

S T O D D A R D F O R C O N G R E S S

— Utah's 3rd Congressional District —

“RESTORE THE PEOPLE’S MILITIA!”

“...a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves...” — Madison, Federalist No. 46

Read Federalist No. 46 in full — Madison wrote it to answer the question this paper raises. It is reprinted entire as the Appendix.

**Restoring the Constitutional Militia and the People’s
Forgotten Foundation**

A Policy Position Paper

“A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”

— U.S. Const. amend. II

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Second Amendment Plank:

Congress MUST Restore the Constitutional Militia of the Several States — and Forbid the Federal Government to Turn the National Guard Against the People

“RESTORE THE PEOPLE’S MILITIA!”

“The Framers left a free people three checks against a government that forgets its limits — the ballot, the courtroom, the jury — and beneath all three, a foundation: the people themselves, armed and enrolled in their own constitutional state militias. The foundation has been quietly dismantled, and its name pinned onto a federal force now marched against citizens in their own streets. I am running to give it back.”

— Michael R. Stoddard, C.P.A., C.F.P.

I. The Problem

The Constitution names a force that most Americans have never heard described accurately: the militia — the whole body of the armed people, enrolled in their own communities, officered from among themselves, and held ready for common defense. The Framers did not treat this as a quaint frontier custom. They treated it as a foundational, primary, structural organ of free government: the citizenry’s own retained capacity to check a federal power that might one day exceed its limits. It stands behind the ballot, behind the courts, behind the jury — the last reserve of a free people, and the one the Framers most feared to lose.

This is no reconstruction from silence. Madison, selling the proposed Constitution to a wary public in *Federalist No. 46*, named exactly this body as the final answer to a federal army turned ambitious: against any such force “would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties, and united and conducted by governments possessing their affections and confidence.” That is the institution this paper proposes to restore — described in the Framers’ own published words, as the very ground on which ratification was won. Read No. 46 entire — it is reprinted as the Appendix to this paper: it runs perhaps fifteen minutes, and it remains the best brief ever written for the argument of this paper — by the principal author of the Constitution itself.

That institution has been hollowed out. Over the course of a century — through the **Dick Act** of 1903, the National Defense Act of 1916, and the federal court decisions that followed — the militia of the several states was federalized, professionalized, and absorbed into a national reserve force. Its name was transferred to the National Guard. Today the original constitutional militia survives almost entirely on paper. Federal law still defines nearly every able-bodied citizen as a member of “**the unorganized militia**” (10 U.S.C. § 246), but no state has enrolled, equipped, trained, or officered that body in living memory. Most Americans do not know they even belong to it.

This is not a small omission. It is the quiet removal of the foundation of American constitutionalism — and the absence weakens every other check that was built on the assumption it would still be standing.

II. The National Guard Is Not the Militia

The federal government will answer that the militia still exists — that it is the National Guard. This is the central confusion, and it must be corrected plainly.

The National Guard is a federal reserve of the United States Army and Air Force. It is:

1. organized under federal law,
2. equipped with federal money,
3. trained to federal standards, and — most importantly —
4. callable into full federal service and deployable overseas without a state’s consent,

as the Supreme Court confirmed in *Perpich v. Department of Defense* (1990). **In every operational sense, it is a component of the standing national military.**

The constitutional militia is the opposite kind of institution. Under Article I, Section 8, Clauses 15 and 16, authority over the militia is divided: the states appoint the officers and conduct the training, while the federal government may call the militia into service only for three narrow, enumerated purposes — to execute the laws of the Union, suppress insurrections, and repel invasions. It is the body of the people, under their own states, structurally designed to be a check upon the standing army — not a part of it.

To call the National Guard “the militia” is to give the standing force the name of the very institution the militia was created to counterbalance. The shell has been kept; the substance has been replaced with its opposite.

Let one thing be said without ambiguity. The men and women of the Guard — thousands of them Utahns — have served honorably, at real personal cost, under whatever structure Congress handed them. This paper indicts the structure. It does not, and never will, indict their service.

III. The Crisis Has Arrived

For most of the last century this was a structural problem visible only to those who study the founding closely. In the last year it has become a live constitutional emergency.

The federalized force had already been turned to unconstitutional use abroad long before it was turned against citizens at home. Not since 1942 has the Congress formally declared war, yet across the last two decades the Guard has been mobilized in wave after wave and sent overseas — to Iraq, to Afghanistan, to a generation of open-ended deployments — to fight wars no Congress ever declared. The body that wears the militia’s name became a standing reserve for precisely the wars of choice the militia was built to make unnecessary. What has changed in the last year is only the direction: the same force has now been turned inward.

In June 2025, for the first time in the nation’s history, a President invoked federal law to seize control of a state’s National Guard over the express objection of its governor — federalizing thousands of California’s troops and deploying them into domestic law-enforcement roles on the streets of Los Angeles. In September 2025, a federal court ruled that the deployment violated the Posse Comitatus Act, the 1878 statute that codifies the Framers’ deepest fear: a national army used as a

domestic police force. Similar seizures and deployments followed in other states, and the litigation reached the Supreme Court.

At the very same moment, from the opposite direction, states moved to disarm the body of the people from which any militia must be drawn. In May 2026, Virginia enacted a ban on the future sale, purchase, and manufacture of the most common semi-automatic rifles in America — Virginia, whose own Declaration of Rights, adopted June 12, 1776 in George Mason's hand, was among the first inscriptions of the principle this paper defends:

XIII. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and be governed by, the civil power.

The state that first wrote the principle down has now legislated against its premise.

Both halves of the Framers' design are now being violated at once. The federal government is wielding a federalized force against citizens in their own cities — precisely the danger the militia was meant to forestall — while states strip the people of the arms a militia presupposes. This is not an abstract grievance. It is the exact scenario the militia clauses and the Second Amendment were written to prevent, unfolding in real time.

And let no reader take comfort in the party label on the hand that holds this power today. The office changes hands; the statute does not. Whoever you fear holding this power will, in time, hold it — and the same law that reached Sacramento's Guard over its governor's objection reaches Salt Lake City's. That is precisely why the Framers refused to leave such a force answerable to one will, and why the remedy must be structural rather than partisan.

IV. The Proposal

I will introduce and support legislation to restore the constitutional architecture the Framers built, in three parts.

A. Recognize the State Militias as Distinct from the National Guard

Federal law should once again recognize the militia of the several states as an institution separate from, and not absorbed into, the National Guard — a body the

states may organize, train, and officer under their own authority, as Article I contemplates.

It will be objected that this channel already exists — that 32 U.S.C. § 109 permits the states to maintain “defense forces” exempt from federalization, and that roughly twenty states keep one on the books. Utah’s own code, in Title 39, contemplates exactly such a force. The objection proves the case. Those forces exist as a statutory afterthought, at federal sufferance: walled off from the funding, equipment, training infrastructure, and officer recognition that federal law channels exclusively to the Guard, and left so starved that most function as unarmed administrative auxiliaries — where they function at all. A channel that exists on paper but cannot carry the constitutional function is not the partition Article I describes; it is the partition’s tombstone. The legislation I propose would convert that afterthought into what the Constitution actually contemplates: a protected, state-officered militia establishment that Congress must respect, may by enumerated power help organize and arm, and may never absorb.

B. Restore the Constitutional Partition

Congress should repeal or amend the provisions of the National Defense Act and its successors that converted the militia function into a federal reserve, and should bar the deployment of federalized National Guard units in domestic law-enforcement roles except under the narrow, time-tested terms of the Insurrection Act. The federal government’s three enumerated purposes for calling forth the militia are not a suggestion. They are a limit, and they should be enforced as one.

C. Protect the Armed Body of the People

The right to keep and bear arms and the duty of common defense are not two separate things — they are two faces of one design. A people forbidden the ordinary arms of a citizen cannot constitute the militia the Constitution presupposes. Federal policy should defend the armed citizen against both federal overreach and state-level disarmament of the very body from which the militia is drawn.

A closing word on the draft. The militia and conscription are opposite answers to a single question: how a free people mans its own defense. The militia answers with the citizen who keeps his own arms, drills in his own community, and is called out by lawful authority only for the three purposes the Constitution names. Conscription answers with the citizen seized from his life and sent abroad to fight wars Congress never declared. This paper restores the first answer. The refusal of the second — no draft without a formal declaration of war, and no draft for an unjust war, declared or not — is set out in my companion paper, *No Unjust Wars: NO NEW DRAFT!*

V. Anticipated Objections

“This is a call for private militias and vigilantes.”

It is the opposite. The constitutional militia is a lawful, organized, state-officered institution — accountable, trained, and called out only by lawful authority. Nothing in this proposal sanctions private armed action; it is precisely the lawful institution that makes private armed action unnecessary and illegitimate. The remedy for a broken public institution is to repair it, not to act outside it.

“The militia is obsolete in the age of a professional military.”

The militia was never meant to replace the army. It was meant to be the one thing a standing army, by its nature, can never be: the people’s own retained check against the misuse of that army. To call that obsolete is to declare the check unnecessary — which is exactly the assumption the events of the past year should have laid to rest.

“This is just a Second Amendment talking point.”

It is a structural argument, not a slogan. The Second Amendment protects one half of the design — the people’s arms. The militia clauses protect the other — the

institution those arms exist to serve. A century of debate has fixated on the first and forgotten the second. Restoring the whole design is more conservative than the status quo, not less.

“By centering the militia, this ignores the individual right to keep and bear arms.”

It does the reverse — and the difference is the whole point. The reading behind this proposal makes the individual right primary, not derivative. **The Amendment’s operative command is its last fourteen words — “the right of the people to keep and bear Arms, shall not be infringed”** — and the militia clause is a preface stating why the right was written down, not a condition placed upon it: strike the militia clause and the right still stands whole; strike the right and no militia is possible. The right is grounded before and beneath the Constitution, in natural right and the common law; the document recognizes it rather than grants it, and nothing done to restore the militia can subtract from a right that never depended on the militia to exist.

The real danger runs the other way: it is the militia-first readings — those that treat the right as a mere function of militia service — that revive the collective-rights theory *Heller* rejected, and that hand the disarmament movement its lever — for if the right flows from the institution, then where the institution lapses the right lapses with it. This proposal refuses that trap. It treats the armed citizen as the militia’s precondition — which is exactly why Part C defends the body of the people against disarmament from every direction. Far from ignoring the individual right, it restores the structural weight a century of narrow debate stripped from it, and defends it on both fronts at once.

“This is dangerous in today’s political climate.”

The danger is already here, and it is the status quo: a federalized force deployed against citizens with no lawful, locally controlled counterweight in existence. A restored state militia is not an escalation. It is the structural alternative that lowers the temptation to misuse the National Guard in the first place.

VI. Conclusion

This is not a radical proposal. It is the most conservative position available: holding the federal government, and the states, to the design the Founders actually wrote.

The radical position is the one we have drifted into — a militia hollowed to a name, a national force turned against citizens in their own streets, and a people being disarmed of the very capacity the Constitution assumes they will keep.

The Framers gave the American people **three checks against a government** that forgets its limits — the vote, the courts, the jury — and one foundation beneath them. The three still function, however imperfectly. The foundation has been allowed to lapse. But a duty neglected is not a duty erased, and an institution abandoned is not an institution destroyed. The structure is still there in the Constitution, waiting to be restored.

I am asking you to help me restore your duties — and with them, your rights:

“Restore the People’s Militia!”

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Paid for by the Committee to Elect Michael Stoddard to Congress

Appendix. The Federalist No. 46

Publius (James Madison) — *New York Packet*, January 29, 1788

This essay was numbered 46 in the M'Lean edition and 45 in the newspapers; the original newspaper heading is preserved below. The text is reproduced verbatim, with its eighteenth-century spelling intact. Bracketed cross-references to other Federalist essays are the editors'. The essay is in the public domain.

The FÆDERALIST, No. 45.

To the People of the State of New-York.

Resuming the subject of the last paper, I proceed to enquire whether the Fœderal Government or the State Governments will have the advantage with regard to the predilection and support of the people. Notwithstanding the different modes in which they are appointed, we must consider both of them, as substantially dependent on the great body of the citizens of the United States. I assume this position here as it respects the first, reserving the proofs for another place. The Fœderal and State Governments are in fact but different agents and trustees of the people, constituted with different powers, and designated for different purposes. The adversaries of the Constitution seem to have lost sight of the people altogether in their reasonings on this subject; and to have viewed these different establishments, not only as mutual rivals and enemies, but as uncontroled by any common superior in their efforts to usurp the authorities of each other. These gentlemen must here be reminded of their error. They must be told that the ultimate authority, wherever the derivative may be found, resides in the people alone; and that it will not depend merely on the comparative ambition or address of the different governments, whether either, or which of them, will be able to enlarge its sphere of jurisdiction at the expence of the other. Truth no less than decency requires, that the event in every case, should be supposed to depend on the sentiments and sanction of their common constituents.

Many considerations, besides those suggested on a former occasion [The Federalist 17], seem to place it beyond doubt, that the first and most natural attachment of the people will be to the governments of their respective States. Into the administration of these, a greater number of individuals will expect to rise. From the gift of these, a greater number of offices and emoluments will flow. By the superintending care of these, all the more domestic, and personal interests of the people will be regulated and provided for. With the affairs of these, the people

will be more familiarly and minutely conversant. And with the members of these, will a greater proportion of the people have the ties of personal acquaintance and friendship, and of family and party attachments; on the side of these therefore the popular bias, may well be expected most strongly to incline.

Experience speaks the same language in this case. The foederal administration, though hitherto very defective, in comparison with what may be hoped under a better system, had during the war, and particularly, whilst the independent fund of paper emissions was in credit, an activity and importance as great as it can well have, in any future circumstances whatever. It was engaged too in a course of measures, which had for their object, the protection of every thing that was dear, and the acquisition of every thing that could be desireable to the people at large. It was nevertheless, invariably found, after the transient enthusiasm for the early Congresses was over, that the attention and attachment of the people were turned anew to their own particular governments; that the Foederal Council, was at no time the idol of popular favor; and that opposition to proposed enlargements of its powers and importance, was the side usually taken by the men who wished to build their political consequence on the prepossessions of their fellow citizens.

If therefore, as has been elsewhere remarked [The Federalist 27], the people should in future become more partial to the foederal than to the State governments, the change can only result, from such manifest and irresistible proofs of a better administration, as will overcome all their antecedent propensities. And in that case, the people ought not surely to be precluded from giving most of their confidence where they may discover it to be most due: But even in that case, the State governments could have little to apprehend, because it is only within a certain sphere, that the foederal power can, in the nature of things, be advantageously administered.

The remaining points on which I propose to compare the foederal and State governments, are the disposition, and the faculty they may respectively possess, to resist and frustrate the measures of each other.

It has been already proved, that the members of the foederal will be more dependent on the members of the State governments, than the latter will be on the former [The Federalist 17]. It has appeared also, that the prepossessions of the people on whom both will depend, will be more on the side of the State governments, than of the Foederal Government [The Federalist 17]. So far as the disposition of each, towards the other, may be influenced by these causes, the State governments must clearly have the advantage. But in a distinct and very important point of view, the advantage will lie on the same side. The

prepossessions which the members themselves will carry into the Fœderal Government, will generally be favorable to the States; whilst it will rarely happen, that the members of the State governments will carry into the public councils, a bias in favor of the general government. A local spirit will infallibly prevail much more in the members of the Congress, than a national spirit will prevail in the Legislatures of the particular States. Every one knows that a great proportion of the errors committed by the State Legislatures proceeds from the disposition of the members to sacrifice the comprehensive and permanent interest of the State, to the particular and separate views of the counties or districts in which they reside. And if they do not sufficiently enlarge their policy to embrace the collective welfare of their particular State, how can it be imagined, that they will make the aggregate prosperity of the Union, and the dignity and respectability of its government, the objects of their affections and consultations? For the same reason, that the members of the State Legislatures, will be unlikely to attach themselves sufficiently to national objects, the members of the Fœderal Legislature will be likely to attach themselves too much to local objects. The States will be to the latter, what counties and towns are to the former. Measures will too often be decided according to their probable effect, not on the national prosperity and happiness, but on the prejudices, interests and pursuits of the governments and people of the individual States. What is the spirit that has in general characterized the proceedings of Congress? A perusal of their journals as well as the candid acknowledgments of such as have had a seat in that assembly, will inform us, that the members have but too frequently displayed the character, rather of partizans of their respective States, than of impartial guardians of a common interest; that whereon one occasion improper sacrifices have been made of local considerations to the aggrandizement of the Fœderal Government; the great interests of the nation have suffered on an hundred, from an undue attention to the local prejudices, interests and views of the particular States. I mean not by these reflections to insinuate, that the new Fœderal Government will not embrace a more enlarged plan of policy than the existing government may have pursued, much less that its views will be as confined as those of the State Legislatures; but only that it will partake sufficiently of the spirit of both, to be disinclined to invade the rights of the individual States, or the prerogatives of their governments. The motives on the part of the State governments, to augment their prerogatives by defalcations from the Fœderal Government, will be overruled by no reciprocal predispositions in the members.

Were it admitted however that the Fœderal Government may feel an equal disposition with the State governments to extend its power beyond the due limits, the latter would still have the advantage in the means of defeating such

encroachments. If an act of a particular State, though unfriendly to the national government, be generally popular in that State, and should not too grossly violate the oaths of the State officers, it is executed immediately and of course, by means on the spot, and depending on the State alone. The opposition of the Fœderal Government, or the interposition of Fœderal officers, would but inflame the zeal of all parties on the side of the State, and the evil could not be prevented or repaired, if at all, without the employment of means which must always be resorted to with reluctance and difficulty. On the other hand, should an unwarrantable measure of the Fœderal Government be unpopular in particular States, which would seldom fail to be the case, or even a warrantable measure be so, which may sometimes be the case, the means of opposition to it are powerful and at hand. The disquietude of the people, their repugnance and perhaps refusal to co-operate with the officers of the Union, the frowns of the executive magistracy of the State, the embarrassments created by legislative devices, which would often be added on such occasions, would oppose in any State difficulties not to be despised; would form in a large State very serious impediments, and where the sentiments of several adjoining States happened to be in unison, would present obstructions which the Fœderal Government would hardly be willing to encounter.

But ambitious encroachments of the Fœderal Government, on the authority of the State governments, would not excite the opposition of a single State or of a few States only. They would be signals of general alarm. Every Government would espouse the common cause. A correspondence would be opened. Plans of resistance would be concerted. One spirit would animate and conduct the whole. The same combination in short would result from an apprehension of the fœderal, as was produced by the dread of a foreign yoke; and unless the projected innovations should be voluntarily renounced, the same appeal to a trial of force would be made in the one case, as was made in the other. But what degree of madness could ever drive the Fœderal Government to such an extremity? In the contest with Great Britain, one part of the empire was employed against the other. The more numerous part invaded the rights of the less numerous part. The attempt was unjust and unwise; but it was not in speculation absolutely chimerical. But what would be the contest in the case we are supposing? Who would be the parties? A few representatives of the people, would be opposed to the people themselves; or rather one set of representatives would be contending against thirteen sets of representatives, with the whole body of their common constituents on the side of the latter.

The only refuge left for those who prophecy the downfall of the State Governments, is the visionary supposition that the Fœderal Government may

previously accumulate a military force for the projects of ambition. The reasonings contained in these papers must have been employed to little purpose indeed, if it could be necessary now to disprove the reality of this danger. That the people and the States should for a sufficient period of time elect an uninterrupted succession of men ready to betray both; that the traitors should throughout this period, uniformly and systematically pursue some fixed plan for the extension of the military establishment; that the governments and the people of the States should silently and patiently behold the gathering storm, and continue to supply the materials, until it should be prepared to burst on their own heads, must appear to every one more like the incoherent dreams of a delirious jealousy, or the misjudged exaggerations of a counterfeit zeal, than like the sober apprehensions of genuine patriotism. Extravagant as the supposition is, let it however be made. Let a regular army, fully equal to the resources of the country be formed; and let it be entirely at the devotion of the Fœderal Government; still it would not be going too far to say, that the State Governments with the people on their side would be able to repel the danger. The highest number to which, according to the best computation, a standing army can be carried in any country, does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms. This proportion would not yield in the United States an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties, and united and conducted by governments possessing their affections and confidence. It may well be doubted whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops. Those who are best acquainted with the late successful resistance of this country against the British arms will be most inclined to deny the possibility of it. Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments to which the people are attached, and by which the militia officers are appointed, forms a barrier against the enterprizes of ambition, more insurmountable than any which a simple government of any form can admit of. Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms. And it is not certain that with this aid alone, they would not be able to shake off their yokes. But were the people to possess the additional advantages of local governments chosen by themselves, who could collect the national will, and direct the national force; and of officers appointed out of the militia, by these governments and attached both to them and to the militia, it may be affirmed with

the greatest assurance, that the throne of every tyranny in Europe would be speedily overturned, in spite of the legions which surround it. Let us not insult the free and gallant citizens of America with the suspicion that they would be less able to defend the rights of which they would be in actual possession, than the debased subjects of arbitrary power would be to rescue theirs from the hands of their oppressors. Let us rather no longer insult them with the supposition, that they can ever reduce themselves to the necessity of making the experiment, by a blind and tame submission to the long train of insidious measures, which must precede and produce it.

The argument under the present head may be put into a very concise form, which appears altogether conclusive. Either the mode in which the Fœderal Government is to be constructed will render it sufficiently dependant on the people, or it will not. On the first supposition, it will be restrained by that dependence from forming schemes obnoxious to their constituents. On the other supposition it will not possess the confidence of the people, and its schemes of usurpation will be easily defeated by the State Governments; who will be supported by the people.

On summing up the considerations stated in this and the last paper [The Federalist 45], they seem to amount to the most convincing evidence, that the powers proposed to be lodged in the Fœderal Government, are as little formidable to those reserved to the individual States, as they are indispensibly necessary to accomplish the purposes of the Union; and that all those alarms which have been sounded, of a meditated or consequential annihilation of the State Governments, must, on the most favorable interpretation, be ascribed to the chimerical fears of the authors of them.

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Source: John P. Kaminski et al., eds., *The Documentary History of the Ratification of the Constitution*, Vol. XV: Commentaries on the Constitution, Public and Private [3] (Madison, Wis.: Wisconsin Historical Society Press, 1984), 488–93. Reproduced from the Center for the Study of the American Constitution, University of Wisconsin–Madison.