

Our Constitution Provides Two Separate and Independent Methods for the Federal Government to “Call Forth the Militia” to Suppress Insurrections

By Publius Huldah



Because of its excellence and relevance to the insurrections being fomented in our cities by the Marxist organization “Black Lives Matter”, Antifa, and other revolutionary organizations; I sent the recent paper by Edwin Vieira, JD., Ph.D., titled, “*The President’s Authority To Suppress Insurrections*” [[link](#)], to my lists.

In response, some objected that the riots in the cities are local issues to be handled (or not) by the State and local governments – that they are not “federal” issues over which the federal government has jurisdiction. Some also asserted that **Article IV, §4, US Constitution** prohibits the President from sending the National Guard into a State to quell such disturbances, unless & until the Legislature or the Governor of the State requests it.

Those objections are not well-founded.

First: What’s going on in our cities is not something which

can be prudently brushed aside. It is a classic manifestation of a Marxist revolution – see, e.g., [this](#) article from “Workers’ World”. Furthermore, as shown below, the President of the United States has constitutional and statutory authority *to exercise his own judgment* as to whether he should send in the “Militia” to suppress the uprisings.

Second: Our Constitution provides two separate and independent methods for the federal government to suppress such uprisings.

Dr. Vieira’s paper sets forth *the other method* of “calling forth the Militia” – the method provided for at **Article I, §8, clauses 15 & 16, US Constitution**. That provides for the intervention of the Militia within a State at the initiative of the federal government, *regardless of whether the State requests it*. [1]

When highly knowledgeable and experienced persons, such as Dr. Vieira, speak in their area of expertise, and their words contradict our existing beliefs; *we ought to re-examine our beliefs*, instead of dismissing what such persons say.[2]

So let’s review Article I, §8, clauses 15 & 16, and some of the early Acts of Congress implementing them.

1. The American Militia is 400 years old

Throughout our colonial period, able-bodied free males were expected to be armed and trained and ready on short notice to defend their home, family, neighborhood and Colony. *They were the “Militia”*. In Mel Gibson’s movie, *Patriot*, Gibson’s character commanded a South Carolina Militia Company. The Militia was not “regular Army” – it was comprised of farmers, pastors, shopkeepers, etc., trained in the use of arms and prepared to fight for defense of Family and Community.

In our Constitution of 1787, our Framers provided for a regular Army and Navy at Article I, §8, clauses 12, 13 & 14. Pursuant to **Article II, §2, clause 1**, the President is

Commander in Chief (CINC) of the Army and Navy.[3]

Our Constitution also recognized the continued existence of the Militia, and assigned to it three specific federal functions: **Article I, §8, clause 15** empowers Congress:

“To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions”.[4]

Clause 16 authorizes Congress:

“To provide for the organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress”.

In 1792, Congress passed the Militia Act which “provided for” the arming of the Militia by **requiring** every able-bodied male Citizen of the ages 18-45 (with a few exceptions) [5] to acquire a rifle, bayonet, ammo pouch, ammo,[6] and report to his local unit for training.[HERE](#) is the Militia Act of 1792.

When the Militia of a State isn't in the service of the United States for one of the three purposes listed in Clause 15, its function is to help in its own State – however the need arises. And in [Federalist No. 46](#), James Madison says the Militia is to defend the State *from the federal government* in the event it becomes tyrannical.[7]

2. Who has the authority to call forth the Militia into service of the United States?

Article I, §8, clause 15 authorizes Congress to “provide for” calling forth the Militia “to execute the Laws of the Union, suppress Insurrections and repel Invasions”. How does Congress “provide for” calling forth the Militia into the service of the United States?

In [Martin v. Mott](#), 25 US 19 (1827), the Supreme Court considered the Militia Act of 1795 [[link](#)] which *authorized the President to call forth the militia when he judged it necessary to repel an invasion or enforce the laws of the United States*. The Court pointed out that the power had been entrusted by Congress to the President, and said that,

“We are all of opinion, that the authority to decide whether the exigency has arisen, belongs exclusively to the President, and that his decision is conclusive upon all other persons.”

So! In the Militia Act of 1795, Congress “provided for” calling forth the Militia by delegating *to the President* the power to determine when it was advisable to call the Militia into national service to repel an invasion or to execute the laws of the Union.[8]

3. Transformation of the Militia into the federally controlled National Guard

During the early 1900s, Americans elected Progressives [Fabian socialists] to office. And these “Progressives” commenced the conquest of our Country. They had to eliminate the threat the Militia posed to the totalitarian federal government they intended to create. So with the “Efficiency in Militia Act of 1903” (the “Dick Act”) [[link](#)], Congress *federalized* the Militia. And this is how the Militia of the several States, which is the primary defense of a Free People and the States against a tyrannical federal government [2nd Amendment], was put under federal control. And the States went along with it because their People were ignorant, short sighted, and bought off with federal appropriations for the new federalized “National Guard”.



So we don't have an organized & trained Militia – now, we have

federal troops – some on active duty in the Regular Military; others as weekend warriors in the Reserves or National Guard.

4. Current Acts of Congress providing for calling forth the “Militia” (federal armed forces)

Today, the provisions of the US Code which address calling forth the “Militia”[9] into national service are: [10 USC §251](#), [10 USC §252](#), [10 USC §253](#), and [10 USC §254](#). Note that the President still has statutory authority *to use his own Judgment* respecting whether to send the “Militia” into any State:

- to enforce the Laws of the United States [10 USC § 252];
- to suppress uprisings which deprive the people of the rights, privileges and immunities, and protections recognized in the Constitution and secured by Law, and the State government isn’t protecting those rights [10 USC §253]; and
- to suppress uprisings which oppose or obstruct the execution of the laws of the United States or impede the course of justice under those laws [10 USC § 253].

5. Conclusion

Our Constitution is an elegant piece of work. Its parts are interconnected and fit together. So we must read each clause in the light shed *by the other clauses* and by the Principles of our Founding as set forth in our Declaration of Independence. We must never insert our own biases – no matter what they are.

One of the most valuable characteristics of our federal system is the ability of the state and federal governments to be “checks” on each other. In [Federalist No. 28](#) (7th para), Alexander Hamilton says,

“... in a confederacy[10] the people ... may be said to be entirely the masters of their own fate. Power being almost

always the rival of power, the general [national or federal] government will at all times stand ready to check the usurpations of the state governments, and these will have the same disposition towards the general government. The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other as the instrument of redress. ...”

We would be wise to celebrate the President’s constitutional and statutory authority to protect us from the death and destruction being brought about – *with the connivance of State & local officials* – by the Marxist revolutionaries. When State and local governments refuse to protect their people from such death and destruction, the President has a clear power to intervene.

Now, we must start electing Presidents who know and obey our Constitution.[11]

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Endnotes:

1- Our Framers thought of everything – including rogue State governments. See, e.g, [Federalist No. 28](#).

2- One of the themes of Proverbs is that a wise man listens and increases his understanding. Be wise.

3- To be CINC means that the President has the supreme command and direction of the military and naval forces, as first General and admiral of the Confederacy ([Federalist No. 69](#)).

4- ***Let that clause sink in!*** Our Framers did not want a standing Army [go [here](#) and search for “standing armies”] – that’s why appropriations for the regular Army were limited to two years (Art. I, § 8, cl. 12). National defense, enforcement of

federal laws, & suppressing Insurrections were to be the responsibility of *the Militia*. **When the federal gov't needs to enforce its laws, it is to call forth the Militia – the armed and trained Citizens – to do the enforcing!** During the Washington Administration, the federal gov't called forth the Militia to enforce the federal excise tax on whiskey. *Federal law enforcement is thus the province of the Citizens – the Militia!* It is most manifestly NOT the province of armed thugs in the employ of the Executive Branch of the federal gov't.

5- Pursuant to §2 of the Militia Act of 1792, federal officers & employees were *exempted* from service in the Militia. *Can you figure out why they were exempted?*

6- The arms, ammunition and accoutrements so acquired by the Militia Man were his personal property and were held free from claims of all creditors. They could not be seized and sold in payment for any judgments, debts or taxes. See last sentence of §1 of the Militia Act of 1792.

7- This is why **Article II, §2, clause 1** provides that the President is CINC of the Militia **only when** it is called into national service. This is also why §2 of the Militia Act of 1792 exempts all federal officers and employees from service in the Militia.

8- The Militia Act of 1795 also provided that in cases of insurrection against a State government, the President could send in the Militia upon request of the State Legislature or Governor.

9- Even though we no longer have a “militia” within the meaning of Article I, §8, clauses 15 & 16; the current US Code uses the term in order to connect the activities of the federal armed forces with Art. I, §8, clause 15.

10- Our Constitution created a “federation” (“confederation”) of sovereign states which were united together *for the sole purposes* enumerated in the US Constitution.

11- I may have been wrong to fault President Trump for not sending the National Guard into the States to suppress the Insurrections. In *The Coming Coup?* [\[link\]](#), Michael Anton writes:

“...It started with the military brass quietly indicating that the troops should not follow a presidential order. They were bolstered by many former generals—including President Trump’s own first Secretary of Defense—who [stated openly](#) what the brass would only hint at. Then, as nationwide riots really got rolling in early June, the sitting Secretary of Defense himself all but [publicly told](#) the president not to invoke the Insurrection Act. His implicit message was: “Mr. President, don’t tell us to do that, because we won’t, and you know what happens after that.”

“If that is true, then the President should fire Defense Secretary Mark Esper, and should “purg[e] the [military] officer corps of anyone not down with the program and promoting only those who are.”