

the  
*Outpost of Freedom*

presents

The First in a series:  
**Correcting the Constitutional Record**

**The Real Second Amendment  
and Militia Related Information**

By

Gary Hunt,  
*Outpost of Freedom*

From the ratification of the Constitution to two centuries of publications, proof of the manipulation of as ratified Amendment to the Constitution, with the intent to change what was ratified to what was, to the government, subject to various and questionable interpretations.

**One of the Frauds Perpetrated  
on the American People.**

This article explains, in detail, the results of nearly two years of research, and provides the proof of the continuation of an effort to deny us this “*cornerstone*”.

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## **The Real Second Amendment and Militia Related Information**

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Gary Hunt  
Outpost of Freedom  
October 21, 2018

### **Preface**

While doing research on another subject, reviewing the Bill of Rights and other early amendments, a rather striking irregularity kept appearing. That anomaly was the punctuation in the Second (Militia) Amendment.

This led to a change of priorities in the research, thinking that the significance between what kept occurring, then, versus what we see, now, might be worth a very thorough review of what was correct (ratified) and what the intention of the Framers was.

When such a project is laid before me, it is often years of research and hundreds of hours, as this is more a pastime than a vocation. It is my contribution to my country and my posterity.

The research, performed partially by me and partially by a friend, Brian March, whose hobby has been the review of historical works. Together, we have reviewed documentation from 1787 to 2017, amounting to 490 books, records, and documents. Some were not conclusive, though 490 are conclusive and are accounted for in this treatise, and will be identified thoroughly in Part 2 of this article, to be published later. It is my fervent hope that this work will result in a correction of the record of what has been passed off as the Second Amendment for the past century. And that that record be replaced with the intention of the Framers and those who ratified that amendment. That it be properly understood for what was provided for, "*extending the ground of public confidence in the government*"

### **Forward**

"It is hard to be right when the Government is Wrong." and "Question Every Thing."

Hi, my name is Brian March. Every since 1991 (off and on as my money, career and several disabilities would allow), my eyes were opened to the some truths.

In 1991, I read an Article, about David Dodge and Tom Dunn's (both have very sadly passed away) research, which was an amendment to the Constitution of the United States of America properly proposed by Congress and ratified by the requisite number of States. Then it took the "Powers that be", about seven decades to make it disappear. I knew if what the Article professed (I did not agree with all the possibilities), and re-recognized and enforced this would be the key to unlock the actual Republic of the USA.

So I tracked David and Tom down and from 1991 – 1996, we did as much research as my above parameters would allow. We went to many Universities and several reoccurring visits to State and Federal Archives as well as the Library of Congress, anywhere we could gather evidence to prove what was real in 1819, is real today.

Unfortunately, my money ran out and my other issues stopped me from researching. But way before all was gone, I had discovered another Amendment that was unlawfully changed. As David, Tom, and I stopped researching their discovery, other people picked up and ran with it. My research was turned into a hobby (beginning of 1997). I would, every once in a while, call the people that were then researching David and Tom's Amendment. After several years I realized that I would not be able to do much more so I gave up most of the documented copies and Books, from what David, Tom and I had found, to a person I believed I could trust with same. Unfortunately those are now lost.

The 2nd Amendment items that I had found I kept. I have continued to collect old records, as a hobby and pastime. A little here and a little there I would keep on finding items on this Amendment, which was confirming my theory. At the same time, I had found other people's work on other Amendments.

In 1995, Gary Hunt and I collaborated on an early article on the Titles of Nobility Amendment to the Constitution. So, I talked to Gary, about three years ago on exposing some facts about the ratification of the 2nd Amendment. Gary said yes and for his organizational, computer, and writing skills, and Gary having the Patience of Job, with me and my disabilities. This and exposing facts about the ratification of other Amendments are going to come. However, without Gary Hunt they would have no chance of this being accomplished.

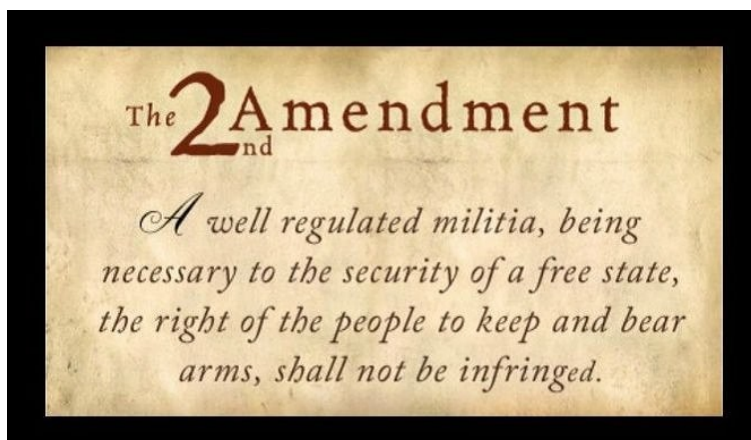
## **Acknowledgement**

The Library of Congress, the NARA (National Archives and Records Administration), University of Indiana, various sources within South Carolina, North Carolina, Alabama, Archives of Delaware, Legislative Archives of Kentucky, Archives of Maryland, Archives of Pennsylvania, Archives of New Hampshire, Archives of New Jersey, Archives of Massachusetts, Archives of Connecticut, Archives of Vermont, Archives of Ohio, Archives of Virginia, Archives and Library of Georgia. Also, various on line resources, especially Google Books, from which hundreds of historical publications can be found.

Special thanks the members of the Team (names withheld) that has been a source of many hours of input, review, proofreading, and other assistance, in the preparation of this article, and many before it.

## A basic historical and grammatical analysis of the Second Amendment

This is the full, erroneous, text of the Second Amendment



Complete Second Amendment text.

“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.”

It’s short and sweet—done so, ironically, to avoid confusion. However, it could be argued that the confusion is only an emotional one.

The Second Amendment is a compound sentence with an independent clause preceded by two modifying dependent clauses.

The Supreme Court interprets “A well-regulated militia.” as implying the imposition of proper discipline and training.” **IMPOSED** proper discipline and training. People that argue the second amendment protects gun ownership usually ignore this fundamental point.

Paraphrased, the second amendment modifies the keeping of arms with ***regulation through compelled discipline and training.***

The second clause, “being necessary to the security of a free state,” modifies the first and main parts. Why do we need a well-regulated militia? It is needed ***“To protect the security and freedom of the state.”***

It is this simple. Well regulated gun ownership the security of the free states is the only function for which well-regulated gun is guaranteed.

To paraphrase, the first two, modifying clauses **establish that a well-regulated and trained militia that is necessary for the security and freedom of the states.**

The final part, **“the right of the people to keep and bear arms shall not be infringed”**, is equally clear, but maybe not at first glance. It establishes the right of “the people.” This is tied to something called the “body politic.” It’s a phrase you might have heard from some

bloviated gas-bag posting in a highfalutin' journal... ahem... and have a decent sense of what it means, yet never really checked. I used to think it meant the body *of* politics.

It actually means, "the people of a nation, state, or society considered collectively as a group of citizens," and "a group of persons politically organized." A body politic is also "a metaphor in which a nation is considered to be a corporate entity." (Under the old use of the word corporate, also known as a municipal corporation...)

The intent of ratification is that it is ratified, as is (without change). It is to approve and sanction, not to modify. If it is modified, it is no longer the same as it was when ratified.

The House of Representatives presented to the Senate seventeen proposed amendments. Between both houses of Congress, they then reduced that to twelve and settled upon the final wording. If ratification changes that wording, then they are not ratifying that which was presented. This could result in an unending task of resolving, until the ratifications were in agreement, to determine what the final result would be. However, Congress did the final resolving. The states' only duty was to ratify, or not.

We can surmise that the acceptance of a sufficient number of states ratification of the Second Amendment was based upon that which was proposed, as well as what the greater number of states agreed upon in their ratification returns. This would mean that wording and punctuation of the Resolution of Congress of September 25, 1789, is the Second Amendment, as ratified in accordance with Article V of the Constitution. To wit:

**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.**

[Note that there is only one comma in the Amendment.]

We can understand better the intent of the amendment by reviewing Fifth Article in the initial proposal of seventeen amendments:

A well regulated militia, composed of the body of the people, being the best security of a free state, the right of the people to keep and bear arms shall not be infringed, but no one religiously scrupulous of bearing arms shall be compelled to render military service in person.

It is clear that it was understood that the "*militia*" is "*composed of the body of the people*". That was so readily understood that what the militia was, *the body of the people*, and that it was not necessary to repeat it in the final proposed amendment.

In its final form, it follows a grammatical structure that is found in most resolutions of the day. A resolution would generally begin with a "Whereas", providing the foundation for a perceived necessity. This is followed by a "Therefore", this providing the solution or resolution of the necessity.

Applying this logic to the Second Amendment, we can easily understand:

**Whereas**, A well regulated militia being necessary to the security of a free state;  
**Therefore**, The right of the people to keep and bear arms shall not be infringed.

Before we consider the publications that have, over the last few centuries, published the Second amendment, we need to understand a bit about punctuation in the Eighteenth Century.

In researching punctuation of that era, I found an article, "When Did People Start Using Punctuation?" (<http://www.todayifoundout.com/index.php/2016/05/origins-punctuation-marks/>). It gives us an understanding of the change in use of commas and the fact that the practice of *light punctuation* that we use today was slowly adopted over a period of centuries.

The article explains that the use of a comma:

[B]egan to change after the publication of Ben Jonson's *English Grammar* (1640) in which he illustrated how punctuation could help preserve an author's original intention, rather than just giving a guide to how to read a text out-loud. Well received, by the time of the Restoration (1660), using punctuation for syntactical purposes was finally common, and in fact, by the 18th century, excessive punctuation (such as placing a comma between every possible phrase) had become a major problem. . . Overuse of punctuation continued to some extent through the late 19th century.

Now, that *overuse* went well into the late 1800s, and this is to be considered, as we continue.

During the course of researching the historical record, we have located 490 publications that include the Bill of Rights as proposed, the object being the "Article the Fourth"; or including the Bill of Rights, as ratified, being the "Second Amendment".

The publications include: Federal authorized publications, State authorized publications, general works for public consumption; Published Newspapers; a state authorized broadside; and, publications for educational purposes.

## **Constitution RE People and Militia**

### **People**

#### **Preamble to the Constitution of the United States**

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

In this instance, the "People" included only those who had a right to vote (being male freeholders - owning land or having an estate of a certain value). Those voters then elected delegates to a Convention. The Conventions then ratified the Constitution. In this usage of "People", it refers to a limited number, based solely upon their qualifications to vote within their respective state.

From the 1856 Supreme Court decision in *Dred Scott v. Sandford*, 60 U.S. 393 we can get a glimpse of the then perception of "People". From that decision, we find:

"The words 'people of the United States' and 'citizens' are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government

through their representatives. They are what we familiarly call the 'sovereign people,' and every citizen is one of this [these] people, and a constituent member of this sovereignty."

Our Constitution created the first government in the history of the world that was put into place by a process that began in the community; sent delegates to state conventions; then, in convention, to determine to ratify, or not, that Constitution.

It is also the first time in the history of the world that a government was created, and within its founding document, the Constitution, had a provision for amendments, based on experience or necessity, could be ratified and become a part of the Constitution.

Two states, North Carolina and Rhode Island, would not ratify the Constitution until certain amendments were proposed for the protection of certain rights. These proposed amendments were to assure that the rights of the people and of the States would be further protected against encroachment by the newly created federal government. This was a serious concern to the people of that period, as they had thought that their charters and autonomy were protected until Britain decided that once given, the rights of the people and the authority granted by the colonial charters could be modified or extinguished.

## **The Ratification of the Constitution and the Bill of Rights**

We can look back to a letter from **George Washington**, written on September 17, 1787, and addressed to "*His Excellency* the PRESIDENT OF CONGRESS". That Congress, of course, was the Continental Congress, operating under the Articles of Confederation. Attached to the letter was a copy of the Constitution, which had been signed by the delegates, unanimously.

Sir,

We have now the honor to submit to the consideration of the United States in Congress assembled, that Constitution which has appeared to us the most adviseable.

The friends of our country have long seen and desired, that the power of making war, peace, and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities should be fully and effectually vested in the general government of the Union: But the impropriety of delegating such extensive trust to one body of men is evident—Hence results the necessity of a different organization.

It is obviously impracticable in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all: Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw

In all our deliberations on this subject we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each state in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every state is not perhaps to be expected ; but each will doubtless consider, that had her interest been alone consulted, the consequences might have been particularly disagreeable or injurious to others ; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

With great respect, We have the honor to be, Sir, Your Excellency's  
most obedient and humble servants,  
GEORGE WASHINGTON, *President.*  
*by unanimous Order of the Convention.*

However, the Constitution would not create a new government, displacing the Continental Congress, until ratified, without changes, by nine of the 13 independent countries. The duty fell on the Continental Congress to accept and forward or simply ignore and let die, the outcome of the Philadelphia Convention.

## **Preface to Ratification**

After the Philadelphia Convention, September 1787, wherein the Constitution was drafted and finalized, the requirement for ratification by the people began. During the course of the ratification effort, amendments were proposed, as had been requested by a number of states.

In order to put a proper perspective on these events, they will be presented in chronological order, to the final ratification of the Bill of Rights.

On June 21, 1788, the newly ratified Constitution became the law of the land. It created a government for those who joined the new Union. That government was fixed in the words of the Constitution, granting powers and authorities to the new government; placing limitations on that government, and placing certain restrictions on the State governments.

Article VI states:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

In a very concise statement, this new venture into self-government sets forth a statement that the Constitution **shall** be the supreme Law of the Land. The lesser elements of Laws made in Pursuance of and Treaties made under its Authority shall also be the supreme Law of the Land. This, then, is the rock upon which the nation was founded.

They also had the foresight to provide for changes, through the Amendment Process; and only through that process, could any part of the Constitution be revised or repealed.

One of the earliest United States Supreme Court decisions puts a perspective on the authority of government, the laws, and the Constitution. Chief Justice John Marshall wrote the Court's decision in 1803, the case being *Marbury v. Madison* (5 U.S. 137), when speaking of the Constitution.



The powers of the legislature are defined and limited; and that those limits may not be mistaken or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing: if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed are of equal obligation. It is a proposition too plain to be contested, that the constitution controls any legislative act repugnant to it; or, that the legislature may alter the constitution by an ordinary act.

We also have the corollary, which predates this decision.

About the time the Philadelphia Convention was meeting, during which the Constitution was drafted, a North Carolina Supreme Court case was being heard. That case, Bayard v Singleton (1 N.C. 42 1787) provides insight into the authority of their Constitution as a document that creates a government, grants it certain powers and authorities, and they are, in that sense, homogeneous.

But that it was clear that no act they could pass could by any means repeal or alter the constitution, because if they could do this, they would at the same instant of time destroy their own existence as a legislature and dissolve the government thereby established [by that constitution]. Consequently, the constitution (which the judicial was bound to take notice of as much as of any other law whatever) standing in full force as the fundamental law of the land, notwithstanding the act on which the present motion was grounded, the same act must of course, in that instance, stand as abrogated and without any effect.

## **Ratification with Request for Amendments**

### **"further declaratory and restrictive clauses"**

On Friday, Sept 28, 1787, the **Continental Congress** sent the following to the member- states of the Confederation:

Sir

In obedience to an unanimous resolution of the United States in Congress Assembled, a copy of which is annexed, I have the honor to transmit to Your Excellency, the Report of the Convention lately Assembled in Philadelphia, together with the resolutions and letter accompanying the same; And have to request that Your Excellency will be pleased to lay the same before the Legislature, in order that it may be submitted to a Convention of Delegates chosen in Your State by the people of the State in conformity to the resolves of the Convention, made & provided in that case.—

with the greatest respect  
I have the honor &c—  
C: T—

Attached thereto was the proposed Constitution for the United States of America and other documentation, including Washington's letter. The die was cast. The Constitution would live or die, based upon whether the states wanted to retain full autonomy or join together in a Union for certain purposes.

Each state was required to hold a convention, a condition not required in subsequent amendments to the Constitution. Surely, there was anxiety on the part of both the Federalists and the Anti-Federalist, as they waited for the returns from the various states.

Less than three months later, on December 7, 1787, **Delaware** sent their ratification of the Constitution to the Continental Congress. A section of their return indicated that they ratified the Constitution, without reservation.

We the Deputies of the People of the Delaware State, in Convention met, having taken into our serious consideration the Federal Constitution proposed and agreed upon by the Deputies of the United States in a General Convention held at the City of Philadelphia on the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty seven, Have approved, assented to, ratified, and confirmed, and by these Presents, Do, in virtue of the Power and Authority to us given for that purpose, for and in behalf of ourselves and our Constituents, fully, freely, and entirely approve of, assent to, ratify, and confirm the said Constitution.

Just a few days later, on December 12, 1787, **Pennsylvania** ratified the Constitution, though they also proposed 15 amendments.

In the Name of the People of Pennsylvania. Be it Known unto all Men that We the Delegates of the People of the Commonwealth of Pennsylvania in general Convention assembled Have assented to, and ratified, and by these presents Do in the Name and by the authority of the same People, and for ourselves, assent to, and ratify the foregoing Constitution for the United States of America. Done in Convention.

Next came **New Jersey**, on December 18, 1787, who ratified without reservation:

Now be it known that we the Delegates of the State of New-Jersey chosen by the People thereof for the purposes aforesaid having maturely deliberated on, and considered the aforesaid proposed Constitution, do hereby for and on the behalf of the People of the said State of New-Jersey agree to, ratify and confirm the same and every part thereof.

**Georgia**, on January 2, 1788, ratified the Constitution, expressing a hope for the success of the coming Union:

We have the honor to transmit to the United States in Congress Assembled the ratification of the Federal Constitution by the State of Georgia. We hope that the ready compliance of this State with the recommendations of Congress and of the late National Convention, will tend not only to consolidate the Union, but promote the happiness of our common Country.

Then, **Connecticut**, on January 9, 1788, ratified by a 3 to 1 majority.

The foregoing Ratification was agreed to, and signed as above, by one hundred and twenty eight, and dissented to by forty Delegates in Convention, which is a Majority of eighty eight.

**Massachusetts**, on February 6, 1788, ratified the Constitution. However, they were the first to suggest amendments, as they stated:

And as it is the opinion of this Convention that certain amendments & alterations in the said Constitution would remove the fears & quiet the apprehensions of many of the good people of this Commonwealth & more effectually guard against an undue administration of the Federal Government, The Convention do therefore recommend that the following alterations & provisions be introduced into the said Constitution.

This was followed by a list of nine proposals for amendment or clarification of the Constitution, as ratified.

On April 28, 1788, **Maryland** ratified the Constitution, suggesting 28 amendments.

... by a Resolution of the General Assembly of Maryland in November Session Seventeen hundred and eighty seven do for ourselves and in the Name and on the behalf of the People of this State assent to and ratify the said Constitution.

**South Carolina**, on May 28, 1788, ratified, though with 4 recommended amendments.

DO in the name and behalf of the people of this State hereby assent to and ratify the said Constitution."

On June 21, 1788, **New Hampshire** ratified the Constitution, though with 12 recommendations for amendments or clarification. The Twelfth reads:

Congress shall never disarm any Citizen unless such as are or have been in Actual Rebellion.

Perhaps in anticipation of what was to come some 73 years later.

With New Hampshire's ratification, the requisite nine states, as set forth on Article VII of the Constitution, meant that The United States of America, a Union of States, dissolved the "perpetual" Articles of Confederation, leaving four states (Virginia, New York, North Carolina, and Rhode Island) as independent countries. Within the next two years, all four also ratified the Constitution.

The **Continental Congress** then began a process, which was completed on July 8, 1788, as explained in the following resolution:

The State of Newhampshire having ratified the constitution transmitted to them by the Act [" of the Act" stricken out] of the 28 of Sept last & transmitted to Congress their ratification & the same being read, the president reminded Congress that this was the ninth ratification transmitted & laid before them.

Whereupon

Ordered That the ratifications of the constitution of the United States transmitted to Congress be referred to a committee to examine the same and report an Act to Congress for putting the said constitution into operation in pursuance of the resolutions of the late federal Convention.

**Virginia**, recognizing that the Constitution had already been ratified, moved forward with their ratification on June 25, 1788. However, they were quite clearly dissatisfied with the Constitution, as the Notice of Ratification stated:

We the Delegates of the People of Virginia duly elected in pursuance of a recommendation from the General Assembly and now met in Convention having fully and freely investigated and discussed the proceedings of the Federal Convention and being prepared as well as the most mature deliberation hath enabled us to decide thereon Do in the name and in behalf of the People of Virginia declare and make known that the powers granted under the Constitution being derived from the People of the United States may be resumed by them whensoever the same shall be perverted to their injury or oppression and that every power not granted thereby remains with them and at their will: that therefore no right of any denomination can be cancelled abridged restrained or modified by the Congress by the Senate or House of Representatives acting in any Capacity by the President or any Department or Officer of the United States except in those instances in which power is given by the Constitution for those purposes: & that among other essential rights the liberty of Conscience

and of the Press cannot be cancelled abridged restrained or modified by any authority of the United States. With these impressions with a solemn appeal to the Searcher of hearts for the purity of our intentions and under the conviction that whatsoever imperfections may exist in the Constitution ought rather to be examined in the mode prescribed therein than to bring the Union into danger by a delay with a hope of obtaining Amendments previous to the Ratification, We the said Delegates in the name and in behalf of the People of Virginia do by these presents assent to and ratify the Constitution recommended on the seventeenth day of September one thousand seven hundred and eighty seven by the Federal Convention for the Government of the United States hereby announcing to all those whom it may concern that the said Constitution is binding upon the said People according to an authentic Copy hereto annexed in the Words following; [followed by the text of the Constitution].

**New York** followed, shortly thereafter, on July 26, 1788. Outshining all of the other states in an effort to retain in the states and the people their inherent rights, recommended 32 amendments and clarifications.

## Proposed

Initially, hundreds of suggestions were sent to the Representatives for consideration, by committee, these were consolidated into 17 suggestions that were then sent to the Senate on August 24, 1789. On September 9, 1789, the Senate returned to the House of Representatives their amended version on September 25, 1789, a Joint Resolution of the Congress of the United States submitted to the States the following resolution, these 17 were as follows:

*"In the House of Representatives,*

*"Monday, the 24th of August, 1789.*

*"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses deeming it necessary; That the following articles be proposed to the legislatures of the several states, as amendments to the constitution of the United States; all or any of which articles, when ratified by three-fourths of the said legislatures, to be valid, to all intents and purposes, as part of the said constitution: to wit.*

*"Articles in addition to, and amendment of, the constitution of the United States of America, proposed by Congress, and ratified by the legislatures of the several states, pursuant to the fifth article of the original constitution.*

*"ART. I. After the first enumeration, required by the first article of the constitution, there shall be one representative for every thirty-thousand, until the number shall amount to one hundred; after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred representatives, nor less than one representative for every fifty thousand persons.*

*"ART. II. No law, varying the compensation to the members of Congress, shall take effect, until an election of representatives shall have intervened.*

*"ART. III. Congress shall make no law establishing religion, or prohibiting the free exercise thereof; nor shall the rights of conscience be infringed.*

"ART. IV. The freedom of speech, and of the press, and the right of the people peaceably to assemble and consult for their common good, and to apply to the government for redress of grievances, shall not be infringed.

"ART. V. **A well regulated militia, composed of the body of the people, being the best security of a free state, the right of the people to keep and bear arms shall not be infringed**, but no one religiously scrupulous of bearing arms shall be compelled to render military service in person.

"ART. VI. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

"ART. VII. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

"ART. VIII. No person shall be subject, except in case of impeachment, to more than one trial, or one punishment, for the same offence, nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property, be taken for public use without just compensation.

"ART. IX. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

"ART. X. The trial for all crimes (except in cases of impeachment, and in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger) shall be by an impartial jury of the vicinage, with the requisite of unanimity for conviction, the right of challenge, and other accustomed requisites; and no person shall be held to answer for a capital, or otherways infamous, crime, unless on a presentment or indictment by a grand jury; but, if a crime be committed in a place in the possession of an enemy, or in which an insurrection may prevail, the indictment and trial may, by law, be authorised in some other place within the same state.

"ART. XI No appeal to the Supreme Court of the United States, shall be allowed, where the value in controversy shall not amount to one thousand dollars; nor shall any fact, triable by a jury according to the course of the common law, be otherwise reexaminable, than according to the rules of common law.

"ART. XII. In suits at common law, the right of trial by jury shall be preserved.

"ART. XIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

"ART. XIV. No state shall infringe the right of trial by jury in criminal cases, nor the rights of conscience, nor the freedom of speech, or of the press.

"ART. XV. The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others, retained by the people.

"ART. XVI. The powers delegated by the constitution to the government of the United States, shall be exercised as therein appropriated, so that the legislative shall never exercise the powers vested in the executive or judicial; nor the executive the powers vested in the legislative or judicial; nor the judicial the powers vested in the legislative or executive.

"ART. XVII. The powers not delegated by the constitution, nor prohibited by it to the states, are reserved to the states respectively."

[From: 1985 Senate Report "Amendments to the Constitution: A Brief Legislative History"]

## Refined by the Senate

After consideration and discussion between the two houses of Congress, the final resolution had removed Articles XIV (limiting state intrusion into juries, speech, and press), and XVI (mandating separation of powers), and consolidating others, reducing the number of proposed amendments to twelve. These were then sent to the states, on October 2, 1789, for ratification.

**CONGRESS of the UNITED STATES, begun and held at the city of New-York,  
on Wednesday the fourth of March,  
one thousand seven hundred and eighty-nine.**

*The conventions of a number of the states having, at the time of their adopting the constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added; And as extending the ground of public confidence in the government will best insure the beneficent ends of its institution—*

RESOLVED, by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, That the following articles be proposed to the legislatures of the several states, as amendments to the constitution of the United States, all or any of which articles, when ratified by three fourths of the said legislatures, to be valid, to all intents and purposes as part of the said constitution, viz:

ARTICLES in addition to, and amendment of, the CONSTITUTION OF THE UNITED STATES OF AMERICA, proposed by Congress, and ratified by the legislatures of the several states, pursuant to the fifth article of the original constitution.

### *Article the First.*

After the first enumeration required by the first article of the constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred; after which, the proportion shall be so regulated by Congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred; after which, the proportion shall be so regulated by Congress, that there shall not be less than two hundred representatives, nor more than one representative for every fifty thousand persons.

### *Article the Second.*

No law varying the compensation for the services of the Senators and Representatives, shall effect, until an election of representatives shall have intervened.

### *Article the Third.*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

### *Article the Fourth.*

**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.**

*Article the Fifth.*

No soldier shall in time of peace be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

*Article the Sixth.*

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

*Article the Seventh.*

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject, for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

*Article the Eighth.*

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

*Article the Ninth.*

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by Jury, shall be preserved; and no fact, tried by a Jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

*Article the Tenth.*

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual imprisonment inflicted.

*Article the Eleventh.*

The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

*Article the Twelfth.*

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

**FREDERICK AUGUSTUS  
MUHLENBERG,**  
*Speaker of the House of  
Representatives.*

**JOHN ADAMS,**  
*Vice President of the United  
States, and President of the  
Senate.*

Attest, **JOHN BECKLEY**, *Clerk of the House of Representatives.*

**SAMUEL A. OTIS**, *Secretary of the Senate.*

[From: "Acts Passed at a Congress of the United States of America", 1789 by Childs and Swaine, Printers to the United States, George Washington's copy, available in an authentic reprint published in 2013 by the Mount Vernon Ladies' Association]

## **Ratification of 10 Amendments**

The ratification of the Bill of Rights included a preamble:

"The Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as **extending the ground of public confidence in the Government**, will best ensure the beneficent ends of its institution."

Note that the significant "extending the ground of public confidence in the Government" was a condition of the ratification of the first 10 amendments to the Constitution.

This would suggest that if the government were to attempt to remove or refuse to abide by any of those 10 amendments that had been ratified, the public confidence in the Government would cease to exist.

It is for that very purpose, the lack of authority of the federal government, to INFRINGE upon that right, reserved to the States, for both militia and the right to keep and bear arms. Hence the federal limitation in Infringing.

This was the concern of the Framers of the Constitution, preserving certain rights to the States, for fear that the government would, otherwise, remove those important protections of the rights of both the People and the States (9th and 10th Amendments).

Two states, North Carolina and Rhode Island, had yet to ratify the Constitution. Therefore, Congress made a point of assuring that North Carolina and Rhode Island were apprised of the ratification and after calling for a day of "general thanksgiving directed that they be included in the process, as indicated in the Senate Journal of September 28, 1789:

A message from the Senate informed the House that they had agreed to the resolution desiring the President of the United States to recommend a day of general thanksgiving: also, to the resolution desiring him to transmit to the Executives of the several States of the Union, and also to the Executives of the States of Rhode Island and North Carolina, copies of the amendments agreed to by Congress to the Constitution of the United States.

The final Senate entry for that date indicates that the final Bill was signed, then to be presented to the President.

A number of engrossed bills, and the proposed amendments to the Constitution, were brought in, passed, and signed: after which the House adjourned.



On November 20, 1789, **New Jersey** became the first state to ratify the eleven of the twelve proposed amendments, not ratifying the Second (Later ratified as the 27th Amendment on May 7, 1992).

New Jersey listed all of the articles that they were ratifying (11), and the Fourth was listed with no commas,

Article the fourth. **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.**

[Source: Documentary History of the Constitution of the United States of America, 1797-1870, United States Department of State, 1894]

Then, on November 21, 1789, **North Carolina** ratified the Constitution, making 12 states as members of the new government. North Carolina had been holding out, concerned that there would not be a "Declaration of Rights amended to the Constitution." Having received word that the proposed amendments had been submitted to the states, they went ahead with ratification of the Constitution. They also included in their documentation a listing of the twenty rights protected by their Constitution and 26 items as recommendations for the federal Constitution.

**Maryland** was the first state to ratify all 12 proposed amendments, on December 18, 1789.

Maryland published all twelve proposed amendments to the Constitution, with one comma after "State", and a second comma after "Arms", in the Fourth Article:

Article the fourth. **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.**

[Source: Documentary History of the Constitution of the United States of America, 1797-1870, United States Department of State, 1894]

**North Carolina** followed, just a few days later, on December 22, 1789, also ratifying all 12 proposed amendments.

North Carolina listed all twelve amendments, the Fourth, with two commas, reading:

Article IV **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**

[Source: Documentary History of the Constitution of the United States of America, 1797-1870, United States Department of State, 1894]

**South Carolina** did likewise on January 19, 1790.

South Carolina listed all twelve amendments, with only one comma in the Fourth:

Article 4<sup>th</sup> **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**

[Source: Documentary History of the Constitution of the United States of America, 1797-1870, United States Department of State, 1894]

**New Hampshire**, like New Jersey, rejected the Second proposed amendment, on January 25, 1790. New Hampshire did not list the amendments.

On January 28, 1790, **Delaware** rejected the First proposed amendment, ratifying the remainder, with the Fourth including three commas:

Article the Fourth, **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.**

[Source: Documentary History of the Constitution of the United States of America, 1797-1870, United States Department of State, 1894]

**New York** joined New Jersey and New Hampshire, on February 24, 1790, in rejecting the Second, ratifying the remainder.

New York listed all twelve proposed amendments, the Fourth having only one comma.

ARTICLE THE FOURTH. **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.**

[Source: Documentary History of the Constitution of the United States of America, 1797-1870, United States Department of State, 1894]

**Pennsylvania** did not ratify either the First or the Second proposed amendments on March 10, 1790. However, on September 21, 1791, they reconsidered the First, ratifying it on that date. They included the Fourth

Pennsylvania listed all twelve proposed amendments, however identified the first and second as "sections" and the remainder as "articles. In the Fourth, they have only one comma.

Article 4th **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.**

[Source: Documentary History of the Constitution of the United States of America, 1797-1870, United States Department of State, 1894]

**Rhode Island** had previously refused to ratify the Constitution unless there was a Bill of Rights. Recognizing that eight states had already ratified ten of the proposed amendments to the Constitution, and realized that their ratification of the proposed amendments would result in the adoption of the amendments. On May 29, 1790, they ratified the Constitution, thereby becoming the thirteenth state of the Union, and the last of the original states to ratify the Constitution.

Just over a week later, on June 7, 1790, **Rhode Island** ratified all but the Second proposed amendment, the government having fulfilled Rhode Island's requirement of a Bill of Rights.

Rhode Island listed the eleven amendments they had ratified, the Fourth having only one comma.

4 **A well regulated Militia being necessary to the Security of a free State, the Right of the people to keep & bear Arms shall not be infringed.**

[Source: Documentary History of the Constitution of the United States of America, 1797-1870, United States Department of State, 1894 and 9/22/2017 certified True Copy from Rhode Island Secretary of State]

On January 10, 1791, **Vermont**, having resolved the land boundary dispute with New York, ratified the Constitution.

Ten months later, on November 3, 1791, **Vermont** ratified all 12 of the proposed amendments. Vermont did not list any of the proposed amendments.

Finally, on December 15, 1791, **Virginia** ratified all 12 proposed amendments, being the last such ratification for the next 150 years.

Virginia did not quote the amendments, though they did offer verbiage as to what they would like to see as amendments. That being the closest to the Second Amendment being their number,

**Seventeenth, That the people have a right to keep and bear arms; that a well regulated Militia composed of the body of the people trained to arms is the proper, natural and safe defence of a free State**

[Source: Documentary History of the Constitution of the United States of America, 1797-1870, United States Department of State, 1894]

On the sesquicentennial (150 years) anniversary of the submittal of the 12 proposed amendments to the Constitution, by the Congress and the President, three states which had remained silent of ratification, chose to ratify the ten amendments (Bill of Rights) already adopted, on the dates shown.

**Massachusetts**, March 2, 1939

**Georgia**, March 18, 1939

**Connecticut**, April 19, 1939

**Kentucky** ratified the Bill of Rights, though we can find no record that they submitted their ratification to the federal government.

Of those who ratified the Second Amendment in the Eighteenth Century, Three, New Hampshire, Vermont, and Virginia, did not provide the wording that they had ratified. New Jersey used no comma. Delaware opted for three commas. Maryland and North Carolina used 2 commas. And 4 states, South Carolina, New York, Pennsylvania, and Rhode Island included only one comma, being consistent with the Resolution submitted to the states by the President.

Our Constitution created the first government in the history of the world that was put into place by a process that began in the community; sent delegates to state conventions; then, in convention, determined to ratify, or not, that Constitution.

It is also the first time in the history of the world that a government was created, and within its founding document, the Constitution, had a provision for amendments, based on experience or necessity, could be ratified and become a part of the Constitution.

Two states, North Carolina and Rhode Island, would not ratify the Constitution until certain amendments were proposed for amendment. These proposed amendments were to assure that the rights of the people and of the states would be further protected against encroachment by the newly created federal government. This was a serious concern to the people of that period, as they had thought that their charters and autonomy were protected, until Britain decided that once given, the rights of the people and the authority granted by the colonial charters could be modified or extinguished.

When the proposed amendments were finally approved by the Congress and sent to the states for ratification, they chose to affix a preamble to the proposed amendments, setting out the purpose for which they are submitted to the states.

## Compromise

Now, we must consider what a **compromise** is. [Merriam-Webster](#) provides the following:

- 1 a: settlement of differences by [arbitration](#) or by consent reached by mutual concessions  
b: something [intermediate](#) between or blending qualities of two different things
- 2: [concession](#) to something derogatory or prejudicial

From a legal standpoint, we can look at what [Black's Law Dictionary Free 2nd Ed.](#) says:

An arrangement arrived at, either in court or out of court, for settling a dispute upon what appears to the parties to be equitable terms, having regard to the uncertainty they are in regarding the facts, or the law and the facts together.

Finally, we can look to [Webster's 1828 Dictionary](#) to understand the word, as the Founders understood it:

1. A mutual promise or contract of two parties in controversy, to refer their differences to the decision of arbitrators.
2. An amicable agreement between parties in controversy, to settle their differences by mutual concessions.
3. Mutual agreement; adjustment.

Now, the problem is that a compromise is between two parties. If unresolved, a third party may act as arbiter, as in the Black's Law, legal definition. Unfortunately, most often, the disagreement is not even recognized, such as when an [administrative agency](#) promulgates a rule, using the delegated authority granted by Congress, in an Act.

However, when any rule, order, or law, is challenged, the decision will be made without the participation of the people. The compromise may be made between Congress and an administrative agency. It may be made by an agency of government and a court, and it may also rise to the level of a final determination by the Supreme Court.

However, the Supreme Court has, admittedly, adopted rules by which the Constitution will be considered in a decision, only "in the last resort" (Brandeis concurring, Rule #1). And, if they do rule on constitutionality, they will limit their ruling to be "[no] broader than is required by the precise facts to which it is to be applied."

They have avoided questions of a constitutional nature, alleging that the matter requires a political decision, not a judicial one, while often ruling on the same subject, making it judicial and not political.

How can this comport with what Justice Marshall and the North Carolina Supreme Court have told us? Has something changed? Has the Constitution been amended to diminish its importance or significance? Or, is that just one example of the compromises that have taken place over the past two centuries that have compromised the rights of the people, thereby increasing the authority of the government?

However, in any instance, the decisions made are a compromise between a body or agency of the government and another body, or agency; or, between a body or agency and the Court.

So, when it comes to a test between a statute, a rule, or even a policy, the compromise is made by either Congress, an agency, or even the courts, between the statute, rule, or policy, and the Constitution.

Therein lies the problem. The Constitution was never intended to be compromised. If anything is not "in pursuance thereof", then that "anything" is nothing. It has no place, even for the mildest of consideration. It is only the Constitution, and those laws consistent with both the document and the intent. There is no debate.

This article will discuss, from ratification to present, how the right protected under the Second Amendment, has been compromised. Note that I said "right", in the singular. There are not two rights in the Second Amendment, there is only one, as you shall see, as we continue.

## **A Century of Publications**

### **A Century of Publications of the Second Amendment**

Now, that *overuse* went well into the late 1800s, and this is to be considered, as we continue.

During the search of the historical record, there have been 490 publications found that include the Bill of Rights as proposed, the object being the "Article the Fourth"; or including the Bill of Rights, as ratified, being the "Second Amendment".

The publications include: Federal authorized publications, State authorized publications, general works for public consumption; Published Newspapers; a broadside, and publications for educational purposes.

## **Bill of Rights**

When the Bill of Rights or the Constitution is addressing an individual's rights, it does so explicitly.

- In the Fifth Amendment, it speaks of the individual: "No PERSON (individual) shall be held to answer for a capital, or otherwise infamous crime... nor shall any PERSON be subject for the same offence twice..."
- In the Sixth Amendment, it speaks again of an individual: "The ACCUSED shall enjoy the right to a speedy and public trial."
- The Fourth Amendment drives this argument home by parsing between the collective and the individual: "The right of the people to be secure in their PERSONS, houses, papers and effects..." They first speak of the governed body, but quickly make clear people are to be secure in their persons against unreasonable search and seizure.

When the Bill of Rights or the Constitution is addressing the body politic, the people, the plurality, they do so explicitly.

- "We the people of these united states."
- The first amendment, "...the right of the PEOPLE to peaceably ASSEMBLE." This is why loitering can be illegal and protest cannot be made illegal." (Don't hear too many people throwing a fit over THAT one.)

- “In the second amendment, “the right of the PEOPLE to keep and bear arms shall not be infringed.”

The Second Amendment never avows that individuals must be allowed to buy and collect guns in any capacity they choose, free of regulation. It guarantees nothing outside of a trained body serving a governing body for the body politic.

At the time of the drafting of the Constitution and the Bill of Rights, gun ownership wasn't something considered controversial. Most guns were owned by rich, or at least land-owning white men, the gentry, traders, and pioneers. While Indians did own guns, they were usually an inferior quality of trade gun. Also, an Indian on a horse could shoot thirty arrows in the time it took a man to reload and fire a gun.

They had no cause for concern of heavily armed crowds of the poor, or blacks, or women. The power and money and almost all the land was in the hands of rich, white men who feared the power of a centralized tyrannical body. Remember that they had recently fought to free themselves from the British crown. As the states navigated their way through the ultimate structure of the federal government, the one thing that slowed the process down was near universal distrust of a federal body that could potentially have overwhelming financial and military control over the states.

There is nothing in the constitution or any of the amendments that try to curtail gun ownership, but there is also nothing that guarantees individual gun ownership. Even if you ignore my statements of facts or following assertions, you can read the words themselves; there is definitely nothing that promises uncontrolled, unregulated or untrained gun ownership. It instead attaches those each as stipulations to keeping guns. In almost all previous drafts of the second amendment, the modifying stipulations are present in some way.

#### **Virginia Declaration of Rights, June 12, 1776**

*“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.”*

#### **A Declaration of the Rights of the Inhabitants of the Commonwealth or State of Pennsylvania, 1776**

*“XIII. That the people have a right to bear arms for the defence of themselves and the state; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up; And that the military should be kept under strict subordination to, and governed by, the civil power.”*

#### **A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts, 1780**

*“Art. XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority and be governed by it.”*

#### **Proposed by James Madison June 8, 1789 to the House of Representatives:**

*“The right of the people to keep and bear arms shall not be infringed; a well armed, and well*

*regulated militia being the best security of a free country: but no person religiously scrupulous of bearing arms, shall be compelled to render military service in person."*

Common misunderstanding of the Second Amendment prevails in most segments of the population mainly because of the perpetuation of incomplete or purposefully inaccurate interpretations of the Second Amendment. People seem to love quoting the second half of the amendment or cutting and selectively pasting the words of the founding fathers speaking about the issue at the time.



Ignoring part of a thing ignores all of a thing.

**An example of this quote splicing. Notice how in context the message changes:**

Partial: *"The great object is, that every man be armed...Every one who is able may have a gun."*

Whole: *"May we not discipline and arm them [the states], as well as Congress, if the power be concurrent? so that our militia shall have two sets of arms, double sets of regimentals, &c.; and thus, at a very great cost, we shall be doubly armed. The great object is, that every man be armed. But can the people afford to pay for double sets of arms, &c.? Every one who is able may have a gun. But we have learned, by experience, that, necessary as it is to have arms, and though our Assembly has, by a succession of laws for many years, endeavored to have the militia completely armed, it is still far from being the case."*

— Patrick Henry speaking at the 1788 Virginia debate to ratify the Constitution. The partial quote was used by Stephen Halbrook in *The Right to Keep and Bear Arms*.

## **Arguments against the Second Amendment**

Paul Stevens, JD, in his dissenting opinion for *District of Columbia et al. v. Heller*, wrote, "the Framers' single-minded focus in crafting the constitutional guarantee 'to keep and bear arms' was on military use of firearms, which they viewed in the context of service in state militias," hence the inclusion of the phrase "well regulated militia." [3] "Michael Waldman, JD, President of the Brennan Center for Justice at the New York University School of Law, stated there is nothing about

an individual right to bear arms in the notes about the Second Amendment when it was being drafted, discussed, or ratified; the US Supreme Court declined to rule in favor of the individual right four times between 1876 and 1939; and all law articles on the Second Amendment from 1888 to 1959 stated that an individual right was not guaranteed."

From: <http://www.inkst.ink/2015/09/second-amendment-argument-is-bullshit/>

## Electors

Indians, Negroes, whether slaves or free, and nearly all non-white immigrants, were denied the privilege of citizenship, until 1868, with the ratification of the Fourteenth Amendment.

Next, in Article I, § 2, we find, once again, a limitation to those qualified to vote:

"The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

Further on in the Decision, the question is posed, and answered, as to just who qualifies as a citizen:

"It becomes necessary, therefore, to determine who were citizens of the several States when the Constitution was adopted. And in order to do this, we must recur to the Governments and institutions of the thirteen colonies, when they separated from Great Britain and formed new sovereignties, and took their places in the family of independent nations. We must inquire who, at that time, were recognised as the people or citizens of a State, whose rights and liberties had been outraged by the English Government; and who declared their independence, and assumed the powers of Government to defend their rights by force of arms.

In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence, show, that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument."

At the time of the ratification of the Constitution, each state had determined just who could vote:

- **New Hampshire**, *'every male inhabitant of twenty-one years of age and upwards, excepting paupers*
- **Massachusetts** *'every male inhabitant of twenty-one years of age and upwards, having a **freehold estate** within the commonwealth of the annual income of three pounds, or any estate of the value of sixty pounds,*
- **Rhode Island** *'such as are admitted **free** of the company and society' of the colony,*
- **Connecticut** *'maturity in years, quiet and peaceable behavior, and forty shillings freehold or forty pounds personal estate,*
- **New York** *male inhabitant of full age who shall have personally resided... six months immediately preceding the day of election . . . shall have been **a freeholder**, possessing a **freehold** of the value of twenty pounds within the county, or have rented a tenement therein of the yearly value of forty shillings, and been rated and actually paid taxes to the State,*
- **New Jersey** *'all inhabitants . . . of full age who are worth fifty pounds,*
- **Pennsylvania** *'every **freeman** of the age of twenty-one years*



- **Maryland** *'all freemen above twenty-one years of age having a **freehold** of fifty acres of land [or] having property in the State above the value of thirty pounds*
- **North Carolina**, *'all freemen of the age of twenty-one years*
- **South Carolina** *'every free white man of the age of twenty-one years... who hath a **freehold** of fifty acres of land, or a town lot of which he hath been legally seized and possessed*

There is no other reference to "People" in the body of the Constitution though the Amendments, adopted as the Bill of Rights, use the term. Though in these instances, there is no reference to a voting requirement, so the usage would apply only to those who were "citizens". For example, in the First Amendment, we find:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Obviously, the right would extend to all citizens to practice the religion of their choice or speak their minds. It is implied that this applies to "people", as the right also extends to "peaceably assemble." Surely, there would be no intention of denying citizens any of these rights.

When we get to the Second Amendment, we find:

"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."

The militia would exclude women, though the militia is separate and distinct from the second phrase providing for the right of the "people" to "keep and bear Arms." Though a slave could not "keep and bear Arms", presumably, the women citizens were not precluded from such. After all, though some disguised themselves as men, though some did not, a number of women served in combat during the Revolutionary War.

Again, we have a right not limited by voting qualification, however extending only to the citizens, with the Fourth Amendment.

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

And, once again, it refers only to citizens, including women, as the protection afforded would apply to the home of a citizen, whether a man was a part of the household, or not.

The Ninth Amendment, based upon the previous application of the word "people", is properly applied, again, only and specifically to citizens, as it is applicable to the "certain rights", mentioned, as well as those commonly accepted, though not identified within the Bill of Rights.

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

The Tenth Amendment goes one step further in its recognition that some of the "powers not delegated" are retained by the state. However, if the state is not granted certain powers by the

people, their respective constitutions, those that are not delegated to the state do remain with the people.

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

To understand who the "people" are, and who they were not, in 1856, we can look at the Supreme Court decision in *Dred Scott v. Sandford* (60 U.S. 393). You will see that it is quite apparent that those who were not citizens of the United States, or one of the States, that they were not included within the definition of "people". From that decision:

"The brief preamble sets forth by whom it was formed, for what purposes, and for whose benefit and protection. It declares that it is formed by the people of the United States; that is to say, by those who were members of the different political communities in the several States; and its great object is declared to be to secure the blessings of liberty to themselves and their posterity. It speaks in general terms of the people of the United States, and of citizens of the several States, when it is providing for the exercise of the powers granted or the privileges secured to the citizen. It does not define what description of persons are intended to be included under these terms, or who shall be regarded as a citizen and one of the people. It uses them as terms so well understood, that no further description or definition was necessary.

But there are two clauses in the Constitution which point directly and specifically to the negro race as a separate class of persons, and show clearly that they were not regarded as a portion of the people or citizens of the Government then formed.

One of these clauses reserves to each of the thirteen States the right to import slaves until the year 1808, if it thinks proper... And by the second, they pledge themselves to maintain and uphold the right of the master in the manner specified, as long as the Government they then formed should endure. And these two provisions show, conclusively, that neither the description of persons therein referred to, nor their descendants, were embraced in any of the other provisions of the Constitution; for certainly these two clauses were not intended to confer on them or their posterity the blessings of liberty, or any of the personal rights so carefully provided for the citizen.

For example, no one, we presume, will contend that Congress can make any law in a Territory respecting the establishment of religion, or the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people of the Territory peaceably to assemble, and to petition the Government for the redress of grievances... Nor can Congress deny to the people the right to keep and bear arms, nor the right to trial by jury, nor compel any-one to be a witness against himself in a criminal proceeding.

But in considering the question before us, it must be borne in mind that there is no law of nations standing between the people of the United States and their Government, and interfering with their relation to each other. The powers of the Government, and the rights of the citizen under it, are positive and practical regulations plainly written down. The people of the United States have delegated to it certain enumerated powers, and forbidden it to exercise others. It has no power over the person or property of a citizen but what the citizens of the United States have granted."

It is clear that the "people" is inclusive of all citizens, and exclusive of all others. A foreigner, or visitor to this country, is not among those protected by the Constitution, unless and until such time as citizenship is obtained.

## Table of Publications

Table of comma variations in published editions of the Second Amendment.

This study was for published editions of the Second Amendment, in chronological order of (historically representative) publications, with a few more recent publications for perspective. There was no selective removal of any documents, all that were found, at the time of this writing, were included. This study was based upon Internet searches, library/law library searches and publications held by participating team members, and state and federal archives. A subsequent Part 2 will be provided with all publications, with images, of title pages and Second Amendment as published in that document. It will include additional items, as the team continues to acquire more records.

Decade	Total Pubs.	1 comma	2 commas	3 commas
<b>1789</b>	26	23	1	2
<b>1790 - 1799</b>	35	33	2	0
<b>1800 - 1809</b>	23	21	2	0
<b>1810 - 1819</b>	21	21	0	0
<b>1820 - 1829</b>	55	49	6	0
<b>1830 - 1839</b>	68	65	3	0
<b>1840 - 1849</b>	65	61	2	2
<b>1850 - 1859</b>	66	59	2	5
<b>1860 - 1869</b>	43	43	0	0
<b>1870 - 1879</b>	31	29	0	2
<b>1880 - 1889</b>	20	17	1	2
<b>1890 - 1899</b>	11	10	0	1
<b>1900 - 1909</b>	5	3	1	1
<b>1910 - 1919</b>	3	3	0	0
<b>1920 - 1929</b>	3	2	1	0
<b>1930 - 1939</b>	3	2	0	1
<b>1940 - 1949</b>	1	0	0	1
<b>1950 - 1959</b>	3	2	0	1
<b>1980 - 1989</b>	3*	3	0	1*
<b>2000 - 2009</b>	3	1	0	2
<b>2010 - 2018</b>	2	2	0	0
	490	449	21	20
	100%	92%	4%	4%

\* Note: A U. S. Senate publication has both a 3 comma and a 1 comma citation of the Second Amendment.

So, of the publications thus far included, fully 92 percent, unlike most current publications, were published with only 1 comma. That is what was ratified. So, we must wonder why the government has since promoted the 3 comma version, and why we continue to use what was not ratified.

## Militia

Now that we have a grasp on who the "People" were, there is another word that warrants our consideration. That word is "Militia", which is mentioned three times in the body of the Constitution. The first two mentions are in Article I, § 8:

Clause 15: To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

Note that the federal government does not call "up" the Militia. Instead, they can call "forth" the Militia. This presumes the existence, on the State level, of existing Militia, though not yet in service to the federal government. It also provides only three authorized applications, at the federal level, for which the Militia can be applied: "to execute Laws of the Union"; "suppress Insurrections", and "repel Invasions".

Clause 16: To provide for 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;

Here is a rather interesting obligation, to provide for organizing, arming, and disciplining the Militia. And, for governing them when they have been called forth "in the Service of the United States." Then, to clearly establish that they are not federally governed, unless they are called into service of the federal government, the "Appointment of Officers" and the training "of the Militia" are reserved to the States, according to the "discipline prescribed by Congress", as required by Clause 15, above. Keep this in mind when we discuss what the Framers described as "Select Militia".

Continuing on with the body of the Constitution, we find in Article II, § 2

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

The President is Commander in Chief, only, when the Militia is "called into the actual Service of the United States". So, the militia is subject to federal control only when called into service, and only those units called into service.

The final reference to the Militia is in the Second Amendment to the Constitution (Bill of Rights). This Amendment went through some changes, through its course to final ratification, though these changes and the background of their purpose, will be explained shortly.

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.

However, we need to understand that the capitalized word "State", in the Constitution, refers to the member states of the Union, not to the federal government, though it is a nation-state to the rest of the world.

Something that must be kept in mind, as we progress through the abundance of information available on the subject, that the Constitution, as well as the Bill of Rights, were written with extreme care as to the intentions of those who authored those documents.

James Madison, who is recognized as the Father of the Constitution, was the first member of the House of Representatives to introduce the Bill of Rights (May 4, 1789) that so many states had requested, as they ratified the Constitution.

Now, before we delve into the changes, understand that Madison also realized that laws were "rules of action", recognizing that it did not serve to have laws that were constantly changing --that they must be fixed. This is especially true of the Constitution. If the Constitution is the "supreme Law of the Land" (Art. VI, US Const.), then every man should know what that "Law" is, especially when it comes to each person being able to know and understand what his rights are.

In Federalist Papers, #62, James Madison tells us:

The internal effects of a mutable [definition: liable to change] policy are still more calamitous. It poisons the blessing of liberty itself. It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed?

The Constitution is, without question, fixed. Absent an amendment, as provided for in the Fifth Article of the Constitution, it is immutable -- it cannot be changed.

However, looking even further into those discussions that convinced the people to accept and ratify the new Constitution, we see another provision that will help us to understand the context. This, from Federalist Papers # 57, again, by the Father of the Constitution, James Madison, as he discusses laws enacted, and who shall be subject to said laws.

[Should] the House of Representatives... make no law which will not have its full operation on themselves and their friends, as well as on the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them that communion of interests and sympathy of sentiments, of which few governments have furnished examples; but without which every government degenerates into tyranny. If it be asked, what is to restrain the House of Representatives from making legal discriminations in favor of themselves and a particular class of the society? I answer: the genius of the whole system; the nature of just and constitutional laws; and above all, the vigilant and manly spirit which actuates the people of America- a spirit which nourishes freedom, and in return is nourished by it.

If this spirit shall ever be so far debased as to tolerate a law not obligatory on the legislature, as well as on the people, the people will be prepared to tolerate any thing but liberty.

This last point will become apparently abused, as we proceed. Though, now we will visit the intentions of the Framers in what would eventually become the Second Amendment.

We will begin with the Fifth of the seventeen articles proposed by the House of Representatives and submitted to the Senate for concurrence:

A well regulated militia, composed of the body of the people, being the best security of a free state, the right of the people to keep and bear arms shall not be infringed, but no one religiously scrupulous of bearing arms shall be compelled to render military service in person.

Since Militia has always been known as being made of the "body of the people", the Senate, for the sake of brevity and precision, omitted that phrase. They also changed "being the best security" to "being necessary to the security", and joined that phrase with the previous phrase, "A well regulated militia". This, being the later identified as the "prefatory clause".

The next phrase is without punctuation and simply reads, "the right of the people to keep and bear arms shall not be infringed". This would later be referenced as the "operative clause".

The final clause was removed by the Senate, though the status of conscientious objector, freedom of thought and religion, has had standing throughout our history.

So, the final version, concurred by both houses of Congress and submitted to the States for ratification, was titled and read as:

Article the Fourth. 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.

Notice that there are only two clauses, separated by a single comma. When we consider this grammatical form of the Second Amendment, we can also put it in a more easily understood format, by acknowledging the prefatory and operative clauses in a form used in resolutions:

***Whereas***, A well regulated militia being necessary to the security of a free state;

***Therefore***, the right of the people to keep and bear arms shall not be infringed.

Now, the question is, is this how the Second Amendment was ratified?

Before we go there, let's look a little further into the discussions that ensued over the necessity and clarity of the final version of the Second Amendment.

The authority of the States ("security of a free state") over the Militia was imperative. There were legitimate concerns, and though the right to hunt was among them, both British history and the recent events in the United States provided the "necessary" provision of the prefatory phrase.

William Rawle, a well recognized legal scholar of the early Nineteenth Century, provides his interpretation of the purpose of the Second Amendment.

In the second [amendment], it is declared, that a well regulated Militia is necessary to the security of a free state; a proposition from which few will dissent. Although in actual war, the services of regular troops are confessedly more valuable; yet, while peace prevails, and in the commencement of a war before a regular force can be raised, the militia form the palladium of the country. They are ready to repel invasion, to suppress insurrection, and preserve the good order and peace of government. That they should be well regulated, is judiciously added. A disorderly militia is disgraceful to itself, and dangerous not to the enemy, but to its own country. The duty of the state government is, to adopt such regulations as will tend to make good soldiers with the least interruptions of the ordinary and useful occupations of civil life. In this all the Union has a strong and visible interest.

The corollary, from the first position, is, that the right of the people to keep and bear arms shall not be infringed.

The prohibition is general. No clause in the Constitution could by any rule of construction be conceived to give to congress a power to disarm the people. Such a flagitious attempt could only be made under some general pretence by a state legislature. But if in any blind pursuit of inordinate power, either should attempt it, this amendment may be appealed to as a restraint on both.

This right ought not, however, in any government, to be abused to the disturbance of the public peace.

[Source: A View of the Constitution of the United States of America, William Rawle, LL.D. 1839]

Rawle recognizes, in that last paragraph, that the right, if "abused to the disturbance of the public peace", can be curtailed. That, however, is the only exception to the prohibition of infringement. If one has not disturbed the public peace, by use of a firearm, the right to keep and bear arms cannot be infringed.

Finally, we have Justice Scalia giving a decision in a recent Supreme Court case:

The Federalist No. 29, pp. 226, 227 (B. Wright ed. 1961) (A. Hamilton). Third, when the able-bodied men of a nation are trained in arms and organized, they are better able to resist tyranny."

[Source: District of Columbia et al. v. Heller (554 US 570) at 594]

Today, after the near-total compromising of the Second Amendment, by both state and federal agencies, government, and judiciaries, we find that the Second Amendment has been compromised nearly to non-existence. The tool to resist tyranny has been decimated, so that to even stand, armed, in self-defense, as was done in Bunkerville, Nevada in April 2014, may result in a citizen spending much of his life in federal prison.

### **Select Militia (Standing Army)**

One of the concerns with the Constitution, so significant that it created an outcry for clarification in the proposed amendments (specifically what became the Second Amendment), was the fear that as the Constitution was written, "select militias" could be created by the government. Here is some of the background on that concern.

It is true, the yeomanry [fightng soldiers] of the country possess the lands, the weight of property, possess arms, and are too strong a body of men to be openly offended—and, therefore, it is urged, they will take care of themselves, that men who shall govern will not dare pay any disrespect to their opinions... [Though], they may in twenty or thirty years be by means imperceptible to them, totally deprived of that boasted weight and strength: This may be done in a great measure by congress, if disposed to do it, by modelling the militia, Should one fifth or one eighth part of the men capable of bearing arms, be made a select militia, as has been proposed, and those the young and ardent part of the community, possessed of but little or no property, and all the others put upon a plan that will render them of no importance, the former will answer all the purposes of an army, while the latter will be defenceless.

[Source: 1888 "Pamphlets on the Constitution of the United States (1787-1788)", compiled by Paul Leicester Ford, "Letter III", by The Federal Farmer (Richard Henry Lee), dated October 10th, 1787.]

This was followed by "A Democratic Federalist", in his,

## OBJECTIONS TO NATIONAL CONTROL OF THE MILITIA

A standing army in the hands of a government placed so independent of the people, may be made a fatal instrument to overturn the public liberties; it may be employed to enforce the collection of the most oppressive taxes; and to carry into execution the most arbitrary measures. An ambitious man who may have the army at his devotion, may step up into the throne, and seize upon absolute power.

The absolute unqualified command that Congress have over the militia may be made instrumental to the destruction of all liberty both public and private; whether of a personal, civil or religious nature.

[T]he personal liberty of every man, probably from sixteen to sixty years of age, may be destroyed by the power Congress have in organizing and governing of the militia. As militia they may be subjected to fines to any amount, levied in a military manner; they may be subjected to corporal punishments of the most disgraceful and humiliating kind; and to death itself, by the sentence of a court martial. To this our young men will be more immediately subjected, as a select militia, composed of them, will best answer the purposes of government.

[Source: Pennsylvania Packet, on December 12, 1787.]

The concern is, of course, that should the federal government have absolute control over a standing army, or its equivalent, a select militia, they could then exert any pressure, positive or negative, to force compliance with, and destroy "all liberty both public and private". The positive being the obedience to orders; the negative, to punish those who don't comply.

These were responded to by Alexander Hamilton, on January 8, 1788, with "Federalist #29".

### Concerning the Militia

By a curious refinement upon the spirit of republican jealousy, we are even taught to apprehend danger from the militia itself, in the hands of the federal government. It is observed that select corps may be formed, composed of the young and ardent, who may be rendered subservient to the views of arbitrary power. What plan for the regulation of the militia may be pursued by the national government is impossible to be foreseen. But so far from viewing the matter in the same light with those who object to select corps as dangerous, were the Constitution ratified, and were I to deliver my sentiments to a member of the federal legislature from this State on the subject of a militia establishment, I should hold to him, in substance, the following discourse:

"The project of disciplining all the militia of the United States is as futile as it would be injurious, if it were capable of being carried into execution. A tolerable expertness in military movements is a business that requires time and practice. It is not a day, or even a week, that will suffice for the attainment of it. To oblige the great body of the yeomanry, and of the other classes of citizens, to be under arms for the purpose of going through military exercises and evolutions, as often as might be necessary to acquire the degree of perfection which would entitle them to the character of a well-regulated militia, would be a real grievance to the people, and a serious public inconvenience and loss. It would form an annual deduction from the productive labor of the country, to an amount that, calculating upon the present numbers of the people, would not fall far short of the whole expense of the civil establishments of all the States. To attempt a thing which would abridge the mass of



labor and industry to so considerable an extent would be unwise; and the experiment, if made, could not succeed, because it would not long be endured. Little more can reasonably be aimed at, with respect to the people at large, than to have them properly armed and equipped; and in order to see that this be not neglected, it will be necessary to assemble them once or twice in the course of a year.

"But though the scheme of disciplining the whole nation must be abandoned as mischievous or impracticable, yet is a matter of the utmost importance that a well-digested plan should, as soon as possible, be adopted for the proper establishment of the militia. The attention of the government ought particularly to be directed to the formation of a select corps of moderate extent, upon such principles as will really fit them for service in case of need. By thus circumscribing the plan, it will be possible to have an excellent body of well-trained militia ready to take the field whenever the defence of the State shall require it. This will not only lessen the call of military establishments, but if circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little, if at all, inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow-citizens. This appears to me the only substitute that can be devised for a standing army, and the best possible security against it, if it should exist."

So, Hamilton tried to explain away the powers granted to the government, suggesting that it would be impractical. This did not satisfy the fear in the hearts of many, hence the Second Amendment.

## Law Enforcement

At the time of the founding of the country, law enforcement was conducted by constables or sheriffs, acting as civil authority. To make an arrest, unless the arrestee was willing to submit, would be enforced by citizens gathered as a Posse Comitatus (Power of the County). It was comprised of those same men who, by authority of the state's constitution, statutory authority, and/or common law practices, were the militia -- those able-bodied men within an age group and not exempt, being composed of the body of the people. The constable or Sheriff, with the exception of serving writs and warrants, had no more authority than any other man.

It wasn't until the last half of the nineteenth Century that police came into being, in the United States. However, unlike Captain Preston and his fellow soldiers that stood trial for their role in the Boston Massacre, they were not military, rather they were civil. Preston and the soldiers had to have civil authority grant them permission to use their firearms. Having none, they did stand trial before a jury.

The police, however, being civil in nature, were not bound by the requirement to obtain authority elsewhere. Their role, however, was far more peaceful than what we have, today.

Over time, the various courts, including both state and federal supreme courts, continued to rule on cases that expanded the role/authority of the police. In essence, the police became the first "select militia", hence, a "standing army", outside of the role of the military established under Article I, §8, clause 12, of the Constitution. However, the Article I military could not act on the people, they served only as a defensive force against uprisings of Indians and to protect our borders.

In 1916, Congress enacted "An Act For making further and more effectual provision for the national defense, and for other purposes." ([30 Statutes at Large 166](#)), find in right column). Within that Act, they created a "militias of the United States", contrary to the provisions of the Constitution and the

Second Amendment. They also created "select militia, in the form of the National Guard and the Naval Militia. From that Act:

SEC. 57. COMPOSITION OF THE MILITIA.- The militia of the United States shall consist of all able-bodied male citizens of the United States and all other able-bodied males who have or shall have declared their intention to become citizens of the United States, who shall be more than eighteen years of age and, except as hereinafter provided, not more than forty-five years of age, and said militia shall be divided into three classes, the National Guard, the Naval Militia, and the Unorganized Militia.

The National Guard became a select militia when, on May 4, 1970, they opened fire on students/civilians at Kent State University, Ohio. In just 13 seconds, they killed four people and injured nine. This action was under the authority of the Governor and was ultimately upheld by the United States Sixth Circuit Court of Appeals. The Governor, however, was acting in his civil capacity -- just a small step away from the intentions of the Founders, though justifying the concerns expressed by "The Federal Farmer" and "The Democratic Federalist", as explained above.

The Court, in so doing, expanded the legality, though not the lawfulness, of the use of the "select militia" created by Congress in 1916.

Then, in 1967, the Los Angeles Sheriff's Department opened the first Special Weapons and Tactics (SWAT) School. Utilizing tactics used in Vietnam, and adapting them to "law enforcement", military weapons and tactics became, over the next few decades, a standard element of many local law enforcement agencies. However, in the use of SWAT, now commonly in use by nearly every law enforcement agency, the Law Enforcement Officer (LEO) acts in both the capacity of a military (militia) and is also a civil authority, himself, making determinations, often unjustified, as to the use of deadly force. Their actions, in the most egregious violation of the intent of the Second Amendment, and our rights as citizens, have been compromised by the lower, appellate, and supreme courts, of both the states and the federal government.

There are approximately 800,000 state and local, sworn law enforcement officers.

At the federal level, we know that the United States Marshals Service have carried firearms since their origin, when they were created by the Judiciary Act of 1789. The Secret Service was an investigative agency for the Treasury Department from its inception in 1865, though did not begin full-time protection of the President until 1901, after President William McKinley was assassinated. There is little doubt that they need to carry weapons to afford that service, though they did so under the right protected by the Second Amendment.

The FBI agents carried firearms, as could any citizen, under the Second Amendment, though in 1934, training and equipping agents began, as well as the authority to carry their firearms concealed. However, the FBI Hostage Rescue Team (HRT) was officially formed in 1982, based upon then Director William Webster modeled them after the US Army Delta Teams. Though it followed the creation of the local SWAT teams, it was the first major incursion by the federal government into the realm of a standing army directed at the civilian population, not a foreign enemy.

Since that time, the government has armed over 200,000 (up from 74,000 in 1996) non-military employees. Of course, they receive some training, but they do constitute a force larger than the United States Marine Corps, with only about 182,000 Marines. ([There Are Now More Bureaucrats With Guns Than U.S. Marines](#))

## OBJECTIONS TO NATIONAL CONTROL OF THE MILITIA

"A DEMOCRATIC FEDERALIST," appeared in "the Pennsylvania Packet," October 23, 1787; following #29, #30 is excerpted from THE ADDRESS AND REASONS OF DISSENT OF THE MINORITY OF THE CONVENTION OF THE STATE OF PENNSYLVANIA TO THEIR CONSTITUENTS, December 12, 1787.

A standing army in the hands of a government placed so independent of the people, may be made a fatal instrument to overturn the public liberties; it may be employed to enforce the collection of the most oppressive taxes; and to carry into execution the most arbitrary measures. An ambitious man who may have the army at his devotion, may step up into the throne, and seize upon absolute power.

The absolute unqualified command that Congress have over the militia may be made instrumental to the destruction of all liberty both public and private; whether of a personal, civil, or religious nature.

First, the personal liberty of every man, probably from sixteen to sixty years of age, may be destroyed by the power Congress have in organizing and governing of the militia. As militia they may be subjected to fines to any amount, levied in a military manner; they may be subjected to corporal punishments of the most disgraceful and humiliating kind; and to death itself, by the sentence of a court martial. To this our young men will be more immediately subjected, as a select militia, composed of them, will best answer the purposes of government.

\* \* \*

### THE FEDERALIST NO 29

Concerning the Militia

by Alexander Hamilton

By a curious refinement upon the spirit of republican jealousy, we are even taught to apprehend danger from the militia itself, in the hands of the federal government. It is observed that select corps may be formed, composed of the young and ardent, who may be rendered subservient to the views of arbitrary power. What plan for the regulation of the militia may be pursued by the national government is impossible to be foreseen. But so far from viewing the matter in the same light with those who object to select corps as dangerous, were the Constitution ratified, and were I to deliver my sentiments to a member of the federal legislature from this State on the subject of a militia establishment, I should hold to him, in substance, the following discourse:

"The project of disciplining all the militia of the United States is as futile as it would be injurious, if it were capable of being carried into execution. A tolerable expertness in military movements is a business that requires time and practice. It is not a day, or even a week, that will suffice for the attainment of it. To oblige the great body of the yeomanry, and of the other classes of citizens, to be under arms for the purpose of going through military exercises and evolutions, as often as might be necessary to acquire the degree of perfection which would entitle them to the character of a well-regulated militia, would be a real grievance to the people, and a serious public inconvenience and loss. It would form an annual deduction from the productive labor of the country, to an amount that, calculating upon the present numbers of the people, would not fall far short of the whole expense of the civil establishments of all the States. To attempt a thing which would abridge the mass of labor and industry to so considerable an extent would be unwise; and the experiment, if made, could not succeed, because it would not long be endured. Little more can reasonably

be aimed at, with respect to the people at large, than to have them properly armed and equipped; and in order to see that this be not neglected, it will be necessary to assemble them once or twice in the course of a year.

"But though the scheme of disciplining the whole nation must be abandoned as mischievous or impracticable, yet is a matter of the utmost importance that a well-digested plan should, as soon as possible, be adopted for the proper establishment of the militia. The attention of the government ought particularly to be directed to the formation of a select corps of moderate extent, upon such principles as will really fit them for service in case of need. By thus circumscribing the plan, it will be possible to have an excellent body of well-trained militia ready to take the field whenever the defence of the State shall require it. This will not only lessen the call of military establishments, but if circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little, if at all, inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow-citizens. This appears to me the only substitute that can be devised for a standing army, and the best possible security against it, if it should exist."

In the 1888 "Pamphlets on the Constitution of the United States (1787-1788)", compiled by Paul Leicester Ford, we find "Letter III", by The Federal Farmer (Richard Henry Lee), dated October 10th, 1787.

I have heard several gentlemen, to get rid of objections to this part of the constitution, attempt to construe the powers relative to direct taxes, as those who object to it would have them; as to these, it is said, that congress will only have power to make requisitions, leaving it to the states to lay and collect them. I see but very little colour for this construction, and the attempt only proves that this part of the plan cannot be defended. By this plan there can be no doubt, but that the powers of congress will be complete as to all kinds of taxes whatever - Further, as to internal taxes, the state governments will have concurrent powers with the general government, and both may tax the same objects in the same year; and the objection that the general government may suspend a state tax, as a necessary measure for the promoting the collection of a federal tax, is not without foundation.—As the states owe large debts, and have large demands upon them individually, there clearly will be a propriety in leaving in their possession exclusively, some of the internal sources of taxation, at least until the federal representation shall be properly encreased: The power in the general government to lay and collect internal taxes, will render its powers respecting armies, navies and the militia, the more exceptionable. By the constitution it is proposed that congress shall have power "to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years; to provide and maintain a navy; to provide for calling forth the militia to execute the laws of the union; suppress insurrections, and repel invasions: to provide for organizing, arming, and disciplining the militia;" reserving to the states the right to appoint the officers, and to train the militia according to the discipline prescribed by congress; congress will have unlimited power to raise armies, and to engage officers and men for any number of years; but a legislative act applying money for their support can have operation for no longer term than two years, and if a subsequent congress do not within the two years renew the appropriation, or further appropriate monies for the use of the army, the army will be left to take care of itself. When an army shall once be raised for a number of years, it is not probable that it will find much difficulty in getting congress to pass laws for applying monies to its support. I see so many men in America fond of a standing army, and especially among those who probably will have a large share in administering the federal system; it is very evident to me, that we shall have a large standing army as soon as the monies to support them can be possibly found. An army is not a very agreeable place of employment for the young gentlemen of many families. A power to raise armies must be

lodged some where; still this will not justify the lodging this power in a bare majority of so few men without any checks; or in the government in which the great body of the people, in the nature of things, will be only nominally represented. In the state governments the great body of the people, the yeomanry, &c. of the country, are represented: It is true they will chuse the members of congress, and may now and then chuse a man of their own way of thinking; but it is not impossible for forty, or thirty thousand people in this country, one time in ten to find a man who can possess similar feelings, views, and interests with themselves: Powers to lay and collect taxes and to raise armies are of the greatest moment; for carrying them into effect, laws need not be frequently made, and the yeomanry, &c. of the country ought substantially to have a check upon the passing of these laws; this check ought to be placed in the legislatures, or at least, in the few men the common people of the country, will, probably, have in congress, in the true sense of the word, "from among themselves." It is true, the yeomanry of the country possess the lands, the weight of property, possess arms, and are too strong a body of men to be openly offended—and, therefore, it is urged, they will take care of themselves, that men who shall govern will not dare pay any disrespect to their opinions. It is easily perceived, that if they have not their proper negative upon passing laws in congress, or on the passage of laws relative to taxes and armies, they may in twenty or thirty years be by means imperceptible to them, totally deprived of that boasted weight and strength: This may be done in a great measure by congress, if disposed to do it, by modelling the militia, Should one fifth or one eighth part of the men capable of bearing arms, be made a select militia, as has been proposed, and those the young and ardent part of the community, possessed of but little or no property, and all the others put upon a plan that will render them of no importance, the former will answer all the purposes of an army, while the latter will be defenceless. The state must train the militia in such form and according to such systems and rules as congress shall prescribe: and the only actual influence the respective states will have respecting the militia will be in appointing the officers. I see no provision made for calling out the posse comitatus for executing the laws of the union, but provision is made for congress to call forth the militia for the execution of them - and the militia in general, or any select part of it, may be called out under military officers, instead of the sheriff to enforce an execution of federal laws, in the first instance, and thereby introduce an entire military execution of the laws. I know that powers to raise taxes, to regulate the military strength of the community on some uniform plan, to provide for its defence and internal order, and for duly executing the laws, must be lodged somewhere; but still we ought not so to lodge them, as evidently to give one order of men in the community, undue advantages over others; or commit the many to the mercy, prudence, and moderation of the few. And so far as it may be necessary to lodge any of the peculiar powers in the general government, a more safe exercise of them ought to be secured, by requiring the consent of two-thirds or three-fourths of congress thereto—until the federal representation can be increased, so that the democratic members in congress may stand some tolerable chance of a reasonable negative, in behalf of the numerous, important, and democratic part of the community.

Between local, state, and federal law enforcement, there are over a million sworn, armed, officers. That amounts to about one officer for every 300 people or 100 families.

"Let us not deceive ourselves, sir. These are the implements of war and subjugation - the last arguments to which kings resort. I ask gentlemen, sir, what means this martial array if its purpose be not to force us to submission? Can gentlemen assign any other possible motive for it?"

Patrick Henry March 23, 1775

### **Armed Federal Agencies**

#### Department of Homeland Security (DHS)

- 
- United States Coast Guard (USCG)
  - Coast Guard Police (CGPD)
  - Coast Guard Investigative Service (CGIS)
- United States Customs and Border Protection (CBP)
  - United States Border Patrol (USBP)
- Federal Protective Service (FPS)
- United States Immigration and Customs Enforcement (ICE)
- United States Secret Service (USSS)
- Transportation Security Administration (TSA)
  - Federal Air Marshal Service (FAMS)

#### Department of Justice (USDOJ)

- Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)
- Drug Enforcement Administration (since 1973)
  - Bureau of Narcotics and Dangerous Drugs (1968 – 73)
    - Federal Bureau of Narcotics (1930 – 68)
      - Bureau of Prohibition (1927 – 33)
    - Bureau of Drug Abuse Control (1966 – 68)
- Federal Bureau of Investigation (FBI)
- Federal Bureau of Prisons (BOP)
- United States Marshals Service (USMS)

#### Department of State (DOS)

- Bureau of Diplomatic Security
  - Diplomatic Security Service (DSS)

#### Department of Commerce (DOC)

- National Oceanic and Atmospheric Administration Fisheries Office for Law Enforcement Department of Treasury
- Internal Revenue Service Criminal Investigations Division (IRS-CID)
- Treasury Inspector General for Tax Administration (TIGTA)
- United States Mint Police (USMP)
- United States Treasury Police – merged into the US Secret Service Uniformed Division in 1986.

#### Department of Defense

- Defense Criminal Investigative Service (DCIS)
- Pentagon Force Protection Agency

#### Department of Education

- Office of the Inspector General (OIG)

#### Department of Health and Human Services

- Food and Drug Administration (FDA)
  - Office of Criminal Investigations

Department of Agriculture (USDA)

- U.S. Forest Service Law Enforcement and Investigations
- Office of Inspector General

Department of the Interior (USDI)

- Bureau of Indian Affairs Police
- Bureau of Land Management Office of Law Enforcement & Security
- National Parks Service
  - National Park Rangers
  - United States Park Police
- U.S. Fish & Wildlife Service Office of Law Enforcement

Other Major Federal Law Enforcement Agencies

- Central Intelligence Agency Security Protective Service (SPS)
- Federal Reserve Police
- Library of Congress Police
- National Security Agency Police (NSA Police)
- Smithsonian National Zoological Park Police
- United States Capitol Police (USCP)
- United States Postal Inspection Service (USPIS)
- United States Supreme Court Police
- Veterans Affairs Police
- Many of these officers are armed with AR-15 rifles with 30 round magazines, and are trained by the same contractors who train some of our military special forces troops.
- The IRS spent nearly \$11 million on guns, ammunition, and military-style equipment for its 2,316 special agents. Their armament includes pump-action and semi-automatic shotguns, semi-automatic Smith & Wesson M&P 15 and Heckler & Koch HK 416 rifles, which can hold 30-round magazines.
- The Environmental Protection Agency spent \$3.1 million on guns, ammo, and equipment, including drones, night vision, camouflage and other deceptive equipment, and body armor.

## **1934 - The Beginning of Infringement**

The first "infringement" of the second amendment that I am aware of occurred in 1934.

From the Congressional Record, when Karl T. Frederick, then president of the NRA (National Rifle Association) testified before Congress.

First, the bill being discussed, followed by pertinent excerpts from Frederick's testimony.

The following is from [KeepAndBearArms.com](http://KeepAndBearArms.com) -- Congressional hearings over the National Firearms Act of 1934 (H.R. 9066) took place April 16 & 18 and May 14, 15, & 16 of 1934. Then-NRA President Karl T. Frederick testified on behalf of the National Rifle Association (NRA). Page numbers are from the Congressional Record

The text of the Hearing notice reads {nn} indicates page number:

H.R. 9066, 73d-Cong. 2d sess.

A BILL To provide for the taxation of manufacturers, importers, and dealers in small arms and machine guns, to tax the sale or other disposal of such weapons, and to restrict importation and regulate interstate Transportation thereof

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of this act the term "firearm" means a pistol, revolver, shotgun having a barrel less than sixteen inches in length, or any other firearm capable of being concealed on the person, a muffler or silencer therefor, or a machine gun. The term "machine gun" means any weapon designed to shoot automatically or semiautomatically twelve or more shots without reloading.

The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

The term "continental United States" means the States of the United States and the District of Columbia.

The term "importer" means any person who imports or brings firearms into the continental United States, for sale.

The term "manufacturer" means any person who is engaged within the continental United States in the manufacture of firearms, or who otherwise produces therein any firearm for sale or disposition.

The term "dealer" means any person not a manufacturer or importer engaged within the continental United States in the business of selling firearms. The term "dealer" shall include pawnbrokers and dealers in used firearms.

The term "interstate commerce" means transportation from any State or Territory or District, or any insular possession of the United States (including the Philippine Islands), to any other State or Territory or District, or any insular possession of the United States (including the Philippine Islands).

## Sec. 2.

(a) Within fifteen days after the effective date of this act, or upon first engaging in business, and thereafter on or before the 1st day of July of each year, every importer, manufacturer, and dealer in firearms shall register with the collector of internal revenue for each district in which such business is to be carried on his name or style, principal place of business, and places of business in such district, and pay a special tax at the following rates: Importers or manufacturers, \$\_\_\_\_\_ a year; dealers, \$\_\_\_\_\_ a year. Where the tax is payable on the 1st day of July in any year it shall be computed for one year; where the tax is payable on any other day it shall be computed proportionately from the 1st day of the month in which the liability to the tax accrued to the 1st day of July following.

(b) It shall be unlawful for any person required to register under the provisions of this section to import, manufacture, or deal in firearms without having registered and paid the tax imposed by this section.

(c) All laws (including penalties) relating to the assessment, collection, remission, and refund of special taxes, so far as applicable to and not inconsistent with the provisions of this act, are extended and made applicable to the taxes imposed by this section.

## SEC. 3.

(a) There shall be levied, collected, and paid upon firearms sold, assigned, transferred, given away, or otherwise disposed of in the continental United States a tax at the rate of \$\_\_\_\_\_ per machinegun and \$\_\_\_\_\_ per other firearm, such tax to be paid by the person so disposing thereof, and to be represented by appropriate stamps to be provided by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and the stamps herein provided shall be affixed to the order for such firearm, hereinafter provided for. The tax imposed by this section shall be in addition to any import duty imposed on such firearm.

(b) All provisions of law (including penalties) applicable with respect to the taxes imposed by section 800 of the Revenue Act of 1926 (U.S. C., Supp. VII, title 26, sec. 900) shall, insofar as not inconsistent with the provisions of this act, be applicable with respect to the taxes imposed by this section.

## SEC. 4.

(a) It shall be unlawful for any person to sell, transfer, give away, or otherwise dispose of any firearm except in pursuance of a written order from the person seeking to obtain such article; on an application form issued in blank for that purpose by the Commissioner of Internal Revenue. Such order shall identify the applicant by his name, address, fingerprints, photograph, and such other means of identification as may be prescribed by regulations under this act. If the applicant is other than an individual, such application shall be made by an executive officer thereof.

(b) Every disposing of each firearm shall set forth in each copy of such order the manufacturer's number or other mark identifying such firearm, and shall forward a copy of such order to the Commissioner of Internal Revenue. The original thereof, with stamps affixed, shall be returned to the applicant.

(c) No person shall sell, assign, transfer, give away, or otherwise dispose of a firearm which has previously been disposed of, (on or after the effective date of this act) unless such person, in addition to complying with subsection



(b), transfers therewith the stamp-affixed order provided for in this section, or each prior disposal, and compiles with such other rules and regulations as may be imposed by the Commissioner of Internal Revenue, with the approval of the Secretary of Treasury, for proof of payment of all taxes on such firearm.

SEC. 5. It shall be unlawful for any person to receive or possess any firearm which has at any time been disposed of in violation of section 3 or 4 of this act.

SEC. 6. Any firearm which has at any time been disposed of in violation of the provisions of this act shall be subject to seizure and forfeiture, and all the provisions of internal-revenue laws related to searches, seizures, and forfeiture of unstamped articles are extended to and made to apply to the articles taxed under this act, and the persons upon whom these taxes are imposed.

SEC. 7. Each manufacturer and importer of a firearm shall identify it with a number of other identification mark approved by the Commissioner of Internal Revenue, such number or mark to be affixed or otherwise placed thereon in a manner approved by such Commissioner.

SEC. 8. Importers, manufacturers, and dealers shall keep such books and records and render such returns in relation to the transactions in firearms specified in this act, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations require.

SEC. 9.

(a) No firearms shall be imported or brought into the United States or any territory under its control or jurisdiction (including the Philippines Islands), except that, under regulations prescribed by the Secretary of the Treasury, any firearm may be imported or brought in when (1) the purpose thereof is shown to be lawful and (2) such firearm is unique or of a type which cannot be obtained within the United States or such territory.

(b) It shall be unlawful (1) fraudulently, or knowingly to import or bring any firearms into the United States or any territory under its control or jurisdiction in violation of the provisions of this act; or (2) knowingly to assist in so doing; or (3) to receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of any such firearm after being imported or brought in, knowing the same to have been imported contrary to law. Whenever on trial for a violation of this section the defendant shown to have or to have had possession of such imported firearm, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains such possession to the satisfaction of the jury.

SEC. 10.

(a) It shall be unlawful for any person who has not first obtained a permit as hereinafter provided, to send, ship, carry, or deliver any firearm in interstate commerce. Nothing contained in this section shall apply--

(1) To any manufacturer, importer, or dealer who has complied with the provisions of section 2;

(2) To any person who has complied with the provisions of sections 3 and 4 in respect to the firearm so sent, shipped, carried, or delivered by him;

(3) To a common carrier in the ordinary routine of its business as a common carrier;

(4) To an employee, acting within the scope of his employment, of any person not violating this section;

(5) To any person who has lawfully obtained a license for such firearm from the State, Territory, District, or possession to which such firearm is to be sent, shipped, or delivered;

(6) To any United States, State, county, municipality, District, Territorial, or insular officer or official acting within the scope of his official duties.

(b) Application for such permit may be made to the Commissioner of Internal Revenue at Washington or to such officers at such places as he may designate by regulations to be prescribed by him, with the approval of the Secretary of the Treasury, for the issuance of such permit. Such regulations shall provide for a written application containing the photograph and fingerprint of the applicant, or employee, the serial number and description of the firearm to be transported, and other information requested by the Commissioner of Internal Revenue or his agent.

(c) Such permits shall be issued upon payment of a fee of \$\_\_\_\_\_, provided the Commissioner of Internal Revenue is satisfied that the proposed transaction is lawful.

(d) Any person found in possession of a firearm shall be presumed to have transported such firearm in interstate commerce contrary to the provisions hereof, unless such person has been a bona fide resident for a period of not less than sixty days of the State wherein he is found in possession of such a firearm, or unless such person has in his possession a stampaffixed order therefor required by this act. This presumption may be rebutted by competent evidence.

SEC. 11. The Commission of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying the provisions of this act into effect.

SEC. 12. This act shall not apply to the sale, assignment, transfer, gift, or other disposal of firearms (1) to the United States Government, any State, Territory, or possession of the United States, or to any political subdivision thereof, or to the District of Columbia; (2) to any peace officer or any Federal officer designated by regulations of the Commissioner of Internal Revenue.

SEC. 13. Any person who violates or fails to comply with any of the requirements of this act shall, upon conviction, be fined not more than \$\_\_\_\_\_ or be imprisoned for not more than \_\_\_\_\_ years, or both, in the discretion of the court.

SEC. 14. The taxes imposed by paragraph (2) of section 600 of the Revenue Act of 1926 (U.S. C., Supp. VII, title 26, sec. 1120) and by action 610 of the Revenue Act of 1932 (47 Stat. 169, 264), shall not apply to any firearm on which the tax provided by section 3 of this act has been paid.

SEC. 15. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 16. This act shall take effect on the sixtieth day after the date of its enactment.

SEC. 17. This act may be cited as the "National Firearms Act."

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General RECKORD. Mr. Doughton, if I may, I would like to present Mr. Karl Frederick, who is the President of the National Rifle Association of America. He is the vice president of the United States Revolver Association. He is a member of the Campfire Club. He is also a member of the New York Fish, Game, and Forest League and is vice president of the New York Conservation Council, Inc.; a former member of the Commission on Fire Arms Legislation of the National Crime Commission.

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Mr. FREAR. The question in my mind and I think in the majority of the committee is what we can do to aid in suppressing violations by such men as Dillinger and others. Do you think that by your proposed amendment you have aided in that result?

Mr. FREDERICK. I believe so.

\* \* \*

Mr. FREDERICK. There is, as I see it, no provision made in the act for the jobber, who is the general distributor to dealers of pistols. It seems to me that from the little I know of the manner in which the business is conducted, because I have not and never have had any connection with the business of firearms as I understand it, the jobber plays an essential part in the firearms business. I understand that it would, be quite impossible for the manufacturer to pass upon the credit questions and the other matters which arise, as between the ultimate dealer and his supplier. It has suggested itself to my mind that one of the purposes of this bill was to destroy the jobber and, to eliminate all but the largest and the wealthiest and the strongest individual dealers.

The CHAIRMAN. Do you mean dealers or manufacturers?

Mr. FREDERICK. I mean dealers. I think an annual fee of \$200 a year will eliminate 95 percent of the dealers in pistols.

Mr. LEWIS. What is your definition of dealer? What does it include? Does it include the village storekeeper who sells pistols?

Mr. FREDERICK. Yes, sir.

Mr. HILL. The definition is on page 2, beginning with line 11:

The term "dealer" means any person not a manufacturer or importer engaged within the continental United States in the business of selling firearms. The term "dealer" shall include pawn brokers and dealers in used firearms. That would include jobbers, I take it.

Mr. FREDERICK. It is possible, but the jobber does not fit very logically into the picture that is here defined.

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Mr. FREDERICK. That takes me into the purposes of this bill. This bill, as I see it, is intended to be a bill for the suppression of crime and is proposed to the United States Congress which ordinarily has no power in such matters, under the guise of a revenue raising bill.

Mr. FREAR. May I ask a question? Are you interested at all in arms manufacturing or anything like that?

Mr. FREDERICK. Not at all, in any way,

Mr. FREAR. They why not offer some constructive criticism? You are complaining about the character of the bill, suggesting what is behind it, the motives behind it, and so forth. Why not offer something constructive that, will be helpful to us anywhere along the line?

Mr. FREDERICK. I am trying to do so, *as rapidly as I can.*

Mr. FREAR. If you will read your record, you will find, I understand, that you are attacking the motives generally.

Mr. FREDERICK. Not at all. I am saying that this bill, practically speaking, destroys the business in firearms of 95 percent of the dealers.

Mr. FREAR. Then why not recommend something, as Mr. Hill has suggested?

Mr. FREDERICK. I shall be glad to submit a recommendation in that respect, as soon as I have had a chance to examine it.

Mr. FREAR. Yes; but do not attack the motives for its introduction. We are not interested in that at this time.

Mr. FREDERICK. I think that the result of this provision here will be to deprive the rural inhabitant, the inhabitant of the small town, the inhabitant of the farm, of any opportunity to secure a weapon which he perhaps more than anyone else needs for his self-defense and protection. I think that it would be distinctly harmful to destroy the opportunity for self-defense of the ordinary man in the small community, where police forces are not adequate.

Mr. HILL. Just tell us how this bill does that.

Mr. FREDERICK. It does it in two or three ways, as I see it. In the first place, it requires Federal documents to be filled out, procured from Federal officials, before a pistol can be purchased. It requires that pistol to be purchased from a: licensed dealer. Now, if the largest and most important and wealthiest dealers, those in the larger cities, are the only dealers to exist who can handle firearms and if it is required to go to a Federal official who is not to be found readily in rural communities in the country, in any except the larger communities - if they only are allowed to handle firearms, it seems to me that the practical result will be that the countryman absolutely will be unable, in a practical sense, to obtain any firearm. There are so many impediments put in his way. He will be unable to secure a weapon that he needs for his own defense and the defense of his home and family.

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The CHAIRMAN. In what sense is the possession of a pistol essential to the self-defense of people who live in rural communities, as you have stated? Do you mean it is essential to the self-defense of an individual who is out on the highway, or in his home? In what sense is a pistol essential to the self-defense of an individual who lives in a rural community? Why is not a rifle or a shotgun, the possession of which would not be prohibited under this act, sufficient for the self-defense of an individual or an individual's home? In what sense did you mean that? You know, most of the States have laws against carrying concealed weapons.

Mr. FREDERICK. Exactly. I think those are quite proper laws and are the only effective laws.

The CHAIRMAN. Then it can be that you are referring only to the possession of a pistol in the home.

Mr. FREDERICK. No; because many people do find occasion to carry pistols, and do so under license.

The CHAIRMAN. That would not necessarily be a matter of self-defense, would it?

Mr. FREDERICK. Oh, yes, in many, many instances.

The CHAIRMAN. I never heard of it.

Mr. FREDERICK. I have heard of it in hundreds of instances.

Mr. FREAR. -My experience is that the average person who carries a revolver is not one who lives in a rural district, but in New York or Chicago and such places that Dillinger and men of his type are found.

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Mr. MCCORMACK. All of those fellows are country-born boys. They do not come from the big cities. I understand that most of them are country boys originally.

Mr. FREAR. The man against whom we are trying to legislate is Dillinger and men of his type.

Mr. FREDERICK. If there is any feasible way of getting that type of man, I would like to know it.

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Mr. FREAR. Could we not base that on the amount of sales?

Mr. FREDERICK. Yes, I think that could be quite easily done. I am referring to the makers of handmade pistol barrels, of whom there are a number in this country. They make the finest and highest type of target weapons that are to be found and they do it entirely by hand; I mean, with a hand lathe. Their guns have been used for 25 years in both the National and the International shooting competition. I have myself been a member of five or six international pistol teams and in every one of those I have used hand-made guns, hand-made barrels, because they were a little bit finer than any others that could be bought in my opinion. Every one of those barrels was made by a man who is a past master of that field of ballistics, and who can, in my opinion, make a finer barrel than any manufacturer in the business.

The CHAIRMAN. Does he make the entire gun or just the barrel?

Mr. FREDERICK. He makes the barrel.

The CHAIRMAN. He would not come under the provisions of this bill, would he?

Mr. FREDERICK. I do not know. He is a manufacturer. He goes over the whole gun, revises the trigger pull, changes the hammer and does a lot of things to it.

The CHAIRMAN. But he is not a manufacturer of a gun. He assembles the parts and puts them together. He is not a manufacturer, is he?

Mr. FREDERICK. I suspect that he is.

The CHAIRMAN. I suspect that he is not. I do not see how he can be considered a manufacturer of a gun if he only makes the barrel.

Mr. FREDERICK. He might buy the action from one man. If he made the barrel and then put it together with the other parts, he would be a manufacturer of that gun, just as much as a man who bought automobile wheels from one place and a wiring system from another and a motor from another manufacturer and assembled them and sold them under his name - he would be a manufacturer.

The CHAIRMAN. If he bought all the parts and assembled them and sold the finished gun, I suppose he would be a manufacturer.

Mr. KNUTSON. This man to whom you refer, does he assemble the gun?

Mr. FREDERICK. He will take a gun, take off the old barrel and make a new barrel, put it on, make over the hammer, make over the trigger pull, make over the spring and do a variety of other things with it, so that the gun, you might say, was a reassembled gun after he was through with it.

Mr. KNUTSON. What we would call a rebuilt gun.

Mr. FREDERICK. It really is, I should say so.

Mr. KNUTSON, And you think he would be a manufacturer?

Mr. FREDERICK. I suspect that he would be a manufacturer within the terms of this act.

Mr. HILL. Assuming he is a manufacturer, of course in a small way so far as output is concerned, there has been a suggestion made here that the situation might be met by a graduated tax, depending upon the volume of the output.

Mr. FREDERICK. I think so.

Mr. HILL. If that can be done, the objection you make there does not go to the principle of the legislation, but simply to the particular provision as to license.

Mr. FREDERICK. That is quite true.

Mr. HILL. Your objection, then, is not to the principle, but simply to the prohibitive tax?

Mr. FREDERICK. It is to the prohibitive nature of the tax.

Mr. HILL. So that if we met that by graduated tax on the manufacturer, your objection would be satisfied?

Mr. FREDERICK. I think so. I have no objection - to put it this way - to the principle of a Federal license designed not to destroy, but to secure a police registration of both manufacturers and dealers.

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Mr. KNUTSON. Let me ask you a question right at that point. Do you know of many illicit manufacturers of firearms? I think I read in the paper last evening a statement to the effect that the Department of Justice had seized an arsenal largely made up of guns manufactured illicitly, or unregistered, however they term them.

Mr. FREDERICK. I do not know of any illicit manufacturers.

Mr. LEWIS. Why should there be any illicit manufacturers in, the absence of all law that now prevails in this field?

Mr. FREDERICK. I did not quite get your question.

Mr. LEWIS. I cannot fancy the motive for illicit manufacture of these things when we are almost without any laws on the subject whatever.

Mr. FREDERICK. I may say that a gun is a very easy thing to make, that a third-class automobile mechanic can make a pistol which will do deadly work, and can do it in an afternoon with the materials which he can find in any automobile shop. And I can say that it has been done time and time and time again.

Mr. LEWIS. What makes it illicit?

Mr. FREDERICK. I suppose what makes it illicit is the purpose for which such guns are made. If it is not against the law to make a gun, then there is nothing illicit in connection with it. But when such a gun is manufactured in a State prison and is used by an inmate for the purpose of perpetrating his escape from jail, I think that is illicit manufacture, and such guns have been made in prison, in prison machine shops.

Mr. FREAR. It turns on the motive?

Mr. FREDERICK. Yes; it turns on the motive.

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Mr. DICKINSON. I will ask you whether or not this bill interferes in any way with the right of a person to keep and bear arms or his right to be secure in his person against unreasonable search; in other words, do you believe this bill is unconstitutional or that it violates any constitutional provision?

Mr. FREDERICK. I have not given it any study from That point of view. I will be glad to submit in writing my views on that subject, but I do think it is a subject which deserves serious thought.

Mr. DICKINSON. My mind is running along the lines that it is constitutional.

Mr. MCCORMACK. You have been living with this legislation or following this type of legislation for quite a number of years.

Mr. FREDERICK. Yes; I have.

Mr. MCCORMACK. The fact that you have not considered the constitutional aspect would be pretty powerful evidence, so far as I am concerned, that you did not think that question was involved.

Mr. FREDERICK. No; I would not say that, because my view has been that the United States has no jurisdiction to attack this problem directly. I think that under the Constitution the United States has no jurisdiction to legislate in a police sense with respect to firearms. I think that is exclusively a matter for State regulation, and I think that the only possible way in which the United States can legislate is through its taxing power, which is an indirect method of approach, through its control over interstate commerce, which was perfectly proper, and through control over importations, I have not considered the indirect method of approach as being one which was to be seriously considered until the bill began to be talked about.

Mr. MCCORMACK. You would not seriously consider that there was any constitutional question involved in this bill, would you?

Mr. FREDERICK. I think this bill goes pretty far for a revenue bill in the direction of setting up what are essentially police regulations.

Mr. MCCORMACK. Congress possesses the power, if it is required, to exercise the taxing power for the regulation of social purposes.

Mr. FREDERICK. I know, and it has been frequently exercised, and suppose that Congress can pass, under its taxing power, what are in effect regulatory statutes, as it has in many instances, such as the acts relating to oleomargarine and other things.

Mr. MCCORMACK. I quite agree with you. The thought in my mind was the fact you had not considered the constitutional phase, and being the student you are, and following this particular type of legislation as closely as you have, it would be a powerful piece of evidence, and at least I would draw the inference, that you did not think the question was seriously involved,

Mr. FREDERICK. I may say that approached as a taxing proposition I am personally of the opinion, as a lawyer, that Congress may legislate in the way of taxing certain transactions with respect to firearms. That, I think, is clear.

Mr. LEWIS. Mr. Frederick, the automobile is a dangerous, even a deadly instrument, but never intentionally a deadly instrument, of course. States uniformly have taken notice of the danger to the innocent pedestrian and others involved in the use of the automobile. They have set up around the privilege of its ownership and operation a complete regulatory system consistent with reasonable rights to the use of the automobile. Approaching the subject of firearms, would you not consider that society is under the same duty to protect the innocent that it is with regard to the automobile and that with a view to the attainment of that, result, the person who wishes the privilege of bearing firearms should submit to the same regulations as rigid as the automobile owner and driver is required to accept?

Mr. FREDERICK. You have raised a very interesting analogy, one which, to my mind, has a very decided bearing upon the practicability and the desirability of this type of legislation. Automobiles are a much more essential instrument of crime than pistols. Any, police officer will tell you that. They are much more dangerous to ordinary life, because they kill approximately 30,000 people a year. The extent, so far as I know, to which the Government, or the Congress, has attempted to legislate is with respect to the transportation in interstate commerce of stolen vehicles, which apparently has accomplished very useful results. The rest of the legislation is left to the States, and in its effect and in its mode of enforcement, it is a wholly reasonable and suitable approach, because, if I want a license for my car I can get it in 20 minutes, by complying with certain definite and well-known regulations.

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Mr. MCCORMACK. That is the exception but, as a general rule, it is recognized as inherently dangerous. The same applies to weapons; they are recognized as inherently dangerous.

Mr. FREDERICK. I do not think so.

Mr. MCCORMACK. What do people buy weapons for?

Mr. FREDERICK. People buy weapons for several purposes; one is for the protection of the person or property.

Mr. MCCORMACK. That class of people have no fear about reasonable license requirements.

Mr. FREDERICK. Not reasonable requirements.

Mr. MCCORMACK. They have no fear of reasonable regulations as to licenses, if the weapons are necessary to meet a challenge to organized society.

Mr. FREDERICK. They buy pistols also to use for training, in the event of military necessity.

Mr. MCCORMACK. Those persons need not fear reasonable regulations.

Mr. FREDERICK. I beg your pardon?

Mr. MCCORMACK. Those persons need have no fear of reasonable regulations.

Mr. FREDERICK. I think our difference may turn entirely upon what is reasonable.

Mr. MCCORMACK. You are not opposed to regulation?

Mr. FREDERICK. Not at all; I have advocated it.

Mr. MCCORMACK. You are not opposed to a Federal bill?

Mr. FREDERICK. Provided the bill will accomplish useful results in the suppression of crime, I am heartily in favor of it.

Mr. MCCORMACK. You have given two groups who buy pistols.

Mr. FREDERICK. Another group is those who indulge in the use of pistols in connection with sports.

Mr. MCCORMACK. That group need not fear any proper regulation.

Mr. FREDERICK. Any difference that we may have, and I do not know whether we have any, turns on the question of what is reasonable.

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Mr. FREAR. Can you point out, without interruption, the provisions to which you object?

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Mr. FREDERICK. I am quite concerned about the amount which is suggested on page 8, line 15, for a permit to transport in interstate commerce.

Mr. FREDERICK. In my opinion, the provision for fingerprints will not accomplish what is desired.

Mr. FREAR. Suppose we strike that out.

Mr. FREDERICK. I would like to mention that the bill relates to the taking of fingerprints and refers to corporations, associations, and partnerships. I do not know how the fingerprint of any officer of such an association or corporation can have value,

Mr. FREAR. Admitting your answer is correct, that is not serious. What is your next objection?

Mr. FREAR. What would you recommend for that?

Mr. FREDERICK. I think, inasmuch as I deem the primary purpose of this bill to be purely regulatory that that ought not to be burdensome. I should make it as nominal as possible. It seems to me that 25 cents is ample.

Mr. FREAR. Or 15 cents.

Mr. FREDERICK.- Fifteen cents or 10 cents, or anything which will not prevent compliance with it because of its burdensome nature.

Mr. FREAR. What is next?

Mr. FREDERICK. There is no provision in the act covering the situation of an owner of a weapon who loses this stamped order. As I see the operation of the bill, it will mean this: When a manufacturer sells a weapon to a jobber, he gives a stamped order; when the jobber sells the weapon to the retailer, assuming we still allow jobbers to exist, he gives a second order together with the first. When the dealer sells to the buyer, he gives the third order and the two previous ones, and the buyer gets the gun and three pieces of paper. It is essential to him, in order to keep out of jail, to keep those together.

Mr. FREAR. How would you suggest having but one piece of paper?

Mr. FREDERICK. I think the only piece useful is a piece of paper where the transfer takes place between two persons, one of whom is not a licensed dealer. In other words, if I, as a private individual, sell a gun to a friend, a piece of paper is necessary there. Where a dealer sells to me as a buyer, a piece of paper should be useful. I do not think a string of prior papers are of value, running from the manufacturer who may be required to keep records. In the second place, when, as a matter of human experience, the owner of a gun is going to lose papers, they are going to get mislaid, they are going to get burned up, if he cannot turn them up when required to do so he is liable to go to jail. I think there ought to be a simple method of obtaining a copy of that paper from the authorities with whom the original was filed.

Mr. FREAR. We might attach a number plate to the pistol like we do to the automobile, as small as is necessary, -and have that be evidence of the privilege of transfer. You only want one?

Mr. FREDERICK. I think the owner ought to be able to get one if it is lost. I think that machinery ought to be made simple. If not, in the actual operation, you are going to create criminals.

Mr. FREAR. What is the next objection?

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Mr. FREDERICK. On page 7 it says:

"Whenever on trial for a violation of this section the defendant is shown to have or to have had possession of such imported firearm, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains such possession to the satisfaction of the jury."

Mr. FREAR. That is taken from the other act.

Mr. FREDERICK. I do not understand why it should be necessary for such a person to go to trial,

Mr. FREAR. You think that language is too loose?

Mr. FREDERICK. Too loose and too drastic.

Mr. FREAR. You might write a substitute; we want your suggestions,

Mr. FREDERICK. I am skipping around somewhat, as I am sorry I have to do, On page 7, section 10, I do not know what that language "nothing contained in this section shall apply to any manufacturer, importer, or dealer who has complied with the provisions of section 2", means. I suppose that means that he has taken out a license.

Mr. FREAR. That is satisfactory as far as it goes?

Mr. FREDERICK. I should like very much to have the privilege of submitting some suggestions in writing, if I may.

The CHAIRMAN. Without objection, you may do so.

Mr. DICKINSON. Let me say that I have received numerous telegrams asking me to support legislation along the lines of the recommendations of the National Rifle Association. Your line of thought is in accord with the things advocated by the National Rifle Association?

Mr. FREDERICK, I am president of the National Rifle Association and I think I correctly voice its views.

Mr. DICKINSON. Your purpose is to submit to this committee recommendations desired by the National Rifle Association in connection with this bill?

Mr. FREDERICK. Among the other organizations whose views I voice.

The CHAIRMAN. When may we have, your written suggestions?

Mr. FREDERICK. I will get at it this afternoon and try and let you have it as quickly as I can. As a lawyer, I know that the drafting of legislation is an extremely difficult job. You have to do a lot of checking, and it is a difficult piece of work.

Mr. HILL. When you do that, do not forget that we are after the gangster.

FREDERICK. You have put your finger on it. My general objections to most of the regulatory provisions are proposed with that in view. I am just as much against the gangster as any man.

I am just as much interested in seeing him suppressed, but I do not believe that we should burn down the barn in order to destroy the rats. I am in favor of some more skillful method of getting the rats without destroying the barn. In my opinion, most of the proposals the regulation of firearms, although ostensibly and properly aimed at the crook, do not reach the crook at all, but they do reach the honest man. In my opinion, the forces which are opposed to crime consist of two general bodies; one is the organized police and the second is the unorganized victims, the great mass of unorganized law-abiding citizens, and if you destroy the effective opposition of either one of those, you are inevitably going to increase crime, because as you destroy the forces of resistance in the human body to disease, you are going to increase disease. So, by destroying the resistance of any body which is opposed to crime, you are going to increase crime. I think we should be careful in considering the actual operation of regulatory measures to make sure that they do not hamstring the law-abiding citizen in his opposition to the crook.

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Mr. HILL. You concede there is a necessity for something. In politics we have an old saying that you cannot beat somebody with nobody. You cannot hope to defeat or materially alter the legislation unless you submit to the committee something that is better or that will better attain the object that this legislation seeks to accomplish.

Mr. FREDERICK. I must differ with you in principle upon one point. I do not believe that Congress or the people back home want us to attempt miracles. In my opinion, based upon a rather extensive experience with this subject and study of it, very little of practical value can be accomplished by Federal legislation on the point.

Mr. HILL. I take it then that it is your opinion that the criminal is going to get firearms regardless of any laws.

Mr. FREDERICK. I think that is the opinion of any person who has knowledge of the subject. In most instances, the guns are stolen. They are not. gotten through legitimate channels. Dillinger stole his guns. I



have half-dozen cases where guns have been used in prisons to effect a break; we have had that in New York, and all over the country. If you cannot keep guns out of the hands of criminals in jails, I do not see how you can keep them out of the hands of criminals walking about on the public highways.

The CHAIRMAN. If that be true, then the laws of the various States of the Union dealing with the subject, are not accomplishing a good purpose because they do not put them all out of business?

Mr. FREDERICK. I do not take that view of it at all. I believe in regulatory methods. I think that makes it desirable that any such regulations imposed should not impose undue hardships on the law-abiding citizens and that they should not obstruct him in the right of self-defense, but that they should be directed exclusively, so far as possible, to suppressing the criminal use, or punishing the criminal use of weapons.

The CHAIRMAN. You spoke of your experience, which we realize is valuable and extensive, in dealing with this matter. This bill contemplates the suppression of crime and the protection of law-abiding citizens. Do you consider that your experience and your knowledge of this subject is superior to that of the Department of Justice? Do you consider that your experience puts you in a better position to say what is necessary to accomplish the suppression of crime than the Department of Justice?

Mr. FREDERICK. I hesitate to set myself up in any comparative sense, because I recognize the prestige of the Department of Justice.

The CHAIRMAN. You recognize also their experience in dealing with this subject?

Mr. FREDERICK. Their experience, I think, has been comparatively recent. I think I may truthfully say this, and I think Mr. Keenan would agree with me, that I have given much more study to the problem of firearms regulations, extending over a longer period of time and going into far greater detail, than any man or all of the men in the Department of Justice.

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The CHAIRMAN. Has your experience been with the sole purpose of dealing with crime?

Mr. FREDERICK. I have never been a prosecuting attorney.

The CHAIRMAN. One of the purposes of the Department of Justice is to deal with crime.

Mr. FREDERICK. I have approached it as a citizen interested in the public welfare, and the subject of crime has been a matter I have been deeply interested in ever since my college days, 30 years ago.

Mr. HILL. You expressed the opinion that perhaps any legislation would not be effective to keep firearms out of the hands of the criminal element.

Mr. FREDERICK. I am quite sure we cannot do that.

Mr. HILL. Assuming that is correct, and I am sure a great many might agree with you, if the firearms are found in the possession of the criminal element, and they cannot, under the provisions of this act, or of some similar legislation, show that they are in lawful possession of those firearms, would that not be a weapon in the hands of the Department of Justice in enabling them to hold those criminals until further investigation might be made of the crime?

Mr. FREDERICK. I think so, and I made this suggestion to Mr. Keenan 2 months ago, that whenever a weapon, a firearm of any kind, and I would not limit it to pistols—I would say rifles or shotguns—is found in the hands of any person who has been convicted of a crime of violence, because there are many crimes which have nothing to do with the use of firearms and that is why I make the distinction; and I think he suggested that we add to that any person who is a fugitive from justice—that mere possession of such a weapon should be prima facie evidence of its transportation in interstate commerce, and that transportation in interstate Commerce of weapons by those people be made a crime.

Mr. HILL. What do you do with a man who has never been convicted of a crime although he may be a criminal?

Mr. FREDERICK. I do not know of any way in which you can catch all the dirt in the stream no matter what kind of a skimmer you may use.

Mr. HILL. It is conceivable that some of the most desperate gangsters may never have been convicted because we have been unable to get the evidence.

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Mr. FREDERICK. I shall be glad to conclude with one more observation.

The CHAIRMAN. We are very pressed for time, as we have other matters to consider.

Mr. FREDERICK. It seems to me that any provision regarding a permit such as that contained in section 10, page 7, to transport a weapon in interstate commerce should call for a permit good indefinitely, because, it is in the nature of a restriction and I take it that is about the only purpose of it. If I should go to Camp Perry or Seagirt, or any other place where the pistol matches are held, it would be a veritable nuisance for me to get a permit to get there, and once there, to get home; it would be a nuisance to go to the country and be required to get a permit, and then be required to get another when you come back at the end of the summer. It seems to me that once a man has registered his weapon, and it is known that he has lawfully obtained a permit to transport it, that it should be good indefinitely, so far as he is concerned, and so far as the particular gun is concerned.

I thank you for the privilege of appearing before you.

I'm not sure what happened with his legislation, but it is apparent that the final suggestion made by Mr. Frederick eventually resulted in the Felon in Possession, though the application of Felon in Possession, as it currently exists, is far broader than what was proposed by Frederick. It has not become the act of the individual, as he suggested, rather the act of the object (firearm), which has been extended to nearly any product. It has also extended the definition of "convicted of a crime of violence " to include non-violent criminal"

### **Conflict between State and Federal**

Though I will only present one situation, with regard to a blatant violation of the 10th amendment, it must be understood that nearly every state has an equivalent to the Second Amendment.

This has to do with a story that I covered regarding Kevin Massey, who spent nearly 3 years in prison for violation of the "fellow federal felon in possession" charge. As explained in the article in the Appendix, the federal statute refers to "in and affecting commerce".

Massey's firearms were purchased from private individuals within Texas. Massey was never on federal land. So, can that be construed in the intent indicated by the wording, "in and affecting commerce"?

The government has, in **WICKARD v. FILBURN, 317 U.S. 111 (1942)**, stated that his wheat crop could eventually end up in commerce. This, in the case of Filburn, is a presumption beyond the reach of the amendment. This decision is in the Appendix. So, can that be construed in the intent indicated by the wording, "in and affecting commerce".

Further, regarding the California Medical Marijuana Law, a similar assumption is made. That case, **Gonzales v Raich , 545 US 1 (2005)**, suggests that marijuana grown legally under California law might end up in commerce. This decision is in the Appendix. So, can that be construed in the intent indicated by the wording, "in and affecting commerce".

The assumption, beyond the specific wording of the law, is indicative of a blatant violation, via the commerce clause, of an authority reserved to the states or people, as per said 10th Amendment. The intent of the Commerce Clause was to prohibit one state from charging any tariff, tax, or fee, for transportation of goods into or through one state to another or to any foreign location, that authority is reserved to the federal government.

So, if it might end up in commerce, it is as any assumptive step to say that if it had been in commerce. Even if it had never been in commerce but it might someday be in commerce. This, quite simply, broadens The interpretation to anything and everything, not even needing a reference to commerce. Surely, this is not what the Framers intended, nor the intent of the Ninth and Tenth Amendments.

So, let' s suppose that the firearm and the ammunition had been made in Texas. It would still be under the purview of the statute, since it could go into commerce.

That would then presume that anything purchased or to purchased in the future, subjects you to federal statutory law. Do you believe that is that the Founders intended with the Commerce Clause? Or, is it simple abuse by the federal government, whether legislatively or by administrative rulemaking?

**END**

Links to reference article and citations:

[Camp Lone Star - Massey & The Clash of Laws](#)

[Gonzales v Raich 545 US 1 \(2005\)](#)

[Wickard v Filburn 317 US 111 \(1942\)](#)