

## Antifederalist No. 23

### Certain Powers Necessary For The Common Defense, Can And Should Be Limited

**In [Federalist No. 23](#), Alexander Hamilton spoke of the necessity for an energetic government. "Brutus" replied. Taken from the 7th and 8th essays of "Brutus" in The New-York Journal, January 3 and 10, 1788.**

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In a confederated government, where the powers are divided between the general and the state government, it is essential . . . that the revenues of the country, without which no government can exist, should be divided between them, and so apportioned to each, as to answer their respective exigencies, as far as human wisdom can effect such a division and apportionment....

No such allotment is made in this constitution, but every source of revenue is under the control of Congress; it therefore follows, that if this system is intended to be a complex and not a simple, a confederate and not an entire consolidated government, it contains in it the sure seeds of its own dissolution. One of two things must happen. Either the new constitution will become a mere nudum pactum, and all the authority of the rulers under it be cried down, as has happened to the present confederacy. Or the authority of the individual states will be totally supplanted, and they will retain the mere form without any of the powers of government. To one or the other of these issues, I think, this new government, if it is adopted, will advance with great celerity.

It is said, I know, that such a separation of the sources of revenue, cannot be made without endangering the public safety -- "unless (says a writer) [Alexander Hamilton] it can be shown that the circumstances which may affect the public safety are reducible within certain determinate limits; unless the contrary of this position can be fairly and rationally disputed, it must be admitted, as a necessary consequence, that there can be no limitation of that authority which is to provide for the defense and protection of the community, etc."<sup>(1)</sup>

The pretended demonstration of this writer will instantly vanish, when it is considered, that the protection and defense of the community is not intended to be entrusted solely into the hands of the general government, and by his own confession it ought not to be. It is true this system commits to the general government the protection and defense of the community against foreign force and invasion, against piracies and felonies on the high seas, and against insurrection among ourselves. They are also authorized to provide for the administration of justice in certain matters of a general concern, and in some that I think are not so. But it ought to be left to the state governments to provide for the protection and defense of the citizen against the hand of private violence, and the wrongs

done or attempted by individuals to each other. Protection and defense against the murderer, the robber, the thief, the cheat, and the unjust person, is to be derived from the respective state governments. The just way of reasoning therefore on this subject is this, the general government is to provide for the protection and defense of the community against foreign attacks, etc. They therefore ought to have authority sufficient to effect this, so far as is consistent with the providing for our internal protection and defense. The state governments are entrusted with the care of administering justice among its citizens, and the management of other internal concerns; they ought therefore to retain power adequate to that end. The preservation of internal peace and good order, and the due administration of law and justice, ought to be the first care of every government. The happiness of a people depends infinitely more on this than it does upon all that glory and respect which nations acquire by the most brilliant martial achievements. And I believe history will furnish but few examples of nations who have duly attended to these, who have been subdued by foreign invaders. If a proper respect and submission to the laws prevailed over all orders of men in our country; and if a spirit of public and private justice, economy, and industry influenced the people, we need not be under any apprehensions but what they would be ready to repel any invasion that might be made on the country. And more than this, I would not wish from them. A defensive war is the only one I think justifiable. I do not make these observations to prove, that a government ought not to be authorized to provide for the protection and defense of a country against external enemies, but to show that this is not the most important, much less the only object of their care.

The European governments are almost all of them framed, and administered with a view to arms, and war, as that in which their chief glory consists. They mistake the end of government. It was designed to save men's lives, not to destroy them. We ought to furnish the world with an example of a great people, who in their civil institutions hold chiefly in view, the attainment of virtue, and happiness among ourselves. Let the monarchs in Europe share among them the glory of depopulating countries, and butchering thousands of their innocent citizens, to revenge private quarrels, or to punish an insult offered to a wife, a mistress, ora favorite. I envy them not the honor, and I pray heaven this country may never be ambitious of it. The czar Peter the great, acquired great glory by his arms; but all this was nothing, compared with the true glory which he obtained, by civilizing his rude and barbarous subjects, diffusing among them knowledge, and establishing and cultivating the arts of life. By the former he desolated countries, and drenched the earth with human blood; by the latter he softened the ferocious nature of his people, and pointed them to the means of human happiness. The most important end of government then, is the proper direction of its internal police, and economy; this is the province of the state governments, and it is evident, and is indeed admitted, that these ought to be under their control. Is it not then preposterous, and in the highest degree absurd, when the state governments are vested with powers so essential to the peace and good order of society, to take from them the means of their own preservation?

The idea that the powers of congress in respect to revenue ought to be unlimited, because 'the circumstances which may affect the public safety are not reducible to certain determinate limits' is novel, as it relates to the government of the United States. The

inconveniences which resulted from the feebleness of the present confederation was discerned, and felt soon after its adoption. It was soon discovered, that a power to require money, without either the authority or means to enforce a collection of it, could not be relied upon either to provide for the common defense, discharge the national debt, or for support of government. Congress therefore, as early as February 1781, recommended to the states to invest them with a power to levy an impost of five per cent ad valorem, on all imported goods, as a fund to be appropriated to discharge the debts already contracted, or which should hereafter be contracted for the support of the war, to be continued until the debts should be fully and finally discharge. There is not the most distant idea held out in this act, that an unlimited power to collect taxes, duties and excises was necessary to be vested in the United States, and yet this was a time of the most pressing danger and distress. The idea then was, that if certain definite funds were assigned to the union, which were certain in their natures, productive, and easy of collection, it would enable them to answer their engagements, and provide for their defense, and the impost of five per cent was fixed upon for the purpose.

This same subject was revived in the winter and spring of 1783, and after a long consideration of the subject, many schemes were proposed. The result was, a recommendation of the revenue system of April 1783; this system does not suggest an idea that it was necessary to grant the United States unlimited authority in matters of revenue. A variety of amendments were proposed to this system, some of which are upon the journals of Congress, but it does not appear that any of them proposed to invest the general government with discretionary power to raise money. On the contrary, all of them limit them to certain definite objects, and fix the bounds over which they could not pass. This recommendation was passed at the conclusion of the war, and was founded on an estimate of the whole national debt. It was computed, that one million and an half of dollars, in addition to the impost, was a sufficient sum to pay the annual interest of the debt, and gradually to abolish the principal. Events have proved that their estimate was sufficiently liberal, as the domestic debt appears upon its being adjusted to be less than it was computed; and since this period a considerable portion of the principal of the domestic debt has been discharged by the sale of the western lands. It has been constantly urged by Congress, and by individuals, ever since, until lately, that had this revenue been appropriated by the states, as it was recommended, it would have been adequate to every exigency of the union. Now indeed it is insisted, that all the treasures of the country are to be under the control of that body, whom we are to appoint to provide for our protection and defense against foreign enemies. The debts of the several states, and the support of the governments of them are to trust to fortune and accident. If the union should not have occasion for all the money they can raise, they will leave a portion for the state, but this must be a matter of mere grace and favor. Doctrines like these would not have been listened to by any state in the union, at a time when we were pressed on every side by a powerful enemy, and were called upon to make greater exertions than we have any reason to expect we shall ever be again. . .

I may be asked to point out the sources, from which the general government could derive a sufficient revenue, to answer the demands of the union. ... There is one source of revenue, which it is agreed, the general government ought to have the sole control of.

This is an impost upon all goods imported from foreign countries. This would, of itself, be very productive, and would be collected with ease and certainty. It will be a fund too, constantly increasing, for our commerce will grow with the productions of the country. And these, together with our consumption of foreign goods, will increase with our population. It is said, that the impost will not produce a sufficient sum to satisfy the demands of the general government; perhaps it would not.... My own opinion is, that the objects from which the general government should have authority to raise a revenue, should be of such a nature, that the tax should be raised by simple laws, with few officers, with certainty and expedition, and with the least interference with the internal police of the states. Of this nature is the impost on imported goods. And it appears to me that a duty on exports, would also be of this nature. Therefore, for ought I can discover, this would be the best source of revenue to grant the general government. I know neither the Congress nor the state legislatures will have authority under the new constitution to raise a revenue in this way. But I cannot perceive the reason of the restriction. It appears to me evident, that a tax on articles exported, would be as nearly equal as any that we can expect to lay, and it certainly would be collected with more ease and less expense than any direct tax. I do not however, contend for this mode; it may be liable to well founded objections that have not occurred to me. But this I do contend for, that some mode is practicable, and that limits must be marked between the general government, and the states on this head, or if they be not, either the Congress in the exercise of this power, will deprive the state legislatures of the means of their existence, or the states by resisting the constitutional authority of the general government, will render it nugatory....

The next powers vested by this Constitution in the general government, which we shall consider, are those which authorize them to "borrow money on the credit of the United States, and to raise and support armies." I take these two together and connect them with the power to lay and collect taxes, duties, imposts and excises, because their extent, and the danger that will arise from the exercise of these powers, cannot be fully understood, unless they are viewed in relation to each other.

The power to borrow money is general and unlimited, and the clause so often before referred to, authorizes the passing [of] any laws proper and necessary to carry this into execution. Under this authority, Congress may mortgage any or all the revenues of the union, as a fund to loan money upon; and it is probable, in this way, they may borrow of foreign nations, a principal sum, the interest of which will be equal to the annual revenues of the country. By this means, they may create a national debt, so large, as to exceed the ability of the country ever to sink. I can scarcely contemplate a greater calamity that could befall this country, than to be loaded with a debt exceeding their ability ever to discharge. If this be a just remark, it is unwise and improvident to vest in the general government a power to borrow at discretion, without any limitation or restriction.

It may possibly happen that the safety and welfare of the country may require, that money be borrowed, and it is proper when such a necessity arises that the power should be exercised by the general government. But it certainly ought never to be exercised, but on

the most urgent occasions, and then we should not borrow of foreigners if we could possibly avoid it.

The constitution should therefore have so restricted the exercise of this power as to have rendered it very difficult for the government to practice it. The present confederation requires the assent of nine states to exercise this, and a number of other important powers of the confederacy. It would certainly have been a wise provision in this constitution, to have made it necessary that two thirds of the members should assent to borrowing money. When the necessity was indispensable, this assent would always be given, and in no other cause ought it to be.

The power to raise armies is indefinite and unlimited, and authorizes the raising [of] forces, as well in peace as in war. Whether the clause which empowers the Congress to pass all laws which are proper and necessary, to carry this into execution, will not authorize them to impress men for the army, is a question well worthy [of] consideration. If the general legislature deem it for the general welfare to raise a body of troops, and they cannot be procured by voluntary enlistments, it seems evident, that it will be proper and necessary to effect it, that men be impressed from the militia to make up the deficiency.

These powers taken in connection, amount to this: that the general government have unlimited authority and control over all the wealth and all the force of the union. The advocates for this scheme, would favor the world with a new discovery, if they would show, what kind of freedom or independency is left to the state governments, when they cannot command any part of the property or of the force of the country, but at the will of the Congress. It seems to me as absurd, as it would be to say, that I was free and independent, when I had conveyed all my property to another, and was tenant to him, and had beside, given an indenture of myself to serve him during life. . . .

*BRUTUS*

[Federalist, No. 23.](#)