited to antiquity. When Benjamin Franklin, James Madison, and George Washington variously substituted “vigilance” for “courage” during the Revolutionary

era and the first decades of the new Republic, they were rendering the martial assertiveness of courage suitable for civilian life rather than defanging it.

- In “The Rattle-Snake as a Symbol of America,” published in the December 27, 1775, issue of the *Pennsylvania Journal*, Franklin identified the rattlesnake as “an emblem of vigilance” because it “has no eye-lids.” He also argued that the rattlesnake “never begins an attack, nor, when once engaged, ever surrenders: she is therefore an emblem of magnanimity and *true courage*.”⁵
- In elevating “the vigilant and manly spirit which actuates the people of America” as the “spirit which nourishes freedom, and in return is nourished by it,” Madison gestured in *Federalist* 57 toward how martial virtue in the new nation would be contained within the bounds of civic virtue.⁶ Beyond simple electoral participation, active participation in political life through institutions, including the jury system, would be key to this transformation. It would bring average citizens directly into the measuring and meting out of justice—the very heart of self-government and the object of a properly directed spiritedness.⁷ By the same token, Madison’s “vigilant and manly spirit” formulation indicated how civic virtue itself could chart a pathway for a just code of conduct for the American soldier.⁸
- And in his January 1790 message to Congress, President George Washington explained that citizens must be taught to combine “a speedy, but temperate vigilance against encroachments, with an inviolable respect to the laws.”⁹

In America, as Tocqueville eventually recognized, it would not simply be “every citizen a soldier.” Instead, it would be every soldier forever a citizen because the soldier’s identity and interests were attached primarily to a civil life shaped by the principles of the Declaration of Independence and the structures of the Constitution. These principles and structures were designed to ensure a regime that prioritized peace and the rule of law, not war. American soldiers displayed “a faithful image of the nation” because their martial identity was meant to be yoked under their citizen identity just as the Constitution yoked military power underneath civilian authority. American civilian recruits were to bring “the spirit of society within the army and preserve it there.”¹⁰ Thus, the oath taken by every enlisted man and officer ties them to defending the Constitution and bearing “true faith and allegiance to the same.”¹¹

Garrison Duty for Civic Life

Having a military—an organizational and institutional means of national protection and defense—is a traditional requirement for any nation building a civil society. “There must be a small standing force to give every government weight,” as New Jersey’s William Paterson stated during the Federal Convention of 1787.¹² By providing for the collective defense of the United States of America, the military makes civil society possible.¹³ Hence, the military’s very existence enables a civic function by ensuring the American regime’s continued existence. One could almost say that the military’s first informal yet external function with respect to civic life is something like garrison duty.

Thanks to America’s unique geographical positioning between two great oceans, as well as its overall military success in executing its mission, most Americans have never had to experience or think about these raw dynamics that make their national life possible. Precisely because such things optimally remain hidden in plain sight in the well-functioning regime, however, the more we as a people ought periodically to remind ourselves of them so that we do not take them for granted. This is especially so because that ever-present true dynamic is a healthy corrective to the reflexive pull of democratic societies, which tend to formulate policy in *reaction* to situations and events instead of anticipating or preparing for them. As Franklin said of the Pennsylvania Assembly’s response to the increasingly destructive raids by French and Spanish privateers in the Bombay Hook, Delaware, region in 1747, “When ’tis too late they are sensible of their Imprudence: After great Fires, they provide Buckets and Engines: After a Pestilence they think of keeping clean their Streets and common Shores: and when a Town has been sack’d by their enemies, they provide for its Defense, &c.” Franklin called this “AFTER-WISDOM.”¹⁴

The need for a permanent national security apparatus—a military—is an acknowledgement and reminder that self-governing societies require tangible elements of foresight and prudence, not mere theoretical “after-wisdom.”

John Adams wrote that “[n]ational defence is one of the Cardinal Duties of a Statesman.”¹⁵ The American Founders were not naïve idealists; they took the safety of the nation seriously. The move to reform the Articles of Confederation, the drafting of the Constitution, and the pro-ratification arguments couched in the language of national safety and stability elucidated in *The Federalist Papers* all testify to this seriousness. Not one of the Founders believed that it was possible for a nation to survive without some type of permanent military arrangement that included an army and navy

that could operate during times of both war and peace. Alexander Hamilton, for example, cited the sheer length of time needed to build up the knowledge and expertise required to use such tools effectively: “War, like most other things, is a science to be acquired and perfected by diligence, by perseverance, by time, and by practice.”¹⁶

Nevertheless, America is no martial republic, nor was it conceived to be in any way a militaristic society. The military has no constitutional directive or authority to intervene in government affairs or the daily lives of American citizens. From the birth of the American nation with the publication of the Declaration of Independence, which charged King George III with keeping “in times of peace, Standing Armies [in the colonies] without the Consent of our legislatures” and “render[ing] the Military independent of and superior to the Civil power,” America famously has maintained the principle of civilian authority over military power and its execution. Similarly, Americans have consistently reiterated their support for the division of political and military power during times of both war and peace, at all times manifesting concern for their liberty.¹⁷

No matter what the exact composition of professional soldiers, volunteers, militia, or conscripts might be at any one moment, America’s military has always led the way in the nation’s ability to establish and maintain a flourishing civil society. This holds true historically, politically, institutionally, and practically. Having just fought a war to establish “in the eyes of the world” the legitimate independent sovereignty of the United States, the Founding generation ensconced this dynamic in the very syntax of the Preamble to the U.S. Constitution. In the Preamble, providing for the collective defense of each of the states, the American government, American citizens, and the United States at large is essential to “promot[ing] the general Welfare.”¹⁸

Together, these two elements work to “secure the Blessings of Liberty” for all citizens present and future. Collectively, they work alongside of the just rule of law domestically to maintain the “more perfect Union” intended by the practical framework of government articulated in the Constitution. In protecting that framework and maintaining the nation’s territorial integrity against any possible invasion or usurpation, the military is simultaneously protecting the conditions necessary for domestic government to tend to the preservation of individuals’ exercise of their liberty under the law. This is how the military serves the constitutional ends of a regime in which peace and justice are meant to predominate.

Throughout America’s history, this has been done almost entirely informally as a byproduct of the military’s pursuit of its national security mission.

Ideally, America's military dynamic at any given moment has nourished the character of what must be a free and equal people by being a repository of corresponding public qualities or virtues that strengthen rather than detract from robust democratic behaviors. Together, these virtues are what one group of contemporary scholars attractively refer to as "civic virtue armed"—what traditionally has been known as "martial virtue."¹⁹

Nevertheless, 18th century Americans were deeply prejudiced against the concept of a permanent landed force or "standing army." Their prejudice was fueled partly by ideology and political rhetoric and partly by bitter experience. Whig opposition writers in England, reacting to the English Civil War of the 1640s and Oliver Cromwell's New Model Army, argued that a standing army filled with "regulars" tied to one individual was the recipe for military despotism and tyranny. Pamphleteers like John Trenchard and Thomas Gordon famously argued that no nation could maintain its liberty and a standing army at the same time and, as historian Richard Kohn summarizes, extolled a different type of military setup as superior to and safer than the standing army:

[T]he militia—yeomen and landholders armed and trained, men with a stake in society and a desire to preserve liberty, men who would never seize power or overturn legitimate political forms unless they were tyrannical—was the only safe and sensible military institution.... After the great standing army debate of the late 1690s and the outpouring of radical tracts, generations of Englishmen and Americans were unable to distinguish the varieties of militaries, and military interference in politics, or the differences in military institutions. Henceforth, Rome's legions, the Turkish janissaries, and Cromwell's New Model Army would all qualify as "standing armies," a powerful, emotional phrase so easily understood and so universally accepted that it [seemingly] needed no further definition.²⁰

After 1660, the majority of royal governors sent to America were army officers who did not always treat their civilian populations with diplomatic tact or forbearance. British regulars were used to crush various regional uprisings, and their numbers swelled into the thousands during the Seven Years' War. The tipping point came when the British government stationed several thousand soldiers in the mainland colonies.

The growing friction exploded in Boston in 1770 when British regulars killed five civilians in the city's streets. "Like no other incident before or since, the Boston Massacre permanently embedded the prejudice against standing armies into the American political tradition" and "automatically

evoked a series of preconfirmed images and definitions.” And as so often happens with potent catchphrases or labels, that of the standing army “obscured fundamental differences between the varieties of military institutions” and created a prejudice that ended up “warp[ing] military policy in the United States for generations.”²¹

Alexander Hamilton attempted to rearrange or refashion that prejudice in *Federalists* Nos. 24–29. Taking the proverbial bull by the horns, Hamilton demonstrated that the standing army debate was less about whether regular soldiers, volunteers, or militia citizen-soldiers were relatively more or less decent and virtuous in their attachment to liberty and individual rights than it was about how to arrange military power and compose a military institution with checks and balances to prevent it from ever threatening the stability of the civilian government or the safety of the nation’s citizens—all while also ensuring that it was efficient and effective enough to fulfill its original purpose. But Hamilton admitted both that some type of permanent military entity was necessary and that a militia system was not feasible for true national defense, despite its popularity as a concept and the glowing reputation it had acquired with the successful completion of the War of Independence.²²

“A Positive Passion for the Public Good”

America’s Revolutionary War and Founding generations were adamant that, in the words of John Adams, “there can be no republican government, nor any real liberty” without “a positive passion for the public good, the public interest.”²³ In a liberal republic that seemingly gives pride of place to the protection of private rights—where rights and duties are two parts of the equation—maintaining a public passion for the common good presents an almost fundamental challenge.²⁴ The military answers this challenge and testifies to the unavoidability of attending to the public good even in a rights-based republic.

The military’s second fundamental civic purpose is therefore to serve as a visible expression of American public spiritedness. It voices rather than whispers the truth that when equally free individuals enter into a community, their citizenship means an awareness of sharing an identity with others. The late constitutional scholar Walter Berns described this as “a sense of belonging to a community for which one bears some responsibility,” illuminating thereby why “citizenship implies public spiritedness,” why it cannot be taken for granted, and why patriotism so characterizes those who formally accept a public responsibility for their community through military service.²⁵

America's military has always illustrated this. The Continental Army, arguably the first truly American institution (other than Continental Congress) to gather individuals from across more than two separate colonies in a common activity and common pursuit,²⁶ showed America the feasibility of national institutions and the union of the 13 colonies. It was also the living embodiment of national public spiritedness in the Revolutionary era. In his general orders of July 4, 1775, Washington reminded his men at the siege of Boston that they were "the Troops of the several of the United Provinces of North America" and that "all Distinctions of Colonies will be laid aside; so that one and the same Spirit may animate the whole, and the only Contest be, who shall render, on this great and trying occasion, the most essential service to the Great and common cause in which we are all engaged."²⁷ Six months later, he reiterated the point: The "new army...in every point of View [wa]s entirely Continental."²⁸

Whereas the colonial militia was "a strictly local force for emergency defense of hearth and home," the Continental Army represented the nation and showed how diverse individuals across social ranks and diverse regional entities like local governments could work together across a vast territorial expanse.²⁹ The Continental Army was, as Charles Royster has written, the "first test" of the ability "to live continentally as well as to think and talk continentally—to put their daily lives under the control of the Union without the constant support of a familiar community."³⁰ For many, this meant (among other things) a personal confrontation with their own local habits and community prejudices. Once they were divorced from the pressures of their local communities and families, it was also a test of their private virtue, and not just in terms of physical courage.

Washington's January 1, 1776, general orders reflect his understanding that it would take careful and deliberate maneuvering to build a shared civic behavior across a nation of united provinces. While the argument is camouflaged in the military-specific language of the mutual obligation of officers and their subordinates to "be attentive to the discipline," along with the officers' obligation to "regularly read, and carefully explain" "all Orders...to the Men," the core sentiment is that communicating, meting out, and accepting orders and discipline are the types of mutual care needed to build trust and affection among these separate citizen-individuals and thus within their military units. Washington clearly grasped that such actions, repeated again and again, could create "the same spirit" that would "animate the whole."³¹ As it was for the Continental officers and their regular soldiers, so it could be for the new nation's political elite and all other citizens.

However, just as the ideals of the Declaration of Independence relied on physical swords and muskets to make the new nation a political reality, the human wielders of those weapons required material compensation. Thomas Paine had contended in *Common Sense* that the existence of government is “a mode rendered necessary by the inability of moral virtue to govern the world.”³² By its very existence, both the Continental Army and today’s AVF mirror the truth of that contention. Principles like freedom, liberty, equality, and inherent individual rights, however correct and piously espoused, do not enforce or defend themselves, no matter the historical era: Human action is needed.

Despite popular support for the ends of the War of Independence and a widespread belief in the justness of the cause, recruiting fit fighting men was even then difficult and not quite satisfactory. Recruiting rolls are never entirely filled by idealistic youths motivated solely by love of country and community. Especially in an era devoid of generous government social safety net programs, potential citizen-soldiers have legitimate material concerns, financial compensation ranking high among them.

Perhaps it was therefore inevitable that the various processes of recruitment, enlistment, enrollment, or conscription at the state and local levels to fill congressionally mandated quotas for soldiers during the War of Independence included the offering of “bounties” for voluntary enlistments, enlistments for the duration, or outright conscription. In addition, there were those who did not want to “turn out” with the militia and looked for militia substitutes to hire.

Historian Charles Royster has likened this societal corruption to a type of “popular trafficking” in personal freedom. “[A]part from the handling of army supplies,” he argues, “recruiting introduced more corruption into American society than any other activity associated with a standing army.”³³ Royster believes this “trafficking” came about in part because of the inherent tension between the ideals of the Declaration of Independence and the need for security, the Continental Congress’s desire to avoid creation of a standing military establishment through long enlistment periods, and the changing nature of warfare under a self-governing polity instead of a monarchy inclined toward glory and acquiring territory.

“In this type of corruption, we do not see a ruler taxing the people in order to employ favorites to support his rule. We see the people buying freedom from the demands of their own government.”³⁴ Arguably, even if created to defend the country’s freedom, a permanent national army brings into direct conflict the demands of an individual’s freedom and virtue. “The man willing to serve had to submit to new, harsh control. The man unwilling to be

so coerced put his personal freedom ahead of the public good, which he then might or might not serve outside of the army.”³⁵ But if a man was unwilling to serve and yet freely parted with his own money to serve the public good, was the latter’s sacrifice no less public spirited and meaningful?

Washington, instead of blaming his soldiers for requiring some material compensation for their services, berated members of the Continental Congress for their unrealistic snobbishness about the issue. At the same time, he gave voice to the fundamental shift occurring between the European and American armies, why the stakes were legitimately so much higher for the American army, and how that created a more robust demand on the typical American citizen. Military service would not involve the new American nation in “the usual contests of Empire and Ambition,” Washington told one particularly ornery officer who was sensitive about rank. It had a much nobler purpose: “a defense of all that is dear and valuable in Life.”³⁶

If war was no longer simply an extension of a dynastic game by which a dynasty or monarchy won glory, authority, and territory and was waged instead to protect the new sovereign “we the people,” then the meaning of military service also shifted, as did the mantle of responsibility for those who waged it—and potentially for those who paid for it. Thus, as Washington wrote to Hamilton in 1783:

It may be laid down as a primary position, and the basis of our system, that every Citizen who enjoys the protection of a free Government, owes not only a proportion of his property, but even his personal services to the defense of it, and consequently that the Citizens of America (with a few legal and official exceptions) from 18 to 50 Years of Age should be born on the Militia Rolls, provided with uniform Arms, and so far accustomed to the use of them, that the Total strength of the Country might be called forth at a Short Notice on any very interesting Emergency.³⁷

As Walter Millis has written, military power “transferred from the king... could fall only on the whole body of the people.”³⁸ In general, this new dynamic of a whole people and war that emerged alongside of the Continental Army is what Millis calls the beginning of “the democratization of war.”³⁹ Democratic citizenship implies the responsibility of public spiritedness for all involved, and the presence of the military is a constant reminder of that fact in physical, material, and theoretical ways that extend even to the personal level. In the words of Patrick Henry, “As for *me*, give *me* liberty, or give *me* death.”⁴⁰

Martial Virtue Democratized

Alongside the belief that “public Virtue is the only Foundation of Republics,”⁴¹ the Revolutionary and Founding generations shared the belief that public virtue required that private virtue be present among citizens.⁴² In the 1775 Declaration on Taking Up Arms, Congress had declared that “Honour, Justice, and Humanity, forbid us tamely to surrender that Freedom which we received from our gallant Ancestors, and which our innocent Posterity have a right to receive from us.”⁴³ Less than a year later, General Washington was urging his troops that they had to resolve to conquer or die, because it was “on the Courage and Conduct of this army” that “the fate of unborn Millions will now depend.”⁴⁴ During the Revolution, Abigail Adams reminded her son, future President John Quincy Adams, that “[t]he Habits of a vigorous mind are formed in contending with difficulties.... Great necessities call out great virtues.”⁴⁵ Later, during the War of 1812, her husband John Adams wrote to Dr. Benjamin Rush that “[w]ars, at times, are as necessary for the preservation and perfection, the prosperity, Liberty, happiness, Virtue, & independence of Nations as Gales of wind to the Salubrity of the Atmosphere, or the agitations of the Ocean to prevent its stagnation and putrefaction.”⁴⁶

War and, by extension, military service and training could be a school for virtue both public and private. It was also an opportunity to express or exercise one’s private virtues or excellences for publicly beneficial rather than merely self-aggrandizing ends. The American Revolution, as summarized by one historian in 1815, “brought forth great vices; but on the other hand, it called forth many virtues.”⁴⁷ The individual hardships of soldiers and civilians had shown a collective will to emerge victorious with a new nation. As Jefferson’s 1778 proposed revision of Virginia’s laws makes clear, the hope was that America’s new system of government would encourage a society “worthy of free men and that individuals [would] be made fit for free society.”⁴⁸ But by no means was there any desire to militarize society in pursuit of that goal of being “free.”

Free men—and free women, as Abigail Adams would remind us—are spirited. What the American Founders knew with certainty from their theoretical forebears was that, in passing from the Revolutionary era to the Constitutional era, the spiritedness with which they had fought for the liberty of their new nation and their individual rights on the battlefield would need to be translated into a deep connection with the new Constitution, the constitutional order, and the particularly American expression of the rule of law and the defense of freedom and equality. They knew with equal certainty

that such spiritedness, married with the “tamed” or “civilianized” virtue of courage as vigilance, would guard against any recurrence of a “long train of abuses and usurpations,” this time through the ballot box. This is why James Wilson, when he began his series of law lectures at the University of Pennsylvania in 1789, reminded his audience that the American character ought to be deemed “so highly” insofar as it was “eminently distinguished by the love of liberty, and the love of law.”⁴⁹

Vigilance attached to spiritedness in the American democratic context expresses itself through both formal participation in and informal engagement with institutional processes. Similarly, while spiritedness traditionally encompasses much more than self-assertion, civic self-assertion is undeniably attached to the virtue of spiritedness. American Founder and sometime ambassador to France Gouverneur Morris might even have likened it to Americans’ acting based on “pride of freedom” (an ability that the French apparently lacked).⁵⁰ In his first annual message to Congress, Washington similarly stressed that citizens must be taught to combine “a speedy but temperate vigilance against encroachments, with inviolable respect to the laws.”⁵¹

Domestically speaking, one such public form of this spiritedness is vigilance against government overreach, whether federally or at the state and local levels. Watchdog organizations conducting analyses and oversight of government agencies maintain such vigilance, and a healthy journalism sector and free press ideally should do so as well. There is also something that was perhaps more familiar to the Founding generation and the authors of *The Federalist Papers*—“term limits” in the form of frequent elections. The Founders expected Americans to be vigilant enough to elect new Congressmen, Senators, governors, and Presidents when the incumbents were no longer fulfilling their duties or their legislation no longer reflected their constituents’ wishes, desires, and common sense of justice.

A further expression of this vigilant spiritedness translated from the battlefield to civilian democratic life is active citizen participation in American local government broadly understood. The native New Englander John Adams preceded the French Tocqueville in recognizing the importance of local self-government in the formation of the American character. Among the “certain Powers and Privileges” the common New England inhabitant enjoyed was the right to “deliberate upon the publick affairs of the Town, or to instruct their Representatives,” which enabled a system of vibrant self-government in which people “acquired from their infancy, an Habit of debating, deliberating and judging of public Affairs.”⁵² Frequent participation in the dynamics of local politics, in other words, not only enables

citizens to learn and practice civic behaviors, but also enables them to practice the constitutional and social virtues of justice and moderation that are so necessary if a regime is to balance a love of liberty with the rule of law.

Found within provisions of at least five of the early state constitutions, including those of Massachusetts, Pennsylvania, and Virginia, the social virtue of justice explicitly relates to “the disposition to obey the laws, but also to pay one’s debts, and to respect and defend the rights of others.”⁵³ The states were well aware of the essential intertwining of private and public virtue and did not hesitate to remind their citizens of the foundational importance of attending to their civic duties and responsibility to the public good.

All 13 original states, for example, secured in their constitutions the right of citizens to a civil jury trial. Arguably, America’s jury system and military mirror each other in their respective civilian and national security roles as the institutions closest to “we, the people” through which individual citizens uphold the public good by ensuring the regime’s commitment to justice. The Anti-Federalist Federal Farmer wrote in 1787 that “[the people’s] situation, as jurors and representatives, enables them to acquire the information and knowledge in the affairs and government of the society; and to come forward, in turn, as sentinels and guardians of each other.”⁵⁴ In 1788, he argued that the jury and elected legislative bodies “are the means by which the people are let into the knowledge of public affairs—are enabled to stand as guardians of each other’s rights....”⁵⁵ Even the Anti-Federalists appreciated the pivotal importance of the jury system in maintaining a healthy American democratic life.

At the federal level, ratification of the U.S. Constitution institutionalized the pursuit of justice as commonly understood in a judiciary that it was assumed would function as the Founders intended (rather than as it too often functions today).⁵⁶ So important was the right to a trial by a jury of one’s peers to the Framers that it shines brightly as a single subject of the Seventh Amendment. The judiciary involves citizens directly in the administration of justice through jury service, and it is especially here that the democratized version of martial courage—vigilance and spiritedness—is required. Involvement in the administration of justice through jury service enables citizens to become accustomed to seeing themselves not as passive victims of circumstances beyond their control, but rather as confident, self-governing people.

Praising the beneficial effects, both individual and social, of the right to a trial by jury and of citizens’ participation in jury service, James Wilson waxed eloquent: “To promote an habitual courage, and dignity, and

independence of sentiment and of actions in the citizens, should be the aim of every wise and good government. How much are these principles promoted, by this beautiful and sublime effect of our judicial system.”⁵⁷

Nurturing Civil Society and the American Character

All serious statesmen are wary, schooled by experience to value prudence and sober judgment. Being serious and, generally speaking, practical statesmen themselves, the American Founders took with utmost seriousness their duty to preserve the independent, free, and sovereign status of the new nation and its dedication to the soaring ideals of every individual’s inherent right to life, liberty, and the pursuit of happiness. This same prudence and sense of duty gradually awakened them to the need for the Constitutional Convention and, subsequently, ratification of the U.S. Constitution. It also awakened them to the need for a permanent defense or military establishment, and figuring out the contours of this establishment helped to shape key elements of the constitutional order. The Continental Army, one might argue, “grandfathered in” the nation.

A key issue in the young Republic’s cornerstone debates was the question of how to fashion a new type of democratic army and military that, rather than simply not posing a threat to the liberty of Americans, would safeguard and nurture that liberty as its own even while being somewhat separate from it and secondary to it. For this goal to be accomplished, however, it would also be necessary to refashion the idea of democratic citizenship, civic virtue, and civil society. As political theorist Thomas G. West has observed, “the social virtues make people good citizens of any society, for even a dictatorship benefits from internal peace. *Republican virtues*...are needed to make people good citizens of a *free* society.”⁵⁸

After the War of Independence had been won, Chief Justice John Jay acknowledged that “[w]ar is not to be sought, but it is not to be fled from.”⁵⁹ John Adams similarly acknowledged the debt that a robust citizenship already owed to—and would always have to pay in future for—attributes gained from and honed by participation in the militia and the army. They were sources of “that Wisdom in Council, and that skill and Bravery in War, which have produced the American Revolution, and which I hope will be Sacredly preserved as the foundations of a free, happy and prosperous People.”⁶⁰ American wartime documents of the era likewise repeatedly noted the debt that the American civic character owed to such virtues of strength as courage, bravery, vigor, “manly exertion,” and “conduct” or competent leadership that were developed by military service and during wartime.

Regardless of the Founding generation's commitment to preserving a free society by cultivating free citizens attached to the principles of the Declaration of Independence, they understood with a clarity grown hazy today that, because peacetime called for an emphasis on building and nurturing American civic life, American civil society and the American character were also nurtured by the habits of a democratic martial virtue that were honed and preserved within the branches of our armed forces. It would be a mistake to presume either that America's Founders devalued or denied the essential importance of martial virtue to the Republic or that, because some circumstances of technology and industry have changed since then, America's military no longer needs to develop the habits and behaviors traditionally associated with martial virtue.

Nevertheless, there is today a perceived distance between soldiers or veterans and civilians that is measured in the decreasing familiarity, knowledge, and comfort that the one supposedly has in the presence of the other. The ceremonial acknowledgement of uniformed soldiers, sailors, airmen, and Marines at ballparks and at the head of our holiday civic parades also makes many uneasy, whether because of a sense of slight at seeing real sacrifice and suffering reduced to figurehead status or because of anger at blatant self-promotion and spending on marketing and publicity campaigns rather than military readiness. To a certain extent, however, the fact that there is space between the two is proof that America's military is succeeding both in its constitutional national security mission and in its secondary civic role.

Conclusion

America's military has no formal role in the nation's civil society, but it is an indelible part of America's civic fabric. From the days of the Continental Army through the contemporary All-Volunteer Force, the military has played an essential role in shaping a distinct American character. Not only does it perform a type of garrison duty for the regime, making civic life possible, but it also exemplifies the need for "a positive passion for the public good" in a rights-based democracy. True to the vision of the Founders, the U.S. military has also helped to transform the ancient notions of martial virtue applicable for the few into a more vigilant, robust civic virtue for the many.

Rebecca Burgess, PhD, is Senior Fellow at the Yorktown Institute, a contributing editor for Law & Liberty, an Associate Scholar with the Classics of Strategy and Diplomacy Project, and a Visiting Fellow at the Independent Women's Forum.

Endnotes

1. Alexis de Tocqueville, *Democracy in America*, trans. and ed. Harvey Mansfield and Debra Winthrop (Chicago: University of Chicago Press, 2000), p. 620.
2. See David K. Hart, David W. Hart, and Rebecca Nesbit, "Martial Virtue: Civic Humanism as a Groundwork for American Military Ethics," *Administration & Society*, Vol. 43, No. 5 (July 2011), pp. 487–514. To the best of my knowledge, the term "civic virtue armed" cannot be ascribed to any of the American Founders, but I believe that it nonetheless mirrors perfectly the understanding of martial virtue and civic virtue that the Founding generation was implicitly working to institutionalize in the new Republic.
3. Letter from John Adams to Mercy Otis Warren, April 16, 1776, National Archives, Founders Online, <https://founders.archives.gov/documents/Adams/06-04-02-0044> (accessed January 24, 2025).
4. In *Federalist* No. 72, for instance, Alexander Hamilton praised the love of fame as "the ruling passion of the noblest minds, which would prompt a man to plan and undertake extensive and arduous enterprises for the public benefit." Alexander Hamilton, *Federalist* No. 72, March 19, 1788, National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-04-02-0223> (accessed June 10, 2025).
5. "The Rattle-Snake as a Symbol of America," *American Heritage*, Vol. 39, No. 2 (March 1988), <https://www.americanheritage.com/rattle-snake-symbol-america> (accessed June 10, 2025). Emphasis added.
6. James Madison, *Federalist* No. 57, February 19, 1788, National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-04-02-0206> (accessed June 10, 2025).
7. Cf. Catherine H. Zuckert, *Understanding the Political Spirit: Philosophical Investigations from Socrates to Nietzsche* (New Haven, CT: Yale University Press, 1988). For a more pointed look at spiritedness, liberty, and justice in relation to America and American veterans and soldiers, see Rebecca Burgess, "Flag Pins and Shoulder Patches," *The American Interest*, December 27, 2018, <https://www.the-american-interest.com/2018/12/27/flag-pins-and-shoulder-patches/> (accessed June 10, 2025).
8. Throughout this essay, I use "soldier" collectively for the various members of the several military branches.
9. George Washington, Message to the United States Senate and House of Representatives, January 8, 1790, <https://founders.archives.gov/documents/Washington/05-04-02-0361> (accessed June 10, 2025). Vigilance, Thomas G. West has argued, "is a kind of democratized courage, a milder form suitable to peacetime, but necessary for a free society that needs manly qualities even if not always in the full measure of risking life and limb." Thomas G. West, *The Political Theory of the American Founding: Natural Rights, Public Policy, and the Moral Conditions of Freedom* (Cambridge, U.K.: Cambridge University Press, 2017), pp. 286–287.
10. Tocqueville, *Democracy in America*, p. 623.
11. 10 U.S. Code § 502, <https://www.law.cornell.edu/uscode/text/10/502> (accessed June 10, 2025).
12. As quoted in Robert Wooster, *The United States Army and the Making of America: From Confederation to Empire 1775–1903* (Lawrence, KS: University Press of Kansas, 2021), p. 18. See also *The Records of the Federal Convention of 1787*, ed. Max Farrand (New Haven, CT: Yale University Press, 1911), Vol. I, p. 246, https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/1057/0544-01_Bk.pdf (accessed June 10, 2025).
13. I use "collective defense" rather than "common defense" to illustrate each of the various components or entities that make up the "common" defense. The sense of "collective defense" also more accurately reflects late 18th and early 19th century understandings of "provide for the common defense" as explained at length in Joseph Story, *Commentaries on the Constitution of the United States: With a Preliminary Review of the Constitutional History of the Colonies and States Before the Adoption of the Constitution*, 4th ed. (Boston: Little, Brown, 1873), Vol. I, §§ 459, 462–463, 469–470, 471–476, 482–486, 489, 493–497, 500–501, and 506, <https://ia600201.us.archive.org/10/items/commentariesonco01storuoft/commentariesonco01storuoft.pdf> (accessed June 11, 2025).
14. Benjamin Franklin, "Plain Truth," November 17, 1747, National Archives, Founders Online, <https://founders.archives.gov/documents/Franklin/01-03-02-0091> (accessed June 10, 2025).
15. Letter from John Adams to James Lloyd, January 28, 1815, National Archives, Founders Online, <https://founders.archives.gov/documents/Adams/99-02-02-6401> (accessed June 10, 2025).
16. Alexander Hamilton, *Federalist* No. 25, December 21, 1787, National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-04-02-0182> (accessed June 11, 2025).
17. See, for instance, Alexander Hamilton, *Federalist* No. 8, November 20, 1787, National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-04-02-0160> (accessed June 11, 2025).
18. The full text of the Preamble reads as follows: "We the People of the United States, in Order 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 ourselves and our Posterity, do ordain and establish this Constitution for the United States of America." National Archives, America's Founding Documents, "The Constitution of the United States: A Transcription," <https://www.archives.gov/founding-docs/constitution-transcript> (accessed June 11, 2025).
19. David K. Hart et al., "Martial Virtue," pp. 487–514.

20. Richard Kohn, *Eagle and Sword: The Federalists and the Creation of the Military Establishment in America, 1783–1802* (New York: The Free Press, 1975), p. 4. The debates surrounding the standing army concept, regulars, the militia, and citizen-soldiers is too complicated to delve into properly here, but in general, I agree with David Womersley that they were long on political or partisan rhetoric and short on robust content and nuance. For helpful discussions, see *Writings on Standing Armies*, sel. and ed. David Womersley (Carmel, IN: Liberty Fund, 2020), <https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/2813/WomersleyStandingArmiesPDF.pdf> (accessed June 11, 2025); Marcus Cunliffe, *Soldiers and Civilians: The Martial Spirit in America, 1775–1865* (Boston: Little, Brown, 1968); James Kirby Martin and Mark Edward Lender, *“A Respectable Army”: The Military Origins of the Republic, 1763–1789*, 3rd ed. (Malden, MA: Wiley Blackwell, 2015); Charles Royster, *A Revolutionary People at War: The Continental Army & American Character, 1775–1783* (Chapel Hill: University of North Carolina Press, 1979); and Walter Millis, *Arms and Men: A Study in American Military History* (New Brunswick, NJ: Rutgers University Press, 1986).
21. Kohn, *Eagle and Sword*, p. 6.
22. Alexander Hamilton, *Federalist* No. 24, December 19, 1787, National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-04-02-0181> (accessed June 11, 2025); *Federalist* No. 25, December 21, 1787, National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-04-02-0182> (accessed June 11, 2025); *Federalist* No. 26, December 22, 1787, National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-04-02-0183> (accessed June 11, 2025); *Federalist* No. 27, December 25, 1787, National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-04-02-0184> (accessed June 11, 2025); *Federalist* No. 28, December 26, 1787, National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-04-02-0185> (accessed June 11, 2025); *Federalist* No. 29, January 9, 1788, National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-04-02-0186> (accessed June 11, 2025).
23. Letter from John Adams to Mercy Otis Warren, April 16, 1776.
24. There is a long-running dialogue, nay argument, about the extent to which the principles of the Declaration of Independence and the formulations of the U.S. Constitution do or do not sever the pursuit and security of individual rights from attending to the common good, putting America on an inevitable path of runaway individualism and license over liberty. While there are many excellent encapsulations of the basic argument, I generally agree with Walter Berns: “Of course, when properly understood, the Declaration is not merely a catechism of individual rights. In fact, it claims to be an act, not of isolated individuals, but of ‘one people,’ a people with the ‘Right’ to abolish one government and to ‘institute’ another, and an entity in which individuals are bound to each other, contractually if not naturally. Accordingly, it was signed by men who pledged to each other their lives, their fortunes, and their sacred honor. Except hypocritically, and the Founders were not hypocrites, such a pledge cannot be made by selfish or simply self-interested individuals. Yet, on the face of the document, the rights are inherent, whereas the duties have to be acquired.” Walter Berns, *Making Patriots* (Chicago: University of Chicago Press, 2001), pp. 19–20.
25. *Ibid.*, p. 11.
26. Under the militia system that existed in most American colonies before the American Revolution, it was frequently even illegal for one colony’s militia to join with another’s or to leave the colony. See Kohn, *Eagle and Sword*, p. 10. Caroline Cox reiterates these points in *A Proper Sense of Honor: Service and Sacrifice in George Washington’s Army* (Chapel Hill, NC: University of North Carolina Press, 2004), pp. 1–35.
27. George Washington, General Orders, July 4, 1775, National Archives, Founders Online, <https://founders.archives.gov/documents/Washington/03-01-02-0027> (accessed June 10, 2025).
28. George Washington, General Orders, January 1, 1776, National Archives, Founders Online, <https://founders.archives.gov/documents/Washington/03-03-02-0001> (accessed June 10, 2025).
29. Millis, *Arms and Men*, p. 21. Russell F. Weigley seems to support my argument about the Continental Army as the first “American institution” but also shows how the militia system in colonial America was much more complex than is frequently acknowledged and that various governors had some legal capacities to authorize troops outside of a colony’s borders for highly specific, short periods in special circumstances. Russell F. Weigley, *History of the United States Army* (New York: Macmillan, 1967), pp. 3–12.
30. Royster, *A Revolutionary People at War*, p. 62.
31. Washington, General Orders, January 1, 1776.
32. Thomas Paine, *Common Sense*, in *The Writings of Thomas Paine*, coll. and ed. Moncure Daniel Conway (New York: G. P. Putnam’s Sons, 1894), Vol. I, p. 71, https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/343/0548-01_Bk.pdf (accessed June 10, 2025).
33. Royster, *A Revolutionary People at War*, p. 67.
34. *Ibid.*
35. *Ibid.*
36. Millis, *Arms and Men*, p. 27.
37. Letter from George Washington to Alexander Hamilton, April 4, 1783, National Archives, Founders Online, <https://founders.archives.gov/documents/Hamilton/01-03-02-0202> (accessed June 10, 2025).
38. Millis, *Arms and Men*, p. 39.
39. *Ibid.*, pp. 13–71.

40. Patrick Henry, "Speech on a Resolution to Put Virginia into a State of Defence," March 23, 1775, in *American Patriotism: Speeches, Letters, and Other Papers Which Illustrate the Foundation, the Development, the Preservation of the United States of America*, comp. Selim H. Peabody (New York: American Book Exchange, 1880), pp. 108–110, <https://dn790003.ca.archive.org/0/items/americanpatrioti00inpeab/americanpatrioti00inpeab.pdf> (accessed June 16, 2025). Emphasis added.
41. Letter from John Adams to Mercy Otis Warren, April 16, 1776.
42. As acknowledged, for instance, in *Federalist* 55: "As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust: So there are other qualities in human nature, which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher degree than any other form. Were the pictures which have been drawn by the political jealousy of some among us, faithful likenesses of the human character, the inference would be that there is no sufficient virtue among men for self-government...." James Madison or Alexander Hamilton, *Federalist* No. 55, February 13, 1788, <https://founders.archives.gov/documents/Hamilton/01-04-02-0204> (accessed June 11, 2025).
43. Declaration as Adopted by Congress, July 6, 1775, National Archives, Founders Online, <https://founders.archives.gov/documents/Jefferson/01-01-02-0113-0005> (accessed June 10, 2025).
44. George Washington, General Orders, July 2, 1776, National Archives, Founders Online, <https://founders.archives.gov/documents/Washington/03-05-02-0117> (accessed June 16, 2025).
45. Letter from Abigail Adams to John Quincy Adams, January 19, 1780, National Archives, Founders Online, <https://founders.archives.gov/documents/Adams/04-03-02-0207> (accessed June 16, 2025).
46. Letter from John Adams to Benjamin Rush, July 7, 1812, National Archives, Founders Online, <https://founders.archives.gov/documents/Adams/99-02-02-5821> (accessed June 16, 2025).
47. David Ramsay, *The History of the American Revolution* (Lexington, KY: Downing and Phillips, 1815), Vol. II, p. 317, <https://ia902208.us.archive.org/4/items/TheHistoryOfTheAmericanRevolution/TheHistoryOfTheAmericanRevolutionVolume2DavidRamsay.pdf> (accessed June 16, 2025).
48. Ralph Lerner, *The Thinking Revolutionary: Principle and Practice in the New Republic* (Ithaca, NY: Cornell University Press, 1987), pp. 89–90.
49. James Wilson, "Introductory Lecture. Of the Study of the Law in the United States," in *Collected Works of James Wilson*, ed. Kermit L. Hall and Mark David Hall (Indianapolis, IN: Liberty Fund, 2007), Vol. I, p. 432, https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/2072/Wilson_4140.01_LFeBk.pdf (accessed June 16, 2025).
50. Cf. West, *The Political Theory of the American Founding*, p. 263.
51. George Washington, First Annual Message to Congress, January 8, 1790, <https://founders.archives.gov/documents/Washington/05-04-02-0361> (accessed June 16, 2025).
52. Letter from John Adams to the Abbé de Mably, January 15, 1783, National Archives, Founders Online, <https://founders.archives.gov/documents/Adams/06-14-02-0111-0004#:~:text=Accordingly%2C%20in%20a%20few%20days,than%20any%20formal%20or%20serious> (accessed June 16, 2025).
53. West, *The Political Theory of the American Founding*, p. 273.
54. Federal Farmer, Letter No. IV, October 12, 1787, in *The Complete Anti-Federalist*, ed. Herbert J. Storing (Chicago: University of Chicago Press, 1981), Vol. 2, p. 250, <https://ia600300.us.archive.org/34/items/the-complete-anti-federalist-herbert-vol-2/2%20The%20Complete%20Anti-Federalist%20%28Herbert%20J.%20Storing%20ed.%2C%201981%29.pdf> (accessed June 16, 2025).
55. Federal Farmer, Letter No. XV, January 18, 1788, in *ibid.*, p. 320.
56. For a useful discussion of the transformation and underusage of the jury trial, see Jeffrey Bristol, "The Anchor of Republican Justice," *Law & Liberty*, October 28, 2024, <https://lawliberty.org/the-anchor-of-republican-justice/> (accessed June 16, 2025).
57. James Wilson, "The Subject Continued. Of Juries," in *Collected Works of James Wilson*, ed. Kermit L. Hall and Mark David Hall (Indianapolis, IN: Liberty Fund, 2007), Vol. II, p. 1009, https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/2074/Wilson_4140.02_LFeBk.pdf (accessed June 16, 2025).
58. West, *The Political Theory of the American Founding*, p. 290. Emphasis in original.
59. John Jay, Charge to Grand Jury, Richmond, Virginia, May 22, 1793, in *The Correspondence and Public Papers of John Jay*, ed. Henry P. Johnston (New York: G.P. Putnam's Sons, 1891), Vol. III, p. 482, https://oll-resources.s3.us-east-2.amazonaws.com/oll3/store/titles/2329/Jay_1530-03_Bk.pdf (accessed June 16, 2025).
60. Letter from John Adams to the Abbé de Mably, January 15, 1783.