CHAPTER VII

STANDING ARMIES:
1685–1689

In the development of the antistanding army tradition, the reign of James II is important because on two occasions in 1685—the rebellion in June of Charles II's illegitimate son, James Scott, duke of Monmouth, who sought to displace James, and the parliamentary debates in November—antiarmy sentiments were sharply articulated. In neither case did the protests alter the immediate course of events. But the protests did testify to the continued viability of antiarmy sentiments, and they were used as precedents in later attacks on the army. At the Revolution of 1689, the Declaration of Rights, which was read to William and Mary on February 13 when they were proclaimed king and queen and was later that year given statutory form as the Bill of Rights, asserted the principle that the civilian legislature should have ultimate authority over the military in peacetime, recognized the right of Protestant subjects to bear arms and declared that there should be no billeting of troops upon private citizens. The Mutiny Act of 1689 reaffirmed that a professional army was a constitutional force, dependent upon parliamentary approval. For the first time, the army was disciplined by provisions set out in a parliamentary statute.

When the duke of Monmouth landed in June 1685, a programmatic statement of his principles, designed to rally people to his cause, was published. Entitled The Declaration of James, Duke of
Monmouth, written by Robert Ferguson, a radical Presbyterian minister, and approved by Monmouth while he was in Amsterdam, the Declaration stressed that England's government was a limited monarchy whose due bonds had been grossly violated by James II and whose religion, law, and liberties were threatened by a scheme to introduce arbitrary government and Catholicism. The tract called for the overthrow of James, labeled him a traitor and tyrant, and promised a catalog of changes.

Three clauses in the manifesto related to the military issue. First, it promised that Monmouth would shift military authority away from the crown. Second, it pledged that the Militia Act, passed at the time of Restoration, would be repealed. That step would have had the effect of removing the declaratory statement that the power of the militia was solely in the king. Third, the manifesto recommended two new laws relating to military power: one to "prevent all military standing force, except what shall be raised and kept up by Authority and consent of Parliament"; the other to put the militia under the local sheriffs who would be elected by the freeholders of each county. So far as can be determined, the latter scheme, which had obvious affinities to the recommendations of the Levellers, had never before been suggested. Taken together, the three points in the Declaration about the standing army and the militia show that earlier radical notions about military power were far from dead.

It is difficult to judge how much enthusiasm was generated by the manifesto, specifically by the sections about the military. With the defeat of Monmouth, the Declaration was declared treason by Parliament. But in many respects the manifesto accurately reflected the aspirations of the oppositional forces, and many of its recommendations remained the goals of that opposition. A comparison of the Declaration and the Bill of Rights readily reveals identities between the two documents.


2It is worth noting that the republican Andrew Fletcher, of Saltoun, who was to develop an elaborate scheme for training the militia during the standing army controversy in 1697-99, was with Monmouth when the Declaration was being drafted. Although it has never been suggested that he had a hand in the manifesto, nor has any proof been found, it seems probable that he would have at least approved the sections on standing armies and the militia.

3James Ferguson, Robert Ferguson, The Plotter (Edinburgh, 1887), p. 220, declares the Declaration was enthusiastically received.
The second instance of publicly expressed antiarmy sentiment occurred in the debates of Parliament in the fall of 1685. In this case, it was no group of insurrectionists who had been directly influenced by republicanism who articulated dislike of a standing army, but a majority of the members of the most conservative Parliament that had sat in a decade. The criticism was provoked by James II’s announcement of policies toward the army which plainly violated the Test Act, a parliamentary law. On November 9, James opened Parliament with a speech about standing armies, which, in effrontery and truculence, is unmatched by any speech Charles II or William III or any British monarch delivered on that subject. With unexampled provocativeness and arrogance, James declared that he had doubled the number of professional soldiers; he demanded a supply to pay them. The king asserted that the militia was “not sufficient” to protect England from domestic and foreign dangers; he trusted that no one would, in the light of recent rebellions (the reference was, of course, to Monmouth’s rebellion and to an uprising in Scotland led by Archibald Campbell, earl of Argyll, in May and June 1685), think otherwise. Acknowledging that Catholic officers, who were obviously not qualified by the Test Act, had been retained in the army, James warned Parliament not to use that fact as an occasion for fomenting dissension. The officers were, he said, excellent soldiers who had served him faithfully and well. He knew them personally, trusted them implicitly, and would not dismiss them. “I will deal plainly with you,” said the king. “I will neither expose them to Dis­grace nor Myself to the Want of them.”

The policy of keeping a standing army officered by Catholics had been seriously considered at least since June. James had revealed his intentions to the French Ambassador, and on June 25, Barrillon reported that James seemed “very glad to have a pretence for rais­ing troops” and concluded that Monmouth’s rebellion would make him “more master” of England than he already was. A fortnight later, on the day of the battle of Sedgemoor, where Monmouth was decisively defeated, James told Barrillon that he had armed Catholics in Ireland, appointed Catholics in Scotland to command the army and the militia, and given military commands in England to as many Catholics as he could. At the end of July, Barrillon wrote that James

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was determined to keep a standing army on hand, even if Parliament should contribute nothing to its support. Barrillon thought that James made his truculent announcement to Parliament with the aim of achieving a revocation of the Test Act. The simplest solution to the illegality of his actions was for Parliament to revoke the Test Act, a notion that is not implausible, since Parliament was generally sympathetic to James.

The confidence of James's opening speech testified to the king's satisfaction with the results of the court's extraordinary efforts in the spring of 1685 to return a Parliament agreeable to his interests. That carefully managed campaign had succeeded in electing a House of Commons which contained no more than forty people unfriendly to the king. Of 513 men, 400 were new to Westminster Hall and their docility and compliant attitude was demonstrated in the first session of Parliament. Moreover, to secure agreement with his plans for a standing army, James instructed his secretary of war to issue an order on November 3, 1685, less than a week before the second session of Parliament opened, that all army officers who were also members of Parliament should attend the session.

Sir Thomas Clarges and Sir Thomas Meres were the only men returned who had been leading spokesmen against the army in the 1670s. But two Dissenters, Sir John Maynard and Richard Hampden, were elected and played a part in opposing James's military policy. Sir Edward Seymour, the Cavalier and Tory leader, sat in this Parliament, as did Sir Richard Temple, who had played a prominent role in the Popish Plot. Neither one had been active in previous attacks on the army. Seymour, however, had proposed the resolution on March 29, 1679, to reduce all forces raised since September 29, 1677. In 1685, both spoke out emphatically against James's standing force.

James's speech on the ninth of November had the effect of bringing together an opposition in the House of Commons led by Clarges, Hampden, Maynard, Seymour, and Temple, who found general sup-

1 Dalrymple, Memoirs 2: 169-70. 2 Ibid., p. 171.
5 Clode, History of the British Army 1: 79. It is not known how many army officers sat in this Parliament.
6 Meres supported the king in this session. 7 Grey, Debates 7: 65.
port among the majority of members. It was said that the king’s remarks met with a “great dejection of countenance in verie manie considereigne men in the House.” But as would be expected in a House whose election had been so carefully managed by the court, most men were less extreme than the major spokesmen against the army. The House, which was poorly attended on November 9, declined a motion to return thanks for the king’s speech and adjourned until the twelfth to have time to consider it.

Within those three days the Reverend Samuel Johnson claimed to have sent to “very many Members” a broadside entitled *Several Reasons for the Establishment of a Standing Army, and the Dissolving the Militia*. Written with heavy sarcasm, the sheet listed nine reasons for keeping up a standing army. Among them were that the lords, gentry, and freeholders were incapable of guarding their own laws, estates, and liberty and required keepers; that the Irish Papists were the best soldiers and they were not in the militia (this a jab at James’s emphasis on the superior military abilities of the Papists); that two standing armies, at least, were needed (a second army to protect the people from the first); and that, unless the army was established by an act of Parliament, it would be a “risk in law” and a “nullity,” because the Papists who were to fill it were prohibited by statute from bearing arms and were restricted to an area within five miles of their house. So far as can be determined, this was the only printed statement against armies in the fall of 1685.

Members returned from the three-day recess well prepared to oppose James’s military policy and his demand for money. Four major lines of argument were developed in the debates which took place on November 12, 14, and 16. What most concerned the members of the House of Commons was that the king, in dispensing with

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14 John Bramston, *Autobiography* 32 (London [Camden Society], 1845): 210. The demands were characterized by Evelyn as “very unexpected and unpleasing to the Commons” (de Beer, *The Diary of John Evelyn* 4: 488).

15 “Not very full,” according to James; *C.S.P.D.*, *James II*, vol. 1, February-December 1685, no. 1883. In the calendar for James II’s reign, each entry is given a number.

16 Reprinted in *The Whole Works of Samuel Johnson* (London, 1710), p. 151. The date given in the B.M. catalogue is in error. The next year Johnson published *An Humble and Hearty Address to All the English Protestants in This Present Army* (1686) in the *Works of Samuel Johnson*, pp. 160-61, for which he was degraded as a cleric. Johnson printed several tracts at the height of the controversy over standing armies in 1697-99.

17 The identification of the speakers in these debates as reported in Anchitell Grey’s account should be checked against the Lowther Manuscripts, “The Several Debates of the House of Commons, Pro et Contra Relating to the Establishment of the Militia, Disbanding of the New-raised Forces—And Raiseing [sic] a Supply for His
the Test Act so that Catholic officers could be appointed, had violated the law and integrity of Parliament. Clarges recalled that during the Exclusion controversy men had warned that a Catholic king would establish an army dominated by Catholics, but it had been said that the Test Act would be an effective bulwark against Catholics because James had promised to preserve the law. Now, in setting aside the Test, James had broken the law and breached the liberties of the people.\footnote{Grey, Debates 8: 356; cf. p. 358.} This point was echoed throughout the debate. The second line of argument was that in voting a supply for the army, Parliament would be establishing the soldiers on a legal basis. This, it was asserted, would have the effect of making the army all the more dangerous.\footnote{Ibid., p. 359.} Members implied that they were in a stronger position to oppose an army if Parliament did not sanction its creation in the first place. This was in sharp contrast to the position taken later, at the Revolution of 1689, when the Convention Parliament was settling the government in the hands of a king in whom they felt much greater confidence. Then, parliamentary approval of a standing army in peacetime was a restriction imposed upon royal authority. But in 1685, the distrust of the king’s intentions was so deep that an army, legalized by act of Parliament, was regarded as the ultimate folly.

The third concern of the men who opposed James’s policy in the House was to reform the militia. This time-honored response of country gentlemen to the threat of a standing army under executive authority was stressed. Many speakers rose to defend the militia and to recommend that it be put into better shape. The most eloquent of them all on this topic was the former speaker of the House of Commons, Sir Edward Seymour. A staunch Tory who, it has been said, was “prouder of ruling Devon than controlling England,”\footnote{Feiling, History of the Tory Party, p. 142.} declared, “I had rather pay double to [the militia] from whom I fear nothing, than half so much to those [the army] of whom I must ever be afraid.” Another member emphasized that if military power were exercised by men who had an “interest in their Country,” Parliament and law were safe and the king was secure, “for there is no

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such security of any man’s loyalty, as a good estate.” The resolution to bring in a bill to make the militia more effective passed *nemine contradicente.*

Finally, the traditional disadvantages of a standing army were recited. One member bitterly criticized an army on the grounds of its misbehavior and its use of free quarter. In what must have been a telling remark, the speaker reminded the House that strict laws had been laid down for the army by the king, that the soldier’s unseemly behavior proved that the king, himself, obviously was unable to govern the army and, if that were the case, all Englishmen were endangered. Another speaker remarked that although James had ordered that no soldiers were to be quartered in private houses and that no free billets were to be allowed, the soldiers were quartered in private houses and paid nothing. Supplying an army was “maintaining so many idle persons to lord it over the rest of the subjects.” Another member stressed that a standing army was objectionable because it lured “ploughmen and servants” into its ranks and thus depleted the supply of manpower in the counties.

Against these protests, James’s military policy was ably defended by the earl of Ranelagh, Lord Preston, Sir John Ernle, William Blathwayt, and Sir William Clifton (rather than Sir Winston Churchill). In contrast to James, these men were careful not to deprecate the value of the militia, but rather argued that, until the militia was remodeled and threats to England’s security from abroad were removed, some additional professional forces were necessary. Changes in military technology necessitated training; soldiering was a “trade” that had to be learned. Moreover, it may have impressed some men that Meres, who had in the previous decade worn out his voice criticizing Charles II’s army, now joined these men. In urging that the army James wanted should be accepted, Meres said he would call them “Guards.” He implied that this word was inoffensive and

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24Grey, *Debates* 8: 365, where the speaker is given as Edmund Waller, the poet. Although Waller was returned, he probably did not attend the session of Parliament because of old age (he was 79) and illness; the three speeches attributed to him were made by William Wogan (ca. 1635-1708). See Lowther Manuscripts, “The Several Debates of the House of Commons, Pro et Contra,” f. 40. For Waller and Wogan, see the unpublished biographies at the History of Parliament Trust.
could be used for a “considerable force.” Meres’s wordplay supports the thesis that the term “standing army” had been deliberately used in the past to arouse apprehension.

The leading spokesmen against the army were unable to bring the House to vote specifically to condemn a standing army. Moreover, the House agreed unanimously to grant a supply to the king and to bring in a bill to reform the militia. The fact that a supply of £700,000 was given the king suggests how ambivalent the attitude toward a standing army was in this Parliament. The sum was much less than what the court wanted (i.e., £1,200,000), but on the other hand, it was much more than what the antiarmy spokesmen wanted (£200,000). By settling on £700,000 members seemed to feel that they were giving the king enough money to secure the nation, but not enough to rule without calling Parliament again. There was much confused thinking. Political self-interest, fear of alienating the new king, and hope of professional opportunity for themselves or relatives in a professional army were considerations. Basically what concerned the majority of this Parliament was having a standing army officered by Catholics. Hampden, Clarges, and others argued for a law to remove the Catholic officers. It was finally agreed that an Address be drawn up explicitly stating that by law Papists could not serve in the army and that this incapacity could not be removed except by act of Parliament. In other words, the king could not dispense with an act of Parliament. It was proposed that the Address contain the further statement that the king should remove those Catholic officers. The Address was written by Clarges, Seymour, and Maynard but was softened by the House to make it as inoffensive to James II as possible. The clause asking the king not to continue the Catholic officers was removed, and one was substituted for it that prayed the king to take steps so that no apprehensions would remain. It may be argued that if James had asked for a standing army officered by Protestants, he could probably have won it from this Parliament, which contained so many men, as already noted, who were friendly to him.

The Address about the Catholic officers was presented to James on November 16. The king, visibly angry, returned a peremptory reply in which he said he had not expected such an address. The House took refuge in silence. The emotional intensity of the situation

was revealed when in responding to a motion to take the king’s speech into consideration another day, a member made a remark about Englishmen not being frightened by high words, which so offended the king’s friends that, despite apologies, the individual was thrown into the Tower.\textsuperscript{33}

In the House of Lords, “very great debates” took place on November 19 on the king’s speech.\textsuperscript{34} The same arguments as those made in Commons were taken up by the Lords. The most effective comments were offered by Henry Compton, bishop of London, who stressed not the dangers of a standing army but the illegality of appointing Catholic officers in the army, an act which he took as portending the Catholicizing of the entire government. Contemporaries thought that it was these debates in the House of Lords which led James, much to people’s surprise, to prorogue Parliament the next day.\textsuperscript{35}

By this rash act, the king lost the £700,000 supply which had been granted. But James had already told Barrillon that he would keep his army even if Parliament refused to give him money for it. Parliament’s generosity in the spring session in granting the king a supply for life allowed James greater financial independence than his brother ever enjoyed. The prorogation scattered members and dissolved the forum where they might have continued to debate the king’s military policy and to frame a bill to strengthen the militia. Some men who had spoken out against the king were punished. Bishop Compton was removed from the council, and military officers who had voted with the opposition in the House of Commons were dismissed.\textsuperscript{36}

Although the debates of November 1685 accomplished nothing in the immediate circumstance, they were of importance in the evolution of the standing army issue. Contemporaries regarded these debates as significant. An account of the debates was reprinted in \textit{The Faithful Register} in 1689,\textsuperscript{37} possibly when the Convention Parliament was in session. Again in 1697 when the standing army controversy was reopened, the debates of 1685 were reprinted. The

\textsuperscript{33}Grey, \textit{Debates} 8: 369-70.
\textsuperscript{34}Narcissus Luttrell, \textit{A Brief Relation of State Affairs from September 1678 to April 1714} (Oxford, 1857), 1: 364. The best account of the debate with comments on the discrepancies in the earlier accounts is H. C. Foxcroft, \textit{Halifax} I: 458-59 and n. 5.
\textsuperscript{35}Luttrell, \textit{A Brief Relation} I: 364; de Beer, \textit{The Diary of John Evelyn} 4: 489.
\textsuperscript{36}Luttrell, \textit{A Brief Relation} I: 367; Dalrymple, \textit{Memoirs} 1: 88.
\textsuperscript{37}\textit{The Faithful Register; Or, the Debates of the House of Commons in Four Several Parliaments . . . wherein, the Points of Prerogative Privileges, Popish Designs, Standing Army, County-Militia, Supplies . . . Are Fully Discussed} (London, 1689).
preface\textsuperscript{38} to this edition insisted that there was much value in these earlier debates. The anonymous author praised the members of Parliament of 1685 for showing so much “free English spirit” and for striving to leave liberties, which they had inherited from their ancestors, “entire to succeeding Generations.” By implication the preface exhorted men in 1697 to do the same and model themselves on their predecessors in the Parliament of 1685 who had argued against a standing army and for a militia.

During the next three years the army was a highly visible and irritating symbol of power. In 1686, James had thirteen thousand soldiers under the command of Louis Duras, earl of Feversham, stationed at Hounslow Heath, where daily mass was observed.\textsuperscript{39} However unprepossessing and unmartial the men may have looked,\textsuperscript{40} their presence so near London was a plain threat to the capital. Further, the use of martial law, including the death penalty for desertion in time of peace, which was set out in the Articles of War for the discipline of the army in 1686, offered further evidence of James’s concern to assure the loyalty of the army and his willingness to use means of doubtful legality. Some high-ranking legal officers protested these steps, and at least two of them resigned.\textsuperscript{41} In 1687, moreover, James further alienated the local aristocracy by dismissing many lord-lieutenants and their deputies and other local officers who were well liked and highly regarded in the counties. As a consequence of these purges of men of substance and social position, James lost the allegiance of the militia and, at the Revolution, was unable to count on its support. By 1688 James had a peacetime military establishment of over fifty-three thousand officers and men.\textsuperscript{42} Many of the commands were given to Irish Catholics.\textsuperscript{43} He also had secured, as a result of the efforts of his minister, Robert Spencer, earl of Sunderland, a subsidy from Louis XIV and a promise of mili-

\textsuperscript{38}The Several Debates of the House of Commons in the Reign of the Late King James II Pro and Contra, Relating to the Establishment of the Militia, Disbanding the New-Raised Forces (London, 1697), preface to the reader.


\textsuperscript{42}A List of James II’s Army, dated 1688, gives the total as 53,716 officers and men; 37,000 were infantry. See C.S.P.D., James II, vol. 3, June 1687–February 1689, no. 2124, and S.P. 8/2, part 2, fols. 99-100.

\textsuperscript{43}C.S.P.D., James II, vol. 3, June, 1687–February, 1689, no. 1193.
tary assistance from the French king "pour opprimer ses ennemis et se faire obéir de ses sujets." 44

But, as is well known, events fell out differently, and William of Orange, the husband of James's Protestant daughter, Mary, landed in England unopposed in November 1688. James's army, on the whole, transferred its allegiance to William, and a military contest was avoided. 45 In January 1689 a Convention Parliament met to settle the government. After long debate, it was agreed that James had abdicated, that the throne was vacant, and that the royal power should be vested in William and Mary. For two weeks, members labored to draw up a statement of constitutional guarantees. On February 13, in the palace of Whitehall, this statement, referred to then as a Declaration of Rights, was read by the Clerk of the House of Lords and presented to William and Mary in the course of the ceremony in which they were proclaimed king and queen. 46 This Declaration became a statute, commonly known as the Bill of Rights, 47 when it was signed by the king on December 16, 1689.

The presence in the Convention Parliament of so many former opponents of the army assured that the standing army question and the issue of militia reform would be considered. Birch, Boscawen, Clarges, Lee, Littleton, Maynard, Powle, Sacheverell, Seymour, Temple, and Williams were all elected to the Convention. They took the initiative in introducing the military issue. All of them, except Powle, who was chosen speaker of the House, were appointed on January 29 to a committee of thirty-nine members charged with bringing in a list of measures to secure England from arbitrary government. 48

Lee, Temple, and Williams raised the issues of reforming the militia and settling the army in the debate on January 29, 1689. Williams wanted the committee to review the Restoration Militia Act and, as he phrased it, "in whose hands you will put it should be our Head." 50 He was asking for a review of the crown's prerogative power

45Not all soldiers, however, willingly accepted William III, as the mutiny of Lord Dumbarton's regiment in March 1689 dramatically showed. Morrice, 'Entr'ing Book' 2: 432, 449, reports reluctance among the soldiers as early as January.
47The Bill of Rights is conveniently found in Browning, English Historical Documents 8: 122-28. The present author projects a detailed study of the Declaration of Rights.
over the militia and implying that that power should be shifted to Parliament. Temple felt that the Convention should "provide against a Standing Army without consent of Parliament" in peacetime. Lee remarked that "There was an opinion formerly, of the Long Robe that must be exploded, 'that the king may raise what Army he pleases, if he pay for them.'" Plainly, he was calling for the repeal of a section of the Disbanding Act of 1660 and for the removal of a royal prerogative which the crown had always exercised. Lee went on to say that allowing the king such a right was tantamount to supporting slavery.51 These comments in the debate on January 29 are the only recorded ones made on the army and militia questions. There is no specific evidence of what was said about the army and militia (or anything else) in the meetings of the committee that drafted the Declaration of Rights.

As for the press, many pamphlets were printed in 1689 to justify the Revolution, advise the Convention, or explain events. Few go beyond mere mention of the questions of the militia or the standing army.52 An account of the debates about the militia and army in November 1685 was reprinted in The Faithful Register and several tracts written earlier by Shaftesbury's circle which criticized a standing army were reprinted, along with many other pamphlets, in A Collection of State Tracts . . . Privately Printed in the Reign of King Charles II. John Humfrey's Advice Before It Be Too Late: Or a Breviate for the Convention was distributed to members of the Convention before it was printed. It explicitly asserted that the "Power of the Sword" should be placed in the hands of Parliament. John Humfrey53 was a prominent Presbyterian who had for years written pamphlets on current topics to persuade members of Parliament to a course of action, but his Breviate failed to move the Convention sufficiently to change the Militia Act or to state directly that the authority over the militia was not the king's.

The private correspondence and personal papers that remain for the weeks around the Convention also fail to reveal an interest in the

51Ibid., p. 35.
52Two examples of tracts that mention military questions are: The History of the Late Revolution in England, with the Causes & Means by which It Was Accomplished (London, 1689); and A Letter to a Gentleman of Brussels, Containing an Account of the Peoples Revolt from the Crown (Windsor, December 22, 1688).
54Many private and public papers were deliberately destroyed in this revolutionary period. The Calendar of State Papers, Domestic Series, James II, vol. 3, June 1687-February 1689, and the material still in manuscript in the Public Record
standing army issue as intense as that which consumed men's minds a decade before. Among the papers of Lord Wharton, the Presbyterian, was a proposal for remodeling the government which recommended that the freeholders should "nominate" the militia officers. Wharton specified that freeholders who had £20 a year or held a copyhold for life of £30 a year should nominate "all commission officers of the militia."\(^{55}\) This idea was similar to that put forward earlier in the Duke of Monmouth's Declaration and also had affinities with still earlier recommendations offered by the Levellers. The point was to bring the control of the militia closer to the people in the local county and dilute the authority of the central government over the operation of the militia. There is no specific evidence that Wharton actually argued for this arrangement for the militia, but it may have been part of the thinking behind the clause on reform of the militia that was dropped from the final draft of the Declaration of Rights.

The first draft of the Declaration of Rights was reported from the committee on February 2 by Sir George Treby.\(^{56}\) This draft included the suggestions about the army and militia which had been advanced on January 29. Article v asserted that the Militia Acts were grievous to the subject and implied that they should be reformed. Article vi declared that the consent of Parliament was required to raise and maintain an army in peacetime, and Article vii held that Protestant subjects should be allowed to keep arms for their own defense. These clauses relating to military matters were agreed to by the House on February 4 Morrice reported, "with great unanimity."\(^{57}\) A copy of this draft of the grievances, entitled The Publick Grievances of the Nation, Adjudged Necessary, by the Honorable the House of Commons To be Redressed, was printed, presumably with a view to informing the politically conscious public and enlisting its agreement. There is no record of petitions to the Convention on the military questions.

Within less than a week, however, the article dealing with the militia had disappeared. On February 8, following debates which lasted into the night of the seventh, John Somers presented a new

Office (S.P. 8/1; 8/5; 32/16 32/17 44/98) are fragmentary and uninformative for the months of January and February 1689. In neither the calendar nor the manuscripts is the standing army issue referred to.

\(^{55}\)Bodleian Library, Carte Manuscripts, 81, f. 766. \(^{56}\)C.J. 10: 17. \(^{57}\)Morrice, "Entri'ing Book" 2: 456.
draft which did not contain a reference to the militia.\textsuperscript{58} Undoubtedly, it was removed at the insistence of the House of Lords, possibly because the proposed law would have curtailed the power of the lord-lieutenants. Morrice noted that some of the Lords failed in an attempt to persuade William to reject the stipulations that the House of Commons were framing and that afterwards they disagreed with the Commons in "a few articles." One of those articles concerned the militia, for Morrice went on to say the Lords "would have it not so very generally expressed about the Militia Clauses."\textsuperscript{59} Apparently, the House of Commons dropped the clause about reforming the militia to avoid disagreement with the Lords.\textsuperscript{60}

It should be noted, however, that later in March the oath in the Militia Act of 1662, which required a man to swear that he would not take up arms against the king or those commissioned by him, and which, it will be recalled, the Person of Quality had objected to so strenuously in 1675, was repealed.\textsuperscript{61} Moreover, following a mutiny in the army, Parliament (the Convention was turned into a Parliament on February 23) made another abortive attempt in April 1689 to introduce legislation that would reform the militia. A committee which included Garroway, Musgrave, Sacheverell, and Somers brought in a bill which would have created a strong militia as a counterweight to the professional army.\textsuperscript{62} But for diverse reasons, this further effort at reform of the militia was lost at the end of the session.

If the House of Lords sabotaged the clause about the militia in the draft of the Declaration of Rights, they strengthened the section about the standing army. They recommended that the phrase "and quartering soldiers contrary to Law" be added to the list of James's tyrannical acts.\textsuperscript{63} The argument was that free quarter aggravated the general grievance of keeping a standing army in peacetime without the consent of Parliament and was a plain violation of the provisions of the Petition of Right of 1628. The addition was accepted by the Commons. By February 12, both Houses had agreed to the statement

\textsuperscript{59}Morrice, "Entr'ing Book" 2: 464-65.
\textsuperscript{60}The debate in the House of Lords on February 2 was so violent that Morrice (ibid., p. 454) reported that "all sober and thinking men were afraid they [the Lords] were resolved to put it to a decision by the sword."
\textsuperscript{61}1 W & M, cap. 8, s. 11; Statutes of the Realm 6: 59.
\textsuperscript{62}See Western, The English Militia in the Eighteenth Century, pp. 85-89.
of rights, both accepting the clauses that there should be no standing army in time of peace without the consent of Parliament and that Protestant subjects might have arms for their defense "suitable to their conditions and as allowed by law." By the end of the year, the statement had become a law, the Bill of Rights.

So far as the standing army issue is concerned, the Bill of Rights was a revolutionary document. In the first part which listed James's illegal acts, it declared (quite inaccurately and without regard to common law and practice or the clause in the Disbanding Act of 1660) that it was illegal for the king, on his own, to raise and maintain an army in peacetime. In the section which reaffirmed the rights of Englishmen, Article VI asserted that it was ancient right and law that there should be no standing army in time of peace without Parliament's consent. Far from this being ancient law, it was a revolutionary assertion, which reflected parliamentarian and republican thinking since 1641-42.64

In terms of the prerogative powers of the king, Article VI was the most important clause in the Bill of Rights. It was drafted, so far as the record shows, with no discussion in the Convention or the press about its implications for the theory and practice of government. The Militia Acts of the Restoration giving the king sole military command were not repealed, and the monarch remained the commander-in-chief of the army and militia in war and peace. The limits of the crown's authority over the military forces were not explored or spelled out. Parliamentary control of the army in peacetime was simply asserted, and in that assertion, sovereignty was shifted from the crown to Parliament. Struggles between crown and Parliament would recur in the future, but by Article VI, the king was stripped of his most important prerogative, to raise as many soldiers as he wanted in peacetime so long as he paid them.

This first Parliament of the Revolution dealt with another military-related question that had long been a contentious issue between king and Parliament; that is, the discipline of the army. This was handled in a way that reflected the revolutionary principle in the Declaration of Rights, that Parliament should have ultimate power over the army in peacetime. The first Mutiny Bill, passed by the House of Commons on March 28, 1689, was a response to the mutiny in Lord Dum-

Regulation of the discipline of the army was long overdue, and even before the mutiny, a committee composed of Lee, Sacheverell, Somers, and Sir John Holt had been asked to bring in a bill to punish mutineers and deserters from the army. The projected war with France and the threat from Ireland added urgency. Surely the bill reflected the influence of the court. William simply had to have the means to discipline the large army that was necessary to carry out his plans.

Clode regards the Mutiny Act as the “great divide” in the history of martial law. By its terms, martial law, as distinguished from civil law, was established by a statutory regulation. The Act reaffirmed that a standing army in peacetime without the consent of Parliament was illegal. For the first time, statutory sanction was given to capital punishment for mutiny, sedition, or desertion. Procedures were spelled out. It was specified that the act was not to extend to the militia forces and that no soldier or officer was to be exempt from the “ordinary process of law.” In other words, “the soldier was to remain a citizen.” Significantly, in terms of Parliament’s intentions to limit the power of the crown over the army, the Act was to be in force for only six months. Thereafter, a Mutiny Act was passed each year, with few exceptions. The Mutiny Act and certain clauses in the Declaration of Rights had the effect of assuring that the king, if he was to keep an army, would not be able to function without Parliament.

One can only speculate about why there was an absence of theoretical talk about military power in the spring of 1689. As already indicated, there is no evidence that the implications of Article vi in the Declaration of Rights for the principle of sovereignty in the government were explored. A radical act was performed in taking from the king his most important prerogative, of raising and keeping an army in peacetime so long as he paid them, as the Disbanding Act of 1660 had allowed. Why did not members of the Convention thoroughly discuss the significance of what they were doing? Possibly, members felt that discussion about Article vi would have led them

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65 The Mutiny Bill is in Browning, English Historical Documents 8: 812–13; for the debate on the mutiny in Lord Dumbarton’s regiment, see Grey, Debates 9: 164–69; C.J. 10: 49, 69.
into a labyrinthine examination of the beginnings and nature of government, which in another connection Sir William Williams counseled them to avoid. In fact, avoidance of careful definitions of ultimate military power and lengthy discussions about it may be regarded as a mark of political astuteness. Ignore what is being said around London, advised Maynard. Stick to the "obvious and apparent." Too much discussion about limiting the king can only lead to confusion, warned another member. Prince William would not have tolerated the explicitly stated assertion that the military power of the crown had been diluted. Further, the Convention Parliament was not a radical assembly. Two hundred members from the Parliament of 1685 were returned to the Convention Parliament, and 183 had never before sat in a Parliament. Morrice noted that there were proportionately as many members in the House of Commons as in the House of Lords who favored the idea that the throne was not vacant, which suggested their basic conservatism. If the Lords were successful in eliminating the article citing the militia laws as a grievance, possibly they blocked any discussion of the implications of Article VI. Besides, the members of the Convention were more interested in other matters than they were in the army and the militia. Settling the throne in a formula that both Houses could accept was of overriding importance. There was a sense of urgency: Prince William and some members urged the Convention to complete quickly the Declaration of Rights. So an illegal assertion and a revolutionary principle were inserted in the Declaration of Rights without a searching examination of the implications or a stirring declaration that Article VI marked a transfer of sovereignty in the government from king to Parliament.

Finally, the general question of whether there should be a standing army at all in peacetime was not raised. The lack of anxiety about the army suggested trust in William whom the Convention was preparing to crown king. Further, the majority of members had become more comfortable with a professional army in peacetime so long as it was Protestant and agreed to by Parliament. In 1689, when there was a chance to insist, as men had so often done before, that responsi-

69 Grey, Debates 9: 15; cf. Morrice, "Entr'ing Book" 2: 444, who reports that "many thought they [members of the Convention] would never have disentangled themselves nor have got to a question."
70 Grey, Debates 9: 32-33.
71 Ibid., p. 34.
73 Morrice, "Entr’ing Book" 2: 459.
bility for the military defenses of the nation should be borne by a remodeled militia and a very limited number of Guards, this was not done. So far as the record of the Convention debates shows, it was never said that England should be without any standing army during peacetime, nor that the militia was sufficient for the defenses of the land. Indeed, in the next month, Sir Christopher Musgrave, a man who was no lover of standing armies, remarked in the House, “I believe that England can never be without some standing force.” 75 Thirty years of a standing army, which had offered opportunity for careers for members of the upper classes, had generated more acceptance than has been granted, so long as Parliament had a part in the army’s control and the Test Act was operative. In sum, the antiarmy sentiment had been somewhat “tempered.”

Revolutionary in basic character, but unjustified by theoretical exposition in debate or tract, Article vi of the Declaration of Rights set the constitutional position of England’s armed forces on a basis which would have delighted the Parliamentarians of 1641–42 and gratified the republicans of the Interregnum. It established the principle of civilian control of the military and testified to the conviction that restrained in this manner the monarchy could be kept from developing into a tyranny. Article vi was the most important step that the Convention took to secure the nation’s laws, liberties, and rights. The principle that it articulated was to be tested by King William III ten years later.

75Ibid., p. 179. But note Morrice’s comment (“Ent’ring Book” 2: 455): “There ought immediately be a Reform of that Army, not much less then a disbanding of it.”