"THE COMMONWEALTH IS THEIRS WHO HOLD THE ARMS:
THE SWORD AND SOVEREIGNTY
EVER WALK HAND IN HAND"
ARISTOTLE

"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"
UNITED STATES CONSTITUTION, SECOND AMENDMENT: SUPREME LAW OF THE LAND

US SUPREME COURT DEBUNKS "GUN CONTROL"

By Nom David Plume

Is the US Supreme Court awaiting the best case to use to **end "gun control"** ? (thus to grant all America the freedom enjoyed by people of Vermont and Alaska, which have no gun laws?) The following arguments are offered in hope that the reader will find them of use in supporting his right to self-defense from the infringements of any government in America. This writing is rendered against the background of the authoritarian-collectivists' historically FALSE propositions that the 2nd Amendment: 1. only protects a collective right of the states (against the US government) to a national guard, and 2. defends no individual rights. Alternatively, the libertarian-individualists' position is that the 2nd, and 9th, Amendments protect the natural rights of each citizen to carry personal weapons for defense from violent crime. If it be argued that the cases hereinafter exegesized are only obiter dicta (i.e., setting no controlling precedent, qua the right to bear arms, because that right was not before the Court), then observe that in the case of US v. VERDUGO (199O) 11O S.Ct. 1O56 (at P. 1O61) the United States Supreme Court declares that:

> "The Second Amendment protects
> 'the right of **the people** to keep
> and bear arms'".

THE SUPREME COURT THEN PROCEEDS TO DEFINE "THE PEOPLE" AS BEING THE SAME PEOPLE WHO CAN VOTE TO ELECT THE US HOUSE OF REPRESENTATIVES EVERY SECOND YEAR. (Notably, one need not join the National Guard in order to vote for his congressman.) The Court further defined "the people" to mean those people who have a right peaceably to assemble [1st Amendment] and those who have the right to be free of unreasonable searches and seizures [4th Amendment] in their persons houses, papers and effects (**personal** rights, not rights of states, as the authoritarian-collectivists allege of the 2nd Amendment).
THE COURT HELD THAT THE TERM "**THE PEOPLE**" **MEANS THE SAME THING** EVERYWHERE THAT IT IS FOUND IN THE CONSTITUTION OF 1787, AND EVERYWHERE THAT IT IS FOUND IN THE BILL OF RIGHTS.

In VERDUGO (supra), the Court indicated that the **same people** are protected by the First, **SECOND**, Fourth, Ninth and Tenth Amendments; i.e. **THE PEOPLE** who can speak & worship freely can keep and bear arms. Note that: **the Court RELIED upon its definition of "the people".** Its decision in the VERDUGO case is founded upon that definition, so that stare decisis attaches, thus creating binding judicial precedent, explaining **WHO THE PEOPLE ARE** who have the said rights.

The next case declares principles of interest to scholars of the 2nd and 9th Amendments, who will reason by **analogy**, regardless of their opinions, pro or con, concerning abortion:

In PLANNED PARENTHOOD v. CASEY (1992) 112 S.Ct. 2791 (P. 2805) the US Supreme Court declares that:

> "...by the express provisions of the **first eight amendments** to the Constitution" rights were "guaranteed **to THE INDIVIDUAL**... It is a promise of the Constitution that there is a realm of **personal liberty** which the government may not enter." [emphasis added]

The 2nd Amendment is within "the first eight amendments".

The Court also adopted the Harlan dissent in POE v. ULLMAN 367 US 497 that: "...'liberty' is not a series of isolated points...in terms of the taking of property; the freedom of speech, press and religion; the **RIGHT TO KEEP and BEAR ARMS**; the freedom from unreasonable searches and seizures.... It is a rational continuum which...includes a freedom from all arbitrary impositions ..."[emphasis added] (Notice no reference to any state government militia.)

On the same page, the Supreme Court invokes the **9th Amendment** to curtail the powers of the states, thru the 14th Amendment. Historically, the purpose of the 9th Amendment was to preserve, and carry intact into perpetuity, those rights already freely enjoyed by Americans and Englishmen as of the time of the American Revolution. By virtue of the English Bill of Rights of 1689, the long established right to keep and bear arms was clearly recognized and protected, with the 9th Amendment of the US Bill of Rights perpetuating the old English rights in America. The Supreme Court added that: "All fundamental rights comprised within the term liberty are protected by the federal Constitution from invasion by the states." PARENTHOOD (supra) In GIDEON v. WAINWRIGHT (1963) 372 US 335 the US Supreme Court held that: "**this Court has looked to the FUNDAMENTAL nature of original Bill of Rights guarantees to decide whether the Fourteenth Amendment makes them obligatory on the States**"[emphasis added]; hence, the 2nd Amendment forbids the states from controlling guns if the right to guns for self-defense from the violence of man or beast is "**fundamental**" not trivial.

In said PARENTHOOD case, speaking of the right to reproductive autonomy, the USSC used the following language (in pertinent part, from perspective of the right to self-defense):

> "Our law affords constitutional protection to **PERSONAL DECISIONS....** Our cases recognize '**the right of the individual ... to be free from** unwarranted **governmental intrusion into matters ... fundamentally affecting a person**'... These matters involving the most intimate and **PERSONAL CHOICES** a person may make in a lifetime, choices central to **PERSONAL DIGNITY and AUTONOMY,** are central to the liberty protected by the 14th Amendment." (P. 2807) [emphasis added]

ANALOGIZING this reasoning to situations concerning the right to self-defense: a Brooklyn garage was raided by a criminal who, not being satisfied to ROB its attendant, caused him to take a supine position, then committed an indecent, unsanitary act all over him; criminals have vented their sadism in grotesque, unseemly ways. THE QUESTION OF WHETHER to ***PEACEFULLY*** **SUBMIT** ("better Red than dead") to robbery or sexual abuse (and/or to your own **murder**)
OR
to **FORCEFULLY RESIST** is a "**personal decision**...fundamentally affecting a person..." bearing upon "...**personal dignity** and **autonomy**...." The individual citizen bets his **life** on his choice. A decision upon which his **life** depends fundamentally affects a person.

(Arguably, government had gone into partnership with the criminal, providing for his personal safety on-the-job [as per O.S.H.A.] by disarming his victims prospectively.) On the same page of PARENTHOOD case, the Court notes that abortion is an act "fraught with consequences for others..." and that it has effects upon society, but that "... **the liberty of the woman** is at stake in a sense **unique to the human condition and so unique to the law** ..." thus, said consequences and effects "... cannot alone be grounds for the State to insist she make the sacrifice ...". [emphasis added]

(Is being robbed, or forcibly sodomized, " **unique** " ?)

By this reasoning, the authoritarian-collectivists' argument that repeal of victim disarmament laws is dangerous, is outweighed by the **unique quality** of the existential right to self-defense against being robbed, sexually defiled, or murdered. In PARENTHOOD, the Court held that: "... a State's interest in the protection of life **falls short** of justifying any plenary override of **individual liberty claims**." [emphasis added] In GIDEON (supra), addressing the 6th Amendment, the Court held that: "... lawyers in criminal courts are necessities, not luxuries" for people defending themselves from criminal accusations. Can we analogize this to guns being "necessities, not luxuries" for defense from violence of criminals or animals ? or potential political usurpation? Enter the mind of a burglar at 2 a.m.: if a home of pacifists on your left had window signs proclaiming: "THERE ARE NO GUNS IN THIS HOUSE" and you knew that all residents of the home on your right were members of the NATIONAL RIFLE ASSOCIATION, which home would you rather break into?

Qua **what arms** the people have rights to keep and bear, the US Supreme Court said in US v. MILLER (1939) 307 US 174 that they should be "**ordinary military equipment** ... AYMETTE v. STATE 2 Hump. [21 Tenn] 154, 158." [emphasis added] The AYMETTE case, which the Supreme Court approvingly adopted declares: "the arms, the right to keep which is secured, are such as are **usually employed** in civilized warfare, and that constitute **ordinary military equipment**. If the citizens have these arms in their hands, they are prepared in the best possible manner to repel any encroachments on their rights." [emphasis added] Note that every army uses handguns and rifles. Guns were among the world's first machines with moving parts, (tho more easily made now with modern "know-how"). Guns were not new to Columbus nor to his grandfather. They are simple machines, easily made. (The M-1 Carbine was invented by a prisoner, David Williams, in prison for moonshining; convicts have secretly made pistols, including a fully functional submachinegun, one-part-at-a-time, with the guards around in prison workshops.) The accumulated knowledge of the gunsmith is **NOT SECRET**; it is among the world's **freely available** engineering data. If criminals had no guns, they'd arm themselves using that information and access to the hardware stores of America; thus the **FUTILITY** of the "gun control" philosophy: the disarmament of criminals is absolutely **IMPOSSIBLE**.

REMOVAL from America of violently felonious recidivists can reduce misconduct. Crime comes from bad people, not from tools. Should umbrellas be blamed for rain? pens for forgery? spoons for obesity?

Repressionists want to disarm citizens, saying that guns are sometimes used to facilitate crime. They fail to understand that the actual weapon is the **HUMAN MIND,** whose cleverness has not been controlled nor restrained (even in prison). This mind expresses itself perseveringly, into the manifestation of its felt needs or desires, and it has FOREVER to do the job that it selects (e.g., the **art of the gunsmith**/gun merchant). In the 1920s, it was pervasively proven by citizens privately making bathtub gin, or using Speakeasys (and is proven again now by marijuana users) that Prohibition is **futile**.

In JOHNSON v. EISENTRAGER 339 US 763, (195O) the US Supreme Court held that the US Bill of Rights did not protect German enemy aliens, as:

> "Such a construction would mean that during military occupation ... enemy elements, guerrilla fighters, and 'werewolves' could require the American Judiciary to assure them freedoms of speech, press, and assembly, as in the First Amendment, **RIGHT TO BEAR ARMS as in the Second**, security against 'unreasonable' searches and seizures as in the Fourth, as well as rights to jury trial as in the Fifth and Sixth Amendments."[1] [emphasis added]

Observe that the Supreme Court finds **no need** to refer to any state **government militia**; this holding, and the choice of words in which it is expressed, concern **PERSONAL** RIGHTS, not rights of state governments against Uncle Sam. The Supreme Court has long acknowledged rights to self defense, as shown forth in the 2nd Amendment. As early as 1857, that Court said that **CITIZENS** are:

> "... entitled to the *privileges* and *immunities* of citizens ..." and have "...the full liberty of speech ... to hold public meetings upon political affairs, and **TO KEEP AND CARRY ARMS wherever they went**." [emphasis added] Chief Justice Roger Taney DRED SCOTT v. SANFORD 60 US 393 (1857)

Thus the Court finds the individual citizen's rights protected from violation by **any** government, be it federal, state or local. Colonial America had its own gun control laws: "every...inhabitant of this colony provide for himself and each under him able to bear arms, a sufficient musket...with [ammunition] and for each default ... forfeit ten shillings." (New Plymouth 1632) For the sake of safety, in the spirit of today's mandatory seatbelt legislation, colonial gun control laws **prohibited** going to work, or **to Church**, in an unarmed condition. (Virginia 1631) Clergymen checked to make sure that their congregants were well armed. These laws were socially paradigmatic as, since 1512, English boys aged 7 to 17 were required to be armed, at their fathers' expense, with adapted longbows (deemed *devastating* since the 1415 Battle of Agincourt; guns being less accurate, before the invention of rifling) and "bring them up in shooting". Male adults were required to be armed. (Statute of Winchester, as amended by King Henry VIII)[2]

Qua modern safety, a University of Chicago study[3] of 16 years' FBI statistics nationwide showed that states (now 40 of the 50) enacting laws to grant licensure for carrying concealed firearms to all applicants (except judicially certified lunatics and criminals) have resulted in precipitous declines of their violent crime rates. Adjoining jurisdictions, that did not repeal "gun control" laws had immediate, sharp increases of violent crime. None of those states has changed its mind and reverted to discriminatory licensure of self defense.

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[1] Dr. Stephen P. Halbrook: The Right To Keep and Bear Arms under the 2nd and 14th Amendments: The Framers' Intent and Supreme Court Jurisprudence (hereinafter set forth as:"Framers' Intent")

[2] David T. Hardy: Origins and Development of 2nd Amendment Blacksmith Pub.

[3] John R. Lott, Jr.: Journal of Legal Studies Jan 1997; More Guns Less Crime John R. Lott, Jr. University of Chicago Press 1998, 2nd edition 2OOO

Supporting "gun control" is like supporting drunken driving: its dangerous and reduces your chances to survive. From Kitty Genovese, in N.Y.C., to Reginald Denny[xii] in L.A., citizens have found out the hard way that police can be away for a long time when you need them. Should your life depend on other people who are not around? Is the right to self-defense limited to saints, angels and *perfect* Americans? the elite? Does discriminatory licensure of the right to effectively defend your life provide "... equal protection of the laws"? Some say that "gun control" is a "cultural war" that will result in an America of **strong individual rights** OR in a state of social planning, wherein the docile citizen is humbly obedient; his constitutional rights slowly forgotten. The Founders were libertarians who did not envision American posterity slowly descending into obsequious servility to its hireling government.

Some excerpts from the writings of Dr. Stephen Halbrook are very enlightening; (Dr. Halbrook is an eminent scholar of constitutional history and a successful trial attorney):

"St. George Tucker, the first major commentator on the Bill of Rights (NEW YORK TIMES v. SULLIVAN, 376 U.S. 254, 296-97 [1964]), explained the Second Amendment as follows:

> '**The right of self-defense is the first law of nature**.... Wherever...the right of the people to keep and bear arms is, under any color or pretext whatsoever, prohibited, liberty ... is on the brink of destruction.'"

Dr. Halbrook observes: "In his concurring opinion in DUNCAN v. LOUISIANA 391 US 145 (1968) Justice Black recalled the ... words of Senator Jacob M. Howard in introducing the [14th] amendment to the Senate in 1866: 'The **personal rights** guaranteed and secured by the first eight amendments of the Constitution such as...**the right to keep and bear arms**....The great object of the first section of this amendment is to restrain the power of the States and compel them at all times to respect these great **FUNDAMENTAL** guarantees.' ... The same two-thirds of Congress which proposed the 14th Amendment also passed an enactment declaring that the FUNDAMENTAL rights of 'personal liberty' and 'personal security' include '**the constitutional right to bear arms**.' Freedmen's Bureau Act §14, 14 Stat. 176 (July 16th, 1866) [emphasis added]

"No court has ever considered Congress' declaration, contemporaneously with its adoption of the Fourteenth Amendment, that the rights to personal security and personal liberty include the 'constitutional right' - i.e., the right based on the Second Amendment- 'to bear arms.' Until now, this declaration in the Freedmen's Bureau Act has been completely unknown both to scholars and the courts." Dr. Halbrook also cites the finding of Congress in the Firearms Owners' Protection Act that: "The conclusion is thus inescapable that the history, concept, and wording of the second amendment to the Constitution of the United States, as well as its interpretation by every major commentator and court in the first half-century after ratification, indicates that what is protected is an individual right of a private citizen to own and carry firearms in a peaceful manner."[4] Dr. Halbrook's historical research ascertained that:

"In recent years it has been suggested that the Second Amendment protects the 'collective' right of states to maintain militias, while it does not protect the right of 'the people' to keep and bear arms. If anyone entertained this notion in the period during which the Constitution and Bill of Rights were debated and ratified, it remains one of the most closely guarded secrets of the eighteenth century for no known writing surviving from the period between 1787 and 1791 states such a thesis."[5] Six years after Dr. Halbrook wrote those words, the Supreme Court explicitly supported him in the VERDUGO case. (supra)

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[4] All aforequoted material on this page is of Framers' Intent (supra).

[5] Halbrook: THAT EVERY MAN BE ARMED, University of New Mexico Press 1984

Another ploy of the authoritarian-collectivists argues that the Bill of Rights protects only "sporting guns" not defensive handguns or rifles; can we believe that the Founders meant to follow an amendment securing freedoms of speech, the press and religion with an amendment protecting possession of sporting goods?[6] Did we need more amendments for possession of catchers' mitts and roller skates? By assuring an armed populace, the Founders **physically put sovereignty into the hands of the citizens**.
US Supreme Court Justice Joseph Story (1811-1845) pointed out that:
"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...enable the people to resist and triumph over them."[7] His view was **adopted** by the US Supreme Court in US v. MILLER (supra), together with that of Judge Thomas Cooley who reiterated that idea, adding:
"The meaning of the provision...is that the people...shall have the right to keep and bear arms and **they need no permission** or **regulation of law** for the purpose." [emphasis added] The Constitution no more allows any government to control guns than to edit the Bible or control who has one. (Any conflict between the Constitution of 1787 [e.g. the interstate commerce clause] and the Bill of Rights must be resolved to favor the Bill of Rights, because those rights were **changes** to the original instrument.)

In US v. CRUIKSHANK 92 US 542 (1875) felonious convictions of some Klansmen for violation of the 1st Amendment (right of assembly), and of the 2nd Amendment (right to keep and bear arms), were reversed by the US 5th Circuit Ct. of Appeals, on the grounds that it was neither pled nor proven that **THE STATE** had, by its laws, abridged the rights of US citizens (Defendants being private citizens), and **FOR THAT REASON**,[8] the 14th Amendment could not apply the 1st nor the 2nd Amendment to the case at bar; i.e., the 14th Amendment only protected citizens of Louisiana from the **GOVERNMENT** of that State, not from their fellow citizens. That Court pointedly implied that **if officers of the State** of Louisiana had, BY ITS **LAWS**, violated the 1st or 2nd Amendment, they would have feloniously violated the 14th Amendment and the Enforcement Act of May 31, 187O.

Note that the US Supreme Court affirmed this case. In so doing, it held that the rights of the 1st and 2nd Amendments **long antedated** the Constitution, such that when created, the US government found them in being. Accordingly, these rights are **older** than the Constitution, which neither created nor granted them to the citizenry any more than the Constitution created the moon nor granted the stars. In CRUIKSHANK (supra), the USSC said that the 2nd Amendment:

> "... has no other effect than to restrict the powers of the national government, leaving the people to look for their protection against ANY VIOLATION **BY THEIR FELLOW CITIZENS** of THE RIGHTS IT RECOGNIZES to...the powers which relate to merely... **municipal** legislation ... internal **police**." (supra) [emphasis added].

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[6] David B. Kopel: The "Assault Weapon" Panic

7 J. Story COMMENTARIES ON THE CONSTITUTION 746 Ancient Athenian citizens believed that the Palladium, a statue of Pallas Athena in front of Athens, would protect them from attack, as long as it was preserved.

[8] §1 of the 14th Amendment to the US Constitution provides: "... No **STATE** shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." [emphasis added]

The opponents of freedom to defend oneself, taking the "states' rights" point of view of the 2nd Amendment, read the Amendment as tho it said (only):

"The US government shall have no authority to deprive
the government of any state of its military forces"
[thus repealing Article I §10 sub-§3, against states keeping troops]

One might ask those who support disarming future crime victims to consider that: 1. If states' rights is the correct concept of the 2nd Amendment, then, definitionally, **ONLY** the US government is ABLE to violate that right[9], so how could the USSC in CRUIKSHANK contemplate "any violation **BY THEIR FELLOW CITIZENS** of the rights it recognizes" ? (If Bill owes Joe $100 on a promissory note, Bill is the only person who could possibly violate Joe's rights under the note [by failing to pay according to its terms]).

2. If the US government violated that 2nd Amendment right (allegedly of state governments) how could the victimized governments "look for ... protection against ... violation ...of the rights it recognizes" to "**MUNICIPAL**" entities? That is, under the states' rights view of the 2nd Amendment (a right of the states against the US government), what is the point of states whose 2nd Amendment rights were violated by the US government, in appealing to their counties, towns, and villages, as the US Supreme Court declares (hereinbefore) in CRUIKSHANK ? and by what reasoning did the CRUIKSHANK Court refer to "... **municipal** ... **police**" to address such a violation? In 1875, the United States Supreme Court was not encouraging a second civil war.

Saying that the 2nd Amendment only limited the powers of Congress, clearly the Court was following its holding in BARRON v. BALTIMORE (1833) 7 Pet. 243 (that the Bill of Rights does not mean what it says). Yet, the author of §1 of the 14th Amendment, Rep. John A. Bingham, explained in a speech in Congress, on March 31st, 1871, that it was his intention to overthrow BARRON v. BALTIMORE when he wrote the 14th Amendment, thereby **to curtail the powers of the states** by use of its "privileges and immunities" and "due process" clauses, thus to enlarge the personal freedom of the Bill of Rights, quoting verbatim each one of **the first eight amendments**. When Sen. Jacob Howard introduced the 14th Amendment to the US Senate, he described "the **PERSONAL RIGHTS** guaranteed and secured by the **FIRST EIGHT amendments** of the Constitution; such as freedom of speech and the press; ...**the right to keep and bear arms**.... The great object of the first section of this amendment is...to restrain the power of the states and compel them ... to respect these great **fundamental** guarantees."[10] [emphasis added]

Tho it antedates (1984) the more recent cases hereinbefore considered, qua earlier cases, this writing is deeply in debt to Dr. Stephen Halbrook, whose erudite treatise THAT EVERY MAN BE ARMED (University of New Mexico Press) is the leading intellectual light of the freedom of self-defense movement. The rights to personal defense and to its necessary supportive equipment can therein be explored to great depth and profit.

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[9] such as by stripping away a state government's militia for federal use as President Eisenhower did to Arkansas' Governor Orval Faubus, in 1957, or Kennedy did to Alabama's Governor George Wallace, in 1963; did either Governor, or either of their Attorneys General, or any bar association, or any newspaper, or any Dixiecrat Senator, or the KKK, or *ANY* **PERSON** assert that the Second Amendment protected the state governments from this **?**

[10] Cong. Globe 23 May 1866; Halbrook: THAT EVERY MAN BE ARMED (supra)

In studying the historical and jurisprudential development of the right to keep and bear arms, bear in mind that when the US Constitution and Bill of Rights were enacted, during the 1700s, **there were NO POLICE anywhere** in the USA, nor had police existed in Colonial America, nor in England. The concept of a police force first **BEGAN** during the 1800s (both in America and in England). Accordingly, during the 1700s, if one were attacked by a violent criminal or a predatory animal, it was as imperative as it was paradigmatic **that he have the means to handle the situation himself**, and this was the world that the Founding Fathers knew when they drew the social and political contract that is the United States Constitution. The citizens were expected to take Jesus' advice: "he that hath no sword, let him ... buy one." Luke 22:36 [or a modern .44 revolver ?]

DISPASSIONATE ANALYSIS OF THE AMENDMENT'S
SYNTACTICAL ARCHITECTURE
MAY BE FACILITATED BY THE FOLLOWING ANALOGY:

"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" US Constitution, 2nd Amendment

ANALOGY: A well educated electorate being necessary to the security of a free state, **the right of THE PEOPLE to keep and read books shall not be infringed**.

1. Does this say that only voters have the right to read books ?

2. Does this say "well educated" only by STATE GOVERNMENT colleges ?

3. Does this say that only voters who are professors of state run colleges have the right to read books ?

4. Does this say that if you miss an election, it's ok for the Bureau of Alcohol, Tobacco and Books to knock down your door and steal your books ?

If criminals are willing to **ignore** the laws against **ROBBERY**;
if criminals are willing to **disregard** the laws against **MURDER**,
HOW can we convince them to **OBEY** "gun control" laws ?

Collectivists, in the expression of their authoritarianism, deny the existence of a right of self-defense, except by **in**effective means; it is their belief that if the wolves are eating the sheep, the teeth should be pulled from the mouths of the sheep. They also fear (subliminally) that it is harder to apply the **statist** philosophy: **"**authority from the top down, obedience from the bottom up**"**[11] if the people on the bottom are fully armed in their own defense. Then the top must treat them with high respect. The fundamental concern is thus revealed to be SOVEREIGNTY: **WHO IS THE BOSS** ? Is it A: the citizen, when he invokes his constitutional individual rights (as the heir of they who created government in America) or is it B: his hired security crew, government ? Favoring collectivism and authority to coerce social and economic relationships that collectivists like, they choose "B."

Public safety can be promoted by denying access to polite society to violently recidivistic felons; (control of their tools is impossible: wishful thinking permeated with futility). Safety can be served by permanent incarceration in secure prisons, or (less expensively) by **BANISHMENT** behind thousands of miles of water (the old English Botany Bay method) with felons' unlawful return being subject to severe penalty. Full immunity from criminal and civil litigation for acts of armed self-defense is envisioned. This is not copyrighted; just the 1st Amendment: u r free to disseminate so much of the foregoing as u c fit.

[11] Adolph Hitler

XII

Though modern day police forces exist at every level of government from the F.B.I. and U.S. Marshals down through the State, County and Municipal police forces, their presence does not guarantee individual safety, nor does it relieve individuals of the right to defend themselves if and when necessary. In fact, quite the opposite is true. Courts throughout the land, up to the US Supreme Court, have clearly reinforced this position by plainly stating that the **police have no duty to protect the individual**:

> "It is perfectly clear, on the one hand, that neither the Federal Constitution itself, nor any federal statute, granted respondent or her children any individual entitlement to police protection. See DeShaney v. Winnebago County Dept. of Social Servs., 489 U. S. 189 (1989)." – Justice Stevens
> -SCOTUS No. 04-278, Castle Rock v. Gonzales

> "...a government and its agencies are under no general duty to provide public services, such as police protection, to any particular individual citizen..."
> -Warren v. District of Columbia, 444 A.2d 1 (D.C. App. 1981)

> "What makes the City's position particularly difficult to understand is that, in conformity to the dictates of the law, Linda did not carry any weapon for self-defense. Thus by a rather bitter irony she was required to rely for protection on the City of NY which now denies all responsibility to her."
> -Riss v. New York, 22 N.Y.2d 579,293 N.Y.S.2d 897, 240 N.E.2d 806 (1958).

"Law enforcement agencies and personnel have no duty to protect individuals from the criminal acts of others; instead their duty is to preserve the peace and arrest law breakers for the protection of the general public."
-Lynch v. N.C. Dept. of Justice, 376 S.E. 2nd 247 (N.C. App. 1989)

Here are some brief excerpts of 2 articles
qua parsing the grammar of the 2nd Amendment,
by professionals of English usage.

They worked on a purely professional basis.
Tho the journals in which the articles were
published may well have been partial, the experts
showed their objective and dispassionate work.

The most significant text is high lit,
for ease of use.

The Unabridged Second Amendment

by J. Neil Schulman

The following article appeared in the September, 1991 issue of *California Libertarian News*, official newsletter of the California Libertarian Party.

English Usage Expert Interprets 2nd Amendment

I just had a conversation with Mr**. A.C. Brocki**, Editorial Coordinator for the Office of Instruction of the Los Angeles Unified School District.
Mr. Brocki taught Advanced Placement English for several years at Van Nuys High School, as well as having been a **senior editor for Houghton Mifflin**. I was referred to Mr. Brocki by Sherryl Broyles of the Office of Instruction of the LA Unified School District, who described Mr. Brocki as the foremost expert in grammar in the Los Angeles Unified School District the person she and others go to when they need a definitive answer on English grammar.

...

"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."

I asked him to rephrase this sentence to make it clearer.
"Because 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 infringed."

I asked him whether the meaning could have changed in two hundred years.
He said, "No."

I asked him whether this sentence could be interpreted to **restrict the right** to keep and bear arms **to "a well-regulated militia**."
He said, "**no**."
According to Mr. Brocki,
the sentence means that **the people *are* the militia**,
and that **the people have the right** which is mentioned.

I asked him again to make sure:

Schulman: "Can the sentence be interpreted to mean that the right can be restricted to "a well-regulated militia?"

Brocki: "**No**, I can't see that."

Schulman: "Could another professional in English grammar or linguistics interpret the sentence to mean otherwise?"

Brocki: "I can't see any grounds for another interpretation."

I asked Mr. Brocki if he would be willing to stake his professional reputation on this opinion, and be quoted on this. He said, "Yes."

At no point in the conversation did I ask Mr. Brocki his opinion on the Second Amendment, gun control, or the right to keep and bear arms.- July 17, 1991

The following is reprinted from "The Text of The Second Amendment" in *The Journal on Firearms and Public Policy*, Summer 1992, Volume 4, Number 1.

The Unabridged Second Amendment

If you wanted to know all about the Big Bang, you'd ring up Carl Sagan, right? 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. **···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.**

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 on July 26, 1991**:**

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."

[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, constitute 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 preexisting 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 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. ...

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."

Consider this grammatical parsing together with
the USSC's holding in VERDUGO
(set forth below, for your convenient reference):
The USSC has held in the case
of US v. VERDUGO 11O S.Ct. 1O56 (199O)
at P. 1O61 that:

> "The Second Amendment protects
> 'the right of the people to keep
> and bear arms'".

THE SUPREME COURT THEN PROCEEDS TO DEFINE "THE PEOPLE" AS BEING THE SAME PEOPLE WHO CAN VOTE TO ELECT THE US HOUSE OF REPRESENTATIVES EVERY SECOND YEAR. (Notably, one need not join the National Guard in order to vote for his congressman.)
The Court further defined "the people" to mean those people who have a right peaceably to assemble [1st Amendment] and those who have the right to be free of unreasonable searches and seizures [4th Amendment] in their persons houses, papers and effects (personal rights, not rights of states, as the authoritarian-collectivists allege of the 2nd Amendment).
THE COURT HELD THAT THE TERM "**THE PEOPLE**" MEANS THE **SAME** THING EVERYWHERE THAT IT IS FOUND IN THE CONSTITUTION OF 1787, AND EVERYWHERE THAT IT IS FOUND IN THE BILL OF RIGHTS.

In VERDUGO (supra), the Court indicated that **THE SAME PEOPLE** are protected by the First, **SECOND**, Fourth, Ninth and Tenth Amendments; i.e., **THE PEOPLE who can speak and worship freely are THE PEOPLE who can keep and bear arms.**

It is most noteworthy that the Court **RELIED** upon its definition of "the people". Its conclusion in the VERDUGO case is founded upon that definition, so that stare decisis attaches, thus creating binding judicial precedent, explaining WHO THE PEOPLE ARE who have those rights. Logically, that precedent SHOULD control the courts, thus disabling all governments in America from violating our personal rights to weaponry and self-defense.

UNITED STATES CODE TITLE 18

CRIMES AND CRIMINAL PROCEDURE PART I

CRIMES CHAPTER 13 - CIVIL RIGHTS

§§ 241. Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten,
or intimidate any inhabitant of any State, . . .
in the free exercise or enjoyment of any right
or privilege secured to him by
the Constitution or laws of the United States,
. . .
They shall be fined not more than $10,000
or imprisoned not more than ten years, or both;
and if death results, they shall be subject to imprisonment
for any term of years or for life.

§§ 242. Deprivation of rights under color of law

Whoever, under color of any law, statute,
ordinance, regulation, or custom,
willfully subjects any inhabitant of any State,
Territory, or District to the deprivation of any rights,
privileges, or immunities secured or protected
by the Constitution or laws of the United States, . . .
shall be fined not more than $1,000
or imprisoned not more than one year, or both;
and if bodily injury results shall be fined under this title or
imprisoned not more than ten years, or both;
and if death results shall be subject to imprisonment for
any term of years or for life.