

4-24-92

Mr. Terence Murphy
Program Manager
C-Span, Washington D.C.

Dear Mr. Murphy,

At about 4:40 AM today, ^{on C-Span 2} Professor Robert Davidow misrepresented the meaning of the Second Amendment to the Constitution. Referenced words of the Constitution Authors, the Supreme Court of the U.S., and a certified language expert document this misrepresentation. ^{are enclosed}

Time is requested on C-Span to rebut this misrepresentation. Thank you.

Sincerely,

This comments are at odds with those of George Mason, the namesake of Davidow's own University!
(see second page)

[REDACTED] (1) [REDACTED]

[REDACTED]

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ANNAPOLIS, MD 21403

ENGLISH LANGUAGE USAGE
AND THE SECOND AMENDMENT
VISITED

A well-schooled electorate, being necessary to the security of a free State, the right of the people to keep and read Books, shall not be infringed.

A well-visualized issue, being necessary for political freedom, the right of the people to keep and watch television, shall not be infringed.

Are the rights to keep and read books or watch television limited by the phrases " A well-school electorate" or "A well-visuualized issue? The answer is, surely not!

The Second Amendment of the U. S. Constitution: "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."

James Madison, Author of the U. S. Bill of Rights in the Constitution:

"Americans have the right and advantage of being armed-unlike the citizens of other countries whose governments are afraid to trust the people with arms." The Federalist Papers #46 at 243-244.

"The right of the people to keep and..bear arms shall not be infringed. A well-regulated militia, COMPOSED OF THE PEOPLE, trained to arms is the best and most natural defense of a free country..." - I Annals of Congress 434, June 8, 1789 (EMPHASIS ADDED)

The Second Amendment of the U. S. Constitution: Proposed September 25, 1789; Ratified December 15, 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.

On Individual Gun Ownership

James Madison

*Author of the U.S. Bill of Rights,
Amendment II in the Constitution*

“Americans have the right and advantage of being armed—unlike the citizens of other countries whose governments are afraid to trust the people with arms.”—James Madison, *The Federalist Papers* #46 at 243-244

“The right of the people to keep and bear...arms shall not be infringed. A well regulated militia, composed of the people, trained to arms, is the best and most natural defense of a free country...”—James Madison, *1 Annals of Congress* 434 (June 8, 1789)

“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 Second Amendment of the United States Constitution, Proposed Sept. 25, 1789; Ratified Dec. 15, 1791*

“The ultimate authority...resides in the people alone.”—James Madison *The Federalist*, No. 46

George Mason

Framer of the Declaration of Rights, Virginia, 1776, which became the basis for the U.S. Bill of Rights

“I ask, sir, what is the militia? It is the whole people, except for a few public officials.”—George Mason, 3 Elliott, *Debates* at 425-426

“To disarm the people (is) the best and most effectual way to enslave them...”—George Mason, 3 Elliott, *Debates* at 380

Thomas Jefferson

Author of the Declaration of Independence

“No Free man shall ever be debarred the use of arms.”—Thomas Jefferson, *Proposal Virginia Constitution*, 1 T. Jefferson Papers, 334 (C.J. Boyd, Ed., 1950)

“And what country can preserve its liberties, if its rulers are not warned from time to time, that this people preserve the spirit of resistance? Let them take arms...The tree of liberty must be refreshed from time to time, with the blood of patriots and tyrants” (letter to William S. Smith, 1787, in Jefferson, *On Democracy* 20, S. Padover ed., 1939)

Supreme Court of the U.S.

For the type of firearm, militia suitable was established as a test for Constitutionally protected citizen possession. In the Court's opinion, possession of a sawed-off shotgun was denied because the firearm failed the following test: “that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense.” *United States v. Miller* (1939)

George Washington

First President and Father of the Country

“A free people ought...to be armed...” George Washington, speech of January 7, 1790 in the Boston Independent Chronicle, January 14, 1790

Noah Webster

“Before a standing army can rule, the people must be disarmed...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...”—Noah Webster, “An Examination into the Leading Principles of the Federal Constitution” (1787) in *Pamphlets on the Constitution of the United States* (P. Ford, 1888)

THE SECOND AMENDMENT OF THE UNITED STATES CONSTITUTION:

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 SUPREME COURT OF THE UNITED STATES:

The signification attributed to the term Militia appears from the debates in the Convention, the history and legislation of Colonies and States, and the writings of approved commentators. These show plainly enough that the Militia comprised all males physically capable of acting in concert for the common defense. A body of citizens enrolled for military discipline. And further, that ordinarily when called for service these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time. (U. S. v. Miller 1939)

JAMES MADISON, AUTHOR OF THE BILL OF RIGHTS INCLUDING THE SECOND AMENDMENT:

The right of the people to keep and bear...arms shall not be infringed. A well-regulated militia, COMPOSED OF THE PEOPLE, trained to arms, is the best and most natural defense of a free country... - I Annals of Congress 434, June 8, 1789 (EMPHASIS ADDED)

THE SUPREME COURT OF THE UNITED STATES:

...the States cannot, even laying the Constitutional provision in question out of view, prohibit the people from keeping and bearing arms... (Presser v. Illinois - 1886)

Will the rule of Constitutional law prevail?

The Bill of Rights in the U. S. Constitution is two hundred years old. When people speak of the meaning of these enumerated rights, they frequently speculate, sometimes inaccurately, without reference to the exact words of the authors of the Bill of Rights and the exact interpretive words of the Supreme Court of the United States. The purpose of the Bill of Rights is to insure: 1. that the checks and balances on the political power of the government written into the Constitution endure and 2. what James Madison declared, that "The ultimate authority... resides in the people alone." (The Federalist, No. 46)

Since 1791, every fifty years or half century, the U. S. Supreme Court and its Justices have restated the declarations of the two men most responsible for the language in the Bill of Rights. One of these men, James Madison, contrasted the right of American citizens being armed with the lack of such a right of citizens of other countries. The other, George Mason, defined the term "militia" as "the whole people, except for a few public officials." By way of introduction, George Mason wrote the Virginia Declaration of Rights in 1776 upon which James Madison based the U. S. Bill of Rights and Thomas Jefferson, in part, based the Declaration of Independence.

The U. S. Supreme Court and Justices' restatement of Madison's and Mason's words and ideas are:

1. In 1833, Justice Joseph Story wrote in Commentaries on the Constitution of the United States of the militia, "the natural defense of a free country against sudden foreign invasions, domestic insurrections, and domestic usurpations of power by rulers..." Further, "The right of citizens to keep and bear arms has justly been considered as the palladium of the liberties of a republic..."
2. In 1886, in Presser v. Illinois, the U. S. Supreme Court stated, "It is undoubtedly true that all citizens capable of bearing arms constitute the reserved military force or reserve militia of the United States as well as of the States, and, in view of this prerogative of the general government, as well as of its general powers, the States cannot, even laying the Constitutional provision in question out of view, prohibit the people from keeping and bearing arms..."
3. In 1939, in U. S. v. Miller, the U. S. Supreme Court stated, "The signification attributed to the term Militia appears from the debates in the Convention, the history and legislation of Colonies and States, and the writings of approved commentators. These show plainly enough that the Militia comprised all males physically capable of acting in concert for the common defense. A body of citizens enrolled for military discipline. And further, that ordinarily when called for service these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time."
4. In 1990, in U. S. v. Verdugo-Urquidez, the U. S. Supreme Court in the person of Chief Justice Rehnquist, writing for the majority, called the Second Amendment a protection of an individual right to keep and bear arms, comparing this right of the people to the right of the people to peaceably assemble and the right of the people against unreasonable searches.

This almost synchronized repetition by the U. S. Supreme Court clearly establishes legal precedent with great weight.

In conclusion, James Madison wrote, "Americans have the right and advantage of being armed-unlike the citizens of other countries whose governments are afraid to trust the people with arms." (The Federalist Papers #46 at 243-244) This right guarantees law-abiding American citizens the means to protect his/her own individual liberty and families against government abuse, crime, and foreign invasion; that is, the undeniable right to perform militia type functions with his/her own militia type arms. We can understand the definition of militia type firearms by looking to firearms used by police, who perform a militia function. They include handguns, semi-auto rifles, and shotguns.

THE UNABRIDGED SECOND AMENDMENT

by J. Neil Schulman

If you wanted to know all about the Big Bang, you'd ring up Carl Sagan, right? And if you wanted to know about desert warfare, the man to call would be Norman Schwarzkopf, no question about it. But who would you call if you wanted the top expert on American usage, to tell you the meaning of the Second Amendment to the United States Constitution?

That was the question I asked A.C. Brocki, editorial coordinator of the Los Angeles Unified School District and formerly senior editor at Houghton Mifflin Publishers — who himself had been recommended to me as the foremost expert on English usage in the Los Angeles school system. Mr. Brocki told me to get in touch with Roy Copperud, a retired professor of journalism at the University of Southern California and the author of *American Usage and Style: The Consensus*.

A little research lent support to Brocki's opinion of Professor Copperud's expertise.

Roy Copperud was a newspaper writer on major dailies for over three decades before embarking on a distinguished 17-year career teaching journalism at USC. Since 1952, Copperud has been writing a column dealing with the professional aspects of journalism for *Editor and Publisher*, a weekly magazine focusing on the journalism field.

He's on the usage panel of the *American Heritage Dictionary*, and *Merriam Webster's Usage Dictionary* frequently cites him as an expert. Copperud's fifth book on usage, *American Usage and Style: The Consensus*, has been in continuous print from Van Nostrand Reinhold since 1981, and is the winner of the Association of American Publishers' Humanities Award. That sounds like an expert to me.

"The sentence does not restrict the right to keep and bear arms, nor does it state or imply possession of the right elsewhere or by others than the people; it simply makes a positive statement with respect to a right of the people."

After a brief telephone call to Professor Copperud in which I introduced myself but did not give him any indication of why I was interested, I sent the following letter:

"I am writing you to ask you for your professional opinion as an expert in English usage, to analyze the text of the Second Amendment to the United States Constitution, and extract the intent from the text.

"The text of the Second Amendment is, '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 debate over this amendment has been whether the first part of the sentence, 'A well-regulated Militia, being necessary to the security of a free State,' is a restrictive clause or a subordinate clause, with respect to the independent clause containing the subject of the sentence, 'the right of the people to keep and bear Arms, shall not be infringed.'

"I would request that your analysis of this sentence not take into consideration issues of political impact or public policy, but be restricted entirely to a linguistic analysis of its meaning and intent. Further, since your professional analysis will likely become part of litigation regarding the consequences of the Second Amendment, I ask that whatever analysis you make be a professional opinion that you would be willing to stand behind with your reputation, and even be willing to testify under oath to support, if necessary."

My letter framed several questions about the text of the Second Amendment, then concluded:

"I realize that I am asking you to take on a major responsibility and task with this letter. I am doing so because, as a citizen, I believe it is vitally important to extract the actual meaning of the Second Amendment. While I ask that your analysis not be affected by the political importance of its results, I ask that you do this because of that importance."

After several more letters and phone calls, in which we discussed terms for his doing such an analysis, but in which we

About the Author

J. Neil Schulman is the award-winning author of novels endorsed by Anthony Burgess and Nobel-economist Milton Friedman, and writer of the CBS "Twilight Zone" episode in which a time-traveling historian prevents the JFK assassination. He's also the founder and president of SoftServ Publishing, the first publishing company to distribute "paperless books" via personal computers and modems.

Most recently, Schulman has founded the Committee to Enforce the Second Amendment (CESA), through which he intends to see the individual's right to keep and bear arms recognized as a constitutional protection equal to those afforded in the First, Fourth, Fifth, Ninth and Fourteenth amendments.

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never discussed either of our opinions regarding the Second Amendment, gun control, or any other political subject, Professor Copperud sent me the following analysis (into which I have inserted my questions for the sake of clarity):

[Copperud:] "The words 'A well-regulated militia, being necessary to the security of a free state,' contrary to the interpretation cited in your letter of July 26, 1991, constitutes a present participle, rather than a clause. It is used as an adjective, modifying 'militia,' which is followed by the main clause of the sentence (subject 'the right,' verb 'shall'). The right to keep and bear arms is asserted as essential for maintaining a militia."

"In reply to your numbered questions:

[Schulman:] "(1) Can the sentence be interpreted to grant the right to keep and bear arms solely to 'a well-regulated militia'?"

[Copperud:] "(1) The sentence does not restrict the right to keep and bear arms, nor does it state or imply possession of the right elsewhere or by others than the people; it simply makes a positive statement with respect to a right of the people."

[Schulman:] "(2) Is 'the right of the people to keep and bear arms' granted by the words of the Second Amendment, or does the Second Amendment assume a pre-existing right of the people to keep and bear arms, and merely state that such right 'shall not be infringed'?"

[Copperud:] "(2) The right is not granted by the amendment; its existence is assumed. The thrust of the sentence is that the right shall be preserved inviolate for the sake of ensuring a militia."

[Schulman:] "(3) Is the right of the people to keep and bear arms conditioned upon whether or not a well-regulated militia, is, in fact, necessary to the security of a free State, and if that condition is not existing, is the statement 'the right of the people to keep and bear Arms, shall not be infringed' null and void?"

[Copperud:] "(3) No such condition is expressed or implied. The right to keep and bear arms is not said by the amendment to depend on the existence of a militia. No condition is stated or implied as to the relation of the right to keep and bear arms and to the necessity of a well-regulated militia as a requisite to the security of a free state. The right to keep and bear arms is deemed unconditional by the entire sentence."

[Schulman:] "(4) Does the clause 'A well-regulated Militia, being necessary to the security of a free State,' grant a right to the government to place conditions on the 'right of the people to keep and bear arms,' or is such right deemed unconditional by the meaning of the entire sentence?"

[Copperud:] "(4) The right is assumed to exist and to be unconditional, as previously stated. It is invoked here specifically for the sake of the militia."

[Schulman:] "(5) Which of the following does the phrase 'well-regulated militia' mean: 'well-equipped,' 'well-organized,' 'well-drilled,' 'well-educated,' or 'subject to regulations of a superior authority'?"

[Copperud:] "(5) The phrase means 'subject to regulations of a superior authority'; this accords with the desire of the writers for civilian control over the military."

[Schulman:] "(If at all possible, I would ask you to take into account the changed meanings of words, or usage, since that sentence was written 200 years ago, but not take into account historical interpre-

tations of the intents of the authors, unless those issues can be clearly separated."

[Copperud:] "To the best of my knowledge, there has been no change in the meaning of words or in usage that would affect the meaning of the amendment. If it were written today, it might be put: 'Since a well-regulated militia is necessary to the security of a free state, the right of the people to keep and bear arms shall not be abridged.'

[Schulman:] "As a 'scientific control' on this analysis, I would also appreciate it if you could compare your analysis of the text of the Second Amendment to the following sentence,

"A well-schooled electorate, being necessary to the security of a free State, the right of the people to keep and read Books, shall not be infringed."

"My questions for the usage analysis of this sentence would be,

"(1) Is the grammatical structure and usage of this sentence and the way the words modify each other, identical to the Second Amendment's sentence?; and

"(2) Could this sentence be interpreted to restrict 'the right of the people to keep and read Books' only to 'a well-educated electorate' — for example, registered voters with a high-school diploma?"

[Copperud:] "(1) Your 'scientific control' sentence precisely parallels the amendment in grammatical structure.

"(2) There is nothing in your sentence that either indicates or implies the possibility of a restricted interpretation."

Professor Copperud had only one additional comment, which he placed in his cover letter: "With well-known human curiosity, I made some speculative efforts to decide how the material might be used, but was unable to reach any conclusion."

"No condition is stated or implied as to the relation of the right to keep and bear arms and to the necessity of a well-regulated militia as requisite to the security of a free state. The right to keep and bear arms is deemed unconditional by the entire sentence."

So now we have been told by one of the top experts on American usage what many knew all along: the Constitution of the United States unconditionally protects the people's right to keep and bear arms, forbidding all governments formed under the Constitution from abridging that right.

As I write this, the attempted coup against constitutional government in the Soviet Union has failed, apparently because the will of the people in that part of the world to be free from capricious tyranny is stronger than the old guard's desire to maintain a monopoly on dictatorial power.

And here in the United States, elected lawmakers, judges, and appointed officials who are pledged to defend the Constitution of the United States ignore, marginalize, or prevaricate about the Second Amendment routinely. American citizens are put in American prisons for carrying arms, owning arms of forbidden sorts, or failing to satisfy bureaucratic requirements regarding the owning and carrying of firearms — all of which is an abridgement of the unconditional right of the people to keep and bear arms, guaranteed by the Constitution.

And even the American Civil Liberties Union (ACLU), staunch defender of the rest of the Bill of Rights, stand by and does nothing.

It seems it is up to those who believe in the right to keep and bear arms to preserve that right. No one else will. No one else can. Will we beg our elected representatives not to take away our rights, and continue regarding them as representing us if they do? Will we continue obeying judges who decide that the Second Amendment doesn't mean what it says it means but means whatever they say it means in their Orwellian doublespeak?

Or will we simply keep and bear the arms of our choice, as the Constitution of the United States promises us we can, and pledge that we will defend that promise with our lives, our fortunes, and our sacred honor?

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Thomas Jefferson

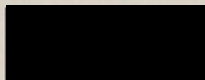
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