

*fact of war, a danger of invasion.* If any other evidence of such danger existed, it would have been easy to state it—indeed it would have been obvious to the whole nation.

But knowing that no such danger existed, they preferred to rest their claim on the simple existence of war, a war declared by the United States themselves. We shall not enter into the question, in this place, of the justice of the war, nor of its being an offensive, not a defensive, one. We simply ask the good people of this state, whether the mere existence of a *war* is a sufficient ground to authorize the president to call out the militia! According to this monstrous and novel construction, the constitution should be read, that "Congress should have power to call out the militia to execute the law, repress insurrections, and in any *war* in which the United States may be engaged."

If the framers of the constitution intended this, they adopted the strangest expressions in their power.—Nations may be engaged in wars of ambition—of foreign conquest; they may carry their arms to the remotest quarters of the globe. If it was their intention, that whether invasion was or was not threatened, but merely because, in all wars, invasion might be *possible*, the president should have an unlimited power over the militia, they certainly expressed themselves very awkwardly, when they authorized congress to order out the militia, to "*REPEL INVASIONS.*"

According to the new doctrine, a war declared against Tecumseh or the Dey of Algiers would give the president a control over the whole militia—and this not only during the existence of the danger of invasion, but during the *whole war*. For, according to the reasoning of the secretary of war, so long as the war lasts, there is, from the nature of *war itself*, a possibility of invasion—and the president being the sole judge of this danger, the militia may be kept in service *during the war*. Words or arguments cannot make this point clearer. If to "*repel invasion*" means the danger of *possible* invasion when there is no *probability* of it, and if the president is the exclusive judge upon this point, then the limited powers of the constitution are of no avail, and the president is the absolute commander of every man in the United States, and may keep him in service so long as he chooses to have a war on foot with any nation, from the meanest tribe of savages to the *conqueror of Europe*.

We now inquire, *sixthly*, whether if the absurd doctrine should be maintained, that in case of *restricted* powers, the delegate shall be the exclusive judge of the extent of his powers, and if Congress may decide, whether the cases provided for by the constitution do or do not exist, still if the people should be satisfied that they surpass their authority, and abuse their trust, there is any better remedy than for the executives of the several states to refuse to order out the militia?

There is *one other* remedy, and that is, for the individual soldier to resist—and if attempted to be forced into service contrary to the constitution, to kill his assailant, or to collect his friends to rescue him.