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**Chapter 26 “The Second Amendment”**  
**“Republic Or Democracy Is There A Difference”**  
By Taylor E. Hoynes, Jr.  
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## **Chapter 26**

### **The Second Amendment**



### **“We The People” “The Militia” Or the Government, Army etal**

#### **Amendment II (1791)**

“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.” (*emphasis added*)

Webster’s American Dictionary 1828 Definition  
INFRING’ED, pp. Broken; violated; transgresses.

“No freeman shall ever be debarred the use of arms.”  
Proposed Virginia Constitution, June, 1776.  
Thomas Jefferson

**“The Constitution of most of our states (and of the United States) assert that all power is inherent in the people; that they may exercise it by themselves;...**

**that it is their right and duty to be at all times armed and that they are entitled to freedom of person, freedom of religion, freedom of property, and freedom of press.”**

**Thomas Jefferson**

Is the right of self-defense a “right” granted by government or is it an “unalienable right” as spelled out in the Declaration of Independence?

**“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed”**

As you will see in this chapter the Founders understanding of the Second Amendment is far different than our government and courts today. The Second Amendment is our protection of the “unalienable rights of **Life, Liberty and the pursuit of Happiness**” and **“That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed”**

*Government does not grant us the right of self defense, it protects that right from itself and all others.*

According to many, self-defense is no longer an unalienable right, an assumption which has led to many wrong interpretations of the Second Amendment.

**“The first and fundamental rule in the interpretation of all instruments is to construe them according to the sense of the terms and the intentions of the parties.”**

**Joseph Story, Supreme Court 1833  
Commentaries on the Constitution**

***“Outlaw Guns And Only The “Outlaws” Will Have Guns”***

**“Laws that forbid the carrying of arms... disarm only those who are neither inclined nor determined to commit crimes...**

**Such laws make things worse for the assaulted and better for the assailants;**

they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man.”

Thomas Jefferson The Commonplace Book (298-316)

“Both Oligarch and Tyrant mistrust the people, and therefore deprive them of arms.”

**Aristotle** (384-322 BC) Greek philosopher

**The United States Constitution is the final authority over “The Rule of Law” and all government as has been proven throughout this book and not personal ideology and bias.**

**The Second Amendment does not need to be defined by the Supreme Court or anyone in any branch of the government. The Founders knew how to speak English clearly and we are also capable of it now. The rights of the people are different from the Militia; very clear.**

The writers of the Constitution not only provided for our Second Amendment Constitutional Right To “Bear Arms”, but they encouraged it very openly and plainly. Amendment II; Article I, Section 8 Provides For A “**Separate**” Militia And Section 9 Guarantees No Preference By States; Article IV, Section 1 Requires All States To Honor Licenses From Any Other State.

**If Those States Have Laws That Violate The Second Amendment That Has No Bearing Whatever  
“On Our Right As Provided By The Constitution”.**

***The Right Of The People. See Article I, Section 8, Clause 11 Below In Regard To Establishing A Militia.***

## **World’s Largest Army**



One of the most important quotations regarding the Second Amendment is from James Madison, Father of the Constitution, in his discourse on this issue in **Federalist No. 46** (see text below)

“To these would be opposed a militia amounting to near *half a million of citizens with arms in their hands*, officered by men chosen from among themselves, fighting for the common liberties and

united and conducted by governments possessing their affections and confidence.

It may well be doubted whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops.”

James Madison Federalist No. 46

And that number has grown to millions of American men and women.

“The U.S. Fish and Wildlife Service has reported *a total of 14,974,534 paid license holders for 2009, an increase of 526,494 over 2008. The 3.6 percent rise in paid license holders represents the largest single year increase since 1974.*”

*Added to this is the number of Americans that own firearms and are armed citizens that do not hunt it is estimated the total number of armed American citizens to be over 60 MILLION.*

James Madison's words written in 1787 are truer today than ever. In 1776 our adversaries were the British and today their government has confiscated all the guns of the citizens. They are learning that gun confiscation leaves one defenseless against tyranny; **they are now protesting but with paper and cardboard signs.**

"It is true, the yeomanry (*Farmers with small freeholdings; a British cavalry force, organized as a home guard in 176*)<sup>1</sup> 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 (*unnoticeable, undetectable*) to them, totally deprived of that boasted weight and strength: This may be done in great measure by congress;"

Richard Henry Lee, (1732-1794) wrote Lee Resolution 1776 & signer of the Declaration of Independence

Source: Letters From The Federal Farmer (1787)

"The militia, who are in fact the effective part of the people at large, will render many troops quite unnecessary. They will form a powerful check upon the regular troops, and will generally be sufficient to over-awe them"

Tench Coxe (1755-1824) American political economist

An American Citizen IV, October 21, 1787

**Members of Congress, Executive Branch, Supreme Court, States etal, You Are Bound By Your Oath Of Office To Defend And Protect The Constitution.**

*REMEMBER YOUR OATH OF OFFICE?*

**"The Constitution is not an instrument for the government to restrain the people, it is an instrument for the people to restrain the government – lest it come to dominate our lives and interests."  
Patrick Henry**

The U.S. government has enumerated (limited) powers and has only the authority expressly allowed in the Constitution. Public officials have no right to define their own powers.

**Article I below defines the Militia that is defined in the Second Amendment.**

**ARTICLE I, SECTION 8, CLAUSE 11**

**"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, 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;"**

*Under these provisions, the right of the states to maintain a militia, including what is now the National Guard, is always subordinate to the power of Congress (which is always subordinate to the Constitution).*

All states are bound by the U.S. Constitution; one state cannot impose a rule that violates our Constitution.

**ARTICLE I, SECTION 9, CLAUSE 6.**

**"No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another."**

*Congress cannot favor one state against another while regulating trade.*

This Article insures that whatever license such as drivers license or gun license to carry is good in any State of the Union.

**ARTICLE IV, SECTION 1, CLAUSE 1.**

“Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.”

*Each state is required to recognize the laws and records (such as drivers & right to carry arm etc.s licenses) of other states and to enforce rights in its own courts that would be enforced in other state courts. (emphasis added to comments)*

**ARTICLE IV, SECTION 1, CLAUSE 2.**

“The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.”

*States must treat the citizens of other states equally, without discrimination.*

ACLU's absurd definition of 'the people'

**Excerpts from article by William J. Federer**

On March 18, the Supreme Court heard the case of District of Columbia v. Heller (07-290), a case regarding the Second Amendment, which reads:

"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 ACLU argued that the term "the people" should have its definition changed to mean "the state militia," as the ACLU website states under the section "Gun Control":

"We believe that the constitutional right to bear arms is primarily a collective one, intended mainly to protect the right of the states to maintain militias. ... The ACLU therefore believes that the Second Amendment does not confer an unlimited right upon individuals to own guns."

Using the ACLU's new definition of "the people," the Second Amendment would read:

"A well-regulated militia, being necessary to the security of a free state, the right of ~~the people~~ 'the state militia' to keep and bear arms, shall not be infringed."

The absurdity of the ACLU's definition of "the people" is revealed when its definition is applied to the rest of the Constitution and Bill of Rights:

PREAMBLE: We ~~the people~~ "the state militias" of the United States, in order to form a more perfect union ... establish this Constitution. ...

ARTICLE 1, SECTION 2: The House of Representatives shall be composed of Members chosen every second year by ~~the people~~ "the state militias." ...  
FIRST AMENDMENT: Congress shall make no law ... abridging ... the right of ~~the people~~ "the state militias" peaceably to assemble ...  
James Madison wrote in Federalist No. 46, published in the New York Packet, January 29, 1788:

"The ultimate authority resides in **the people** alone. The advantage of being armed, which the Americans possess over the people of almost every other nation, forms a barrier against the enterprises of ambition. ...  
"In the several kingdoms of Europe the governments are afraid to trust **the people with arms.**"

The ACLU's mis-definition of "the people" reminds one of Thomas Jefferson's letter to Supreme Court Justice William Johnson, June 12, 1823, where he warned:

**"On every question of construction, carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed."**

In the debates of the Massachusetts Convention to ratify the U.S. Constitution, 1788, Samuel Adams stated:

"And that the said Constitution be never construed to authorize Congress to infringe the just liberty of the press, or the rights of conscience; or to prevent **the people** of the United States, who are peaceable citizens, **from keeping their own arms.**"

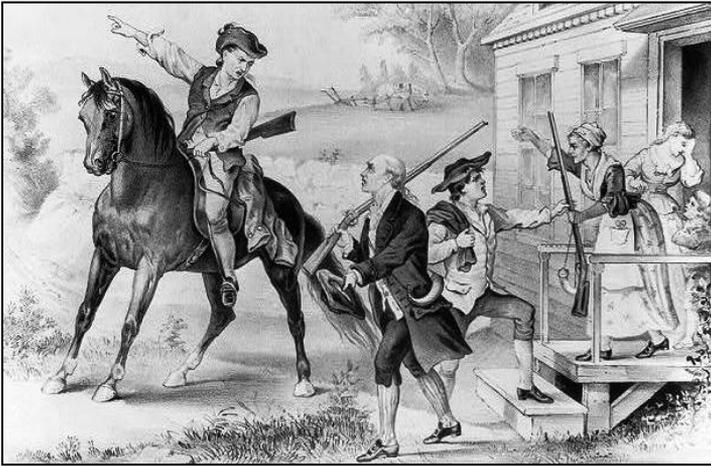
(William J. Federer)

## **The United Nation's Arms Trade Treaty: A Dangerous Multilateral Mistake**

On October 31, 2008, the U.N. General Assembly voted 145 to 2 with 18 abstentions for a resolution entitled "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms." The two nations voting against the resolution were the United States and Zimbabwe. The October resolution envisions a "legally binding treaty" that creates "common international standards" for "the import, export and transfer of conventional arms," including small arms and light weapons.

**Quotes relating to the adoption of the Second Amendment**

**(These are just a very few quote, see Founders Quotation Chapter 13 for additional Second Amendment quotes.)**



### “Minute Men ♦ American Patriots”

“Not all the treasures of the world, so far as I believe, could have induced me to support an offensive war, for I think it murder; but if a thief breaks into my house, burns and destroys my property, and kills or threatens to kill me, or those that are in it, and to "bind me in all cases whatsoever" to his absolute will, am I to suffer it”?

Thomas Paine 1776 *The American Crisis*, No. 1

“The Constitution of most of our states (and of the United States) assert that all power is inherent in the people; that they may exercise it by themselves;... that it is their right and duty to be at all times armed and that they are entitled to freedom of person, freedom of religion, freedom of property, and freedom of press.”

Thomas Jefferson Letter to Major John Cartwright (June 5 1824).

**“The right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of the republic;** since it offers a strong moral check against usurpation and arbitrary power of the rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them.”

Justice Joseph Story 1833 appointed to the Supreme Court by our Constitution’s principal author, James Madison, wrote in his “*Commentaries on the Constitution of the United States*”

James Madison, Father of the U.S. Constitution

Federalist No. 46

“The highest number to which, according to the best computation, a **standing army** can be carried in any country, does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of

the number able to bear arms. This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men. **To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for the common liberties and united and conducted by governments possessing their affections and confidence. It may well be doubted whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops.**

Those who are best acquainted with the late successful resistance of this country against the British arms will be most inclined to deny the possibility of it. Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of.

Notwithstanding the military establishments of the several kingdoms of Europe, which are carried as far as the public resources will bear, **the governments are afraid to trust the people with arms.” James Madison Federalist No. 46 (1788).**

**George Mason** is considered the "**Father of the Bill of Rights.**" Mason wrote the **Virginia Declaration of Rights**, which detailed specific rights of citizens. Thomas Jefferson drew heavily on this and Mason himself. He was later a leader of those who pressed for the addition of explicitly stated individual rights as part of the U.S. Constitution.

**“[W]hen the resolution of enslaving America was formed in Great Britain, the British Parliament was advised by an artful man, - who was governor of Pennsylvania, to disarm the people; that it was the best and most effectual way to enslave them; but that they should not do it openly, but weaken them, and let them sink gradually, by totally disusing and neglecting the militia.”**

**George Mason 1788** speech in the Virginia Ratifying Convention  
Reference: The Debates of the Several State..., Elliot, vol. 3 (380)

“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.” George Mason's declaration of "the essential and unalienable Rights of the People", later adopted by the Virginia ratification convention (1788).

**“[T]he people are not to be disarmed of their weapons. They are left in full possession of them.”**

**Zacharia Johnson 1788** speech in the Virginia Ratifying Convention  
Elliot, vol. 3 (646)

### **Patrick Henry**

“Guard with jealous attention the public liberty. Suspect everyone who approaches that jewel. Unfortunately, nothing will preserve it but downright force. Whenever you give up that force, you are inevitably ruined.”

### **Federal Farmer**

“[W]hereas, to preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them; nor does it follow from this, that all promiscuously must go into actual service on every occasion.

The mind that aims at a select militia, must be influenced by a truly anti-republican principle; and when we see many men disposed to practice upon it, whenever they can prevail, no wonder true republicans are for carefully guarding against it.”

Alexander Hamilton 1787 Antifederalist Letter, No.18

Reference: The Complete Anti-Federalist, Storing, ed., vol. 2 (342)

Patrick Henry Virginia's U.S. Constitution ratification convention (June 5, 1788), reported in Elliot, *Debates of the Several State Conventions* 3:45.

“My great objection to this government is, that it does not leave us the means of defending our rights or of waging war against tyrants.”

Patrick Henry Virginia's U.S. Constitution ratification convention (June 5, 1788)Elliot 3:47.

**“[W]here and when did freedom exist when the power of the sword and purse were given up from the people”?**

Patrick Henry Virginia's U.S. Constitution ratification convention (June 9, 1788), Elliot, *Debates of the Several State Conventions*, 3:169

“Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom of Europe. The supreme power in America cannot enforce unjust laws by the sword; because the whole body of the people are armed, and constitute a force superior to any bands of regular troops that can be, on any pretense, raised in the United States.”

**President John Kennedy**

"By calling attention to a well-regulated militia for the security of the Nation, and the right of each citizen to keep and bear arms, our founding fathers recognized the essentially civilian nature of our economy.

Although it is extremely unlikely that the fear of governmental tyranny, which gave rise to the 2nd amendment, will ever be a major danger to our Nation, the amendment still remains an important declaration...in which every citizen must be ready to participate in the defense of his country. For that reason I believe the 2nd Amendment will always be important. ... If we make peaceful revolution impossible, we make violent revolution inevitable."

**Noah Webster** (writing under the *nom de plume* (pseudonym) of "A Citizen of America), *An Examination Into the Leading Principles of the Constitution* (October 17, 1787).

**Fisher Ames**, Letter to F.R. Minoe, June 12, 1789 (reporting to Minoe on the amendments proposed by Madison):

**“The rights of conscience, of bearing arms, of changing the government, are declared to be inherent in the people.”**

**Fisher Ames**



**Springfield 1795 Musket** (*Flickr.com*)

*Taylor E. Hoynes, Jr. has written and published “Republic Or Democracy, Is There A Difference?”. This inclusive 700 page collection of history focuses on the founding of America and provides the reader an exhaustive collection of information, quotations and documents.*

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