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**A View Of Society In Europe, In Its Progress From
Rudeness To Refinement: Or, Inquiries Concerning The
History Of Law, Government, And Manners**

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Edinburgh, 1778

Section II. The Difference between a Mercenary Soldier and a Feudal Vassal. Sovereigns find Troops by entering into Contracts with their Nobility, and with Captains by Profession. Volunteers make an ...

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SECTION II.

The Difference between a Mercenary Soldier and a Feudal Vassal. Sovereigns find Troops by entering into Contracts with their Nobility, and with Captains by Profession. Volunteers make an Offer of their Service. Commissions of Array. The Disadvantages of these Military Schemes. The Idea and Establishment of a Standing Force. France, and other Nations, lose their Liberties. The Opposition to a Standing Force in England. The total Abolition of Fiefs. The consequent Necessity of a Standing Army. The Precautions and Anxiety with which it is introduced.

THE *Coterelli*, or banditti who wandered over Europe, and offered their swords to the highest bidder, introduced the idea that war might be considered as a trade. The feudal proprietor fought for his land and his nation, and the prince had no title to demand his service in any dispute of his own. He drew his sword for the safety of the state, or for its honour; but he was not bound to support the quarrels of his sovereign. When the feudal prince contended with a great subject, the feudal



dal vassals of the kingdom did not move indiscriminately to his call. His defenders, in this situation, were his particular vassals, or the tenants of his demesne. In like manner, if he declared war against a foreign state, without the consent of the great council of the nation, the majority of the feudal vassals might refuse to obey his mandate. It was only in the wars, and in the quarrels approved by the nation, that they attended to his summons (1). But, when arms became a profession, the soldier stipulated his service for his pay. He consulted not for what end he was to fight. An implicit obedience was required from him; and his sword, though it might be employed against a natural and an active enemy, might also be turned against his native country, and give a stab to its repose and prosperity.

When, from the refuse or the vagabonds of Europe, the taking money for service was become familiar, the making war a traffic prevailed in every state. The idle and the profligate found a way of life, which flattered their indolence and rapacity. The usual method of collecting an army, was now by contracts with nobles, who had authority over the loose and disorderly inhabitants of their estates; with captains, whose address or valour could allure adventurers to their standards; and with individuals, whose poverty or choice made them offer themselves to the constables and the marshals of princes. These troops, though more obedient than the Gothic militia, were not much superior to them in discipline. For, at the end of every war,

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the prince, on whom they depended for pay, was in haste to disband them (2).

But, while this grew to be the usual method of raising an army, it was a law in the different nations of Europe, that all the subjects of a kingdom were bound to take arms in cases of necessity. Statutes, accordingly, or ordinances, ascertained the armour with which every person, in proportion to his riches and rank, was to provide himself, and which he was to keep constantly in his possession (3). And thus, when dangers threatened, and sudden invasions took place, commissions of array were issued by princes, and supplies to the army called out from the provinces and counties, the villages and cities (4). The soldiers, levied in this manner, received also the pay of the prince.

These schemes for a military power were still imperfect. The oppression of arrays was disgusting and cruel in the highest degree; and the troops they furnished were ill disposed to exert themselves, and without discipline. Mercenaries were the strength of armies; but, to collect such multitudes of them as were requisite for great and vigorous efforts, required an inexhaustible revenue. They had, besides, no principle of attachment or of honour. An object of terror to the people, and of suspicion to the prince, they were employed and detested; and when the termination of a war set them loose, the condition of Europe was deformed, and the greatest disorders were perpetrated.



trated. They had no certain homes, and no regular plan of subsistence. They were at the command of the turbulent and factious; they associated into bands and companies, and were often so formidable as to maintain themselves, for a time, in opposition to the civil authority. Robberies, murders, the ravishment of women, and other atrocious crimes, were frequent (5). The contagiousness of their example, and the enormities they produced, seemed incompatible with the existence of society; yet their use and their dismissal were necessarily, in a great measure, to create this contagiousness and these enormities.

Confusions often lead to improvement, by demanding and pointing out a remedy. It was perceived, that the soldiery ought to be maintained or kept up, not only in times of war, but of peace. They would thus be preserved from maroding, and plunder, and riot; and, improving in discipline, they would act with greater firmness and efficacy.

The creation of a standing force, of which the idea was thus unfolded, was also facilitated by the rivalship which had prevailed between France and England. From the time that William Duke of Normandy had mounted the throne of England, the two kingdoms entertained a jealousy of one another. The dominions which the English were to possess on the continent, being a source of consideration to them there, became the foundation of disquiets and animosities, which were ready to break



out on occasions the most trifling. Frequent wars putting to trial the strength and resources of the rival states, served to improve them in arts and in arms. Even the victories of Edward III. and Henry V. while they brought so much strength and glory to England, were to be lessons of instruction to the other states of Europe, by discovering the danger which must result to all of them from the encroachments of a power so mighty and so ambitious. The battles of Cressy, Poitiers, and Azincourt, which seemed to bring nothing but honour and advantage to the English, were the prognostics of their humiliation. And, while France was apparently in a state of desperation, it was to recover its importance and grandeur. The maid of Orleans was to astonish with the wildness of her heroism; Charles VII. was to exert his political sagacity; Dunois, his military skill. The domestic discords of France were to cease; and the Duke of Burgundy, perceiving the pernicious consequences of uniting France to England, was to throw off his unnatural connections with the latter, and to sacrifice his animosities to policy. In a word, the foreign dominions of the English were to be ravished from them. And Charles VII. instructed by the past, and apprehensive of future invasions and calamities, was to guard against them by the wisdom and the stability of his precautions.

Thus, the decay of the feudal system, the disorders of the mercenaries, and the political condition of France with regard to
England,



England, all conspired to illustrate the necessity of a standing force.

Having deliberated maturely on the step he was to take, Charles VII. in the year 1445, selecting out of his forces a body of cavalry, to the number of nine thousand, formed them into fifteen regular and standing companies, under officers of experience. Three years after, encouraged by his success, he established a standing infantry of Frank archers, to the number of sixteen thousand (6). The nobility, who had been long tired and disgusted with the fatigues and the returns of military service, to which their tenures subjected them, and the people, who hoped, under disciplined troops, to be free from the insults and oppressions which they had known under the mercenaries, opposed not these establishments. They were struck with the advantages to be derived from them, but discerned not their dangerous and fatal tendency. No constitutional limitations were made; no bulwarks were raised up for the security of the national independence and liberties. Succeeding princes were to add to, and improve on the regulations of Charles; and, from this period, the monarchs of France were to be in the full capacity of levying taxes at their pleasure, and of surveying, in mockery, the rights and pretensions of their subjects.

But, while France and other states of Europe, in consequence of these general reasons, and from the idea of their own interest,
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and the upholding a balance of power, were to be induced to admit of standing armies, and were thence to lose their liberties, the same causes did not operate the same effects in England. The introduction of a standing army was, indeed, to be made effectual there; but at a very distant period, and on principles the most consistent with liberty. The advantages to accrue from it did not escape observation; but its dangers were still seen in the strongest light; and its establishment was opposed, till the very moment when its necessity was absolute and uncontrollable.

Till the reign of Charles II. the feudal militia, and the troops furnished by contract with nobles and captains, and by the enlisting of volunteers, continued to constitute the usual military power of England. Till the same aera, also, commissions of array were issued by princes to procure forces on extraordinary occasions. And, the termination of every war was regularly followed with the disbandment of the army.

Of these institutions, the inconveniencies, as I have said, were infinite and enormous. They were preferable, however, to a standing army, with despotism. For regulations and policy might, in some degree, supply and alleviate their defects and abuses. The disorders, indeed, of the feudal militia, had risen to a height, which, considering the growing refinement of the nation, admitted not of any remedy. They were to endure, of consequence,



consequence, till the extinction of tenures. But wholesome rules and enactments might depress or diminish the confusions and the oppressions which were the natural results of the use and dismissal of mercenaries; and these were not wanting (7). It was likewise possible to give a check to the violence of princes in the issuing of commissions of array; and the spirit of the constitution, and express laws, made it fully understood, that they ought to be undertaken and executed with the greatest respect for the freedom of the subject, and in cases only of urgent danger and apparent necessity (8).

The reduction of the power of taxation assumed by princes, and the declaration of *magna charta*, that the people were to grant the supplies which they thought necessary to government, had fostered the passion for independence. The constant appeals of the people to charters declaratory of their antient freedom and privileges, and correctory of abuses, that time and the maxims of tyranny had produced, gave them an evident superiority which they might exert in all political contentions. It was easy to discover when the sovereign was disposed to encroach; and the power the commons could oppose to him was decisive. To refuse him money, was to disarm him. Of himself, he could maintain no formidable army; and the people were not to lavish to him their wealth, that he might oppress them.

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The schools of law, which were opened by learned men immediately after the settlement of the charters of liberty, were to diffuse widely the fundamental and free principles of the constitution (9). The discussion of political topics was to employ even the lowest ranks of the citizens, and to engender a turbulence, which, with all its ills, must be allowed to be respectable.

The awe over parliamentary debate, which Richard II. effected by the body of four thousand archers, which he attempted to keep up, and the insolence and disorders of this band, awakened, to an uncommon degree, the public jealousy, and evinced, with decision, the dangers of a standing force (10). The miserable state of France, under the military despotism which Charles VII. had begun, and which Louis XI. had accomplished, was to display, in all its terrors, that mode of administration which allows to the prince the command of the taxes and the army (11).

The English, astonished at the tyranny and pride of kings in other nations, were to repress them in their own. The spirit of opposition to the crown, natural to the government, and brought into exertion by the oppressive views, and the encroaching domination of princes, unfolded all their powers to the commons. During a long series of years, no standing army was permitted. It was held in the utmost detestation ; and its existence was even deemed incompatible with the liberty of the subject.

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In the wars between the houses of York and Lancaster, armies were frequently raised; but no standing establishment was thought of. The measure was both impolitic and violent, while the leaders of different factions were courting popularity. In the moment of peace, the soldier was lost in the citizen; and the army that conducted its commander to the throne, did not remain with him an instrument of his tyranny. It left him to the enjoyment of the legal rights of sovereignty, and was not to subvert the government. The struggle was not for a tyrant, but a king. The constitution was respected during scenes of violence and hostility, and the people felt a rising importance amidst slaughter and blood.

Henry VII. who united, in his person, the rights of the rival families, was permitted to constitute the yeomen of the guard. But these were only for the protection of the person of the sovereign, and were not to increase to an army. They were to be a state or ornament to the crown, not a terror to the subject. The obstinacy of Charles I. and the civil wars to which it gave rise, were to confirm the antient constitution, and to demonstrate, that neither the military power, nor the power of taxation, were prerogatives of the prince. Years and disorders were to render more solid the fabric of our government.

Yet, after the restoration of Charles II. had taken place, an event of great importance in our history, was to call, in a parti-

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cular manner, for the standing force, from which the nation was so averse. The system of tenures, so decayed and so unsuitable to refining times, hastened to extinction. Early in this reign, a statute of infinite utility, gave a mortal blow to military tenures (12). The system of fiefs, so beneficial in one period, and so destructive in another, was overturned. The feudal strength, or militia of England, after languishing for ages in disease and weakness, received the wound of which it perished. In its place a standing army was expedient, and could alone correspond with the majesty of the people and the dignity of the crown.

The invention of cannon and fire-arms had changed the art of war. Movements, evolutions, and exercises, were not to be acquired to perfection by any militia, or even by mercenaries, who were hired for a season, and dismissed at the close of a campaign. Other nations were possessed of standing armies, and of these the force was not to be opposed by troops less regular and less disciplined. Self-preservation, and the necessity of attending to the balance of power in Europe, pointed irresistibly to this establishment. Its dangers, notwithstanding, were great, and might be fatal to the prince who should attempt it.

Invited, or rather compelled, by considerations the most powerful, Charles made the experiment. He ventured to maintain, by his private authority, a standing force of five thousand soldiery, for guards and garrisons. The jealous spirit of the people
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was alarmed. A measure so unconstitutional, excited fears and apprehensions, which behoved to be consulted. Yet James II. did not scruple to augment the standing force to thirty thousand men, whom he supported from his own civil list. The nation was on the brink of a precipice. The revolution approached. The bill of rights declared, that the sovereign was not to raise or uphold a standing force in times of peace, without the consent of the parliament. And the matured experience of succeeding times, employed itself to devise the policy which was to make our army regular and formidable, with the least possible inconvenience to liberty.

A standing body of troops, as absolutely necessary, is kept up under the command of the crown, but by the authority of the legislature. The power of an act of parliament gives every year its continuance to our army; and any branch of the legislature may annually put a period to its existence, by objecting to it. The dangers of a standing force are thus prevented; its advantages are secured; and the soldiery, not living in camps, but intermingled with the people, are taught, while they respect the crown, to feel for the interests and prosperity of the nation. With these slow degrees, and with these symptoms of jealousy, did a standing army become a part of our constitution.



The first part of the book is devoted to a general
 introduction of the subject, and to a description of the
 various methods which have been employed for the
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