

**Letter from a Friend; Original Intent; 'A well regulated militia'****The Right to Bear Arms****I. Introduction**

**Francis, Samuel. "Something Like Waco: The New Federal Police State." Chronicles. Feb. 1997, pp. 12–15.**

I recently received by e-mail (10-16-96) the following correspondence from a personal friend in London. This letter concerns the issues of gun ownership, gun control, and the rationales which promote the private possession of firearms. I quote excerpts:

*Dear Joe,*

*Yesterday I had time to read the Sunday papers on the train to and from Paris and there was something that I thought might interest you.*

*Happily, gun massacres are a rarity here, but there have been two in recent years. The latest was in Dunblane, Scotland, where a somewhat deranged man went into a primary school and shot a lot of the children and one or two teachers. In both the recent incidents the perpetrator owned his weapons legally.*

*The revulsion at these events, and especially at the more recent one, has brought into question the need for private individuals to have the right to own hand guns at all. On this there is, as you might suppose, some division. But the gun lobby here is not as strong as yours in America. This is not a gun owning nation in the same way that America is.*

*Unfortunately, I left the Sunday Guardian on the train, and I am cautious about quoting statistics without having them in front of me, but the figures were interesting and I think that they were as follows:*

*In England, 5% of families have a gun of some kind and each year one person in a million is shot. In America, 46% of families have a gun and each year 48 people in a million are shot. The researchers who quoted these figures were suggesting that they have been able to establish an exponential relationship between the number of guns held and the number of shootings.*

*I have to tell you that the attitude to guns represents one of the greatest differences between people of our two nations, and it is one of the hardest things to understand. We are, in so many respects similar and often come to the same conclusions. Even when the institutions and governments of our two nations sometimes behave excessively, I have a sense that the body of opinion among ordinary Americans and ordinary Britishers is similarly moderate.*

*How can it be, then, that we come to such different conclusions about weapons in private hands? Is it, do you think, because you have more space for hunting than we do? Hunting here is very much a minority sport and is associated with the upper class. Most people here have no interest whatever in going out to shoot animals. Rather, we have an appreciation of animals which is sometimes rather sentimental.*

*Or is it perhaps something to do with the traditions and portrayals of the wild west? Or is it something to do with a more real history. Possibly a misunderstanding of the meaning of the American constitution, or in Britain a reaction against the slaughter of the Great War.*

*I find it very hard to see why there should be such different attitudes, but they do seem to exist. Tomorrow the British Cabinet has to decide whether to ban hand guns or not. It would be a bold step indeed. I cannot guess what they will decide, but there seems to me to be a significant majority of ordinary people who say that the individual has no business keeping a device whose only purpose is to take life.*

*I wonder whether you can throw any light on this for me. Every good wish,*

*Trevor*

The next day the following article appeared in the **St. Louis Post-Dispatch: “British Cabinet Moves to Ban Handguns.” St. Louis Post-Dispatch. 17 Oct. 1996.**

*Seven months after 16 children were massacred in a Scottish school, the government announced plans Wednesday to ban almost all public ownership of handguns.*

*But parents of the victims say the proposals are not tough enough. They want all guns banned—no exceptions.*

*Home Secretary Michael Howard said Britain will introduce legislation prohibiting members of the public from owning any handgun above .22 caliber. Even .22-caliber handguns will have to be kept at licensed gun clubs. “We will ban all handguns from people’s homes,” he said.*

*Gun enthusiasts protest that they are being “demonized” for the act of a lone killer. But the Dunblane parents, backed by the opposition Labor Party, demanded a complete ban.*

*Armed with two .357-caliber Smith and Wesson revolvers and two 9mm Browning pistols, Thomas Hamilton opened fire on a kindergarten in the Scottish village of Dunblane, killing 14 children, their teacher and then himself. He fired 105 rounds within four minutes from the guns, all legally registered.*

*The proposals would lead to the destruction of at least 160,000 of the 200,000 handguns legally held now.*

Trevor sought in his letter to speculate about why England and America’s attitudes towards firearms are different and he listed several:

1. Americans have more space for hunting which may be indulged by a larger number of people besides the upper class.
2. Traditions of the wild west.
3. British misunderstanding of the meaning of the American Constitution.
4. British reaction against the slaughter of the Great War.

A fifth concept is indicated in the deliberations of the British Cabinet and that is the notion that the only reason one should legitimately own a firearm is apparently to participate in target shooting at a gun club.

In his query, I believe Trevor hit on a number of reasons for Anglo-American misunderstanding of this controversy.

There are two motivations for gun ownership by private citizens which Trevor didn’t suggest and they lie at the heart of the matter: (1) a standing army and (2) the criminal. Both of these reasons are central to our Founding Fathers’ insistence on the inclusion of Amendment II to the Bill of Rights.

Gun clubs, target practice, hunting, and either allurements or aversions to certain periods of history are not the issue. I must quickly add however, that Trevor may be forgiven for his lack of understanding of these things for he has no civic duty to know them. We do. And unfortunately, many of our citizens are very confused about this very important right recognized by our Constitution.

It is going to be my task to objectively examine the original intent of the Founders, to then make a case for the continuation of the amendment they crafted, and finally to establish that gun ownership is in fact a “right.”

## II. Amendment II of the “Bill of Rights”

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 best way to understand the original intent of this Amendment is to examine it from the standpoint of ICE.

**I** is for “*isagogics*” which refers to the analysis of the statement in its historical context.

**C** is for “*category*” and describes the drawing together of all pertinent information on the subject in order to establish categorical statement.

**E** is for “*exegetis*” which requires the interpretation to be based on how the individual words were defined at the time of their writing.

Certain concepts are brought out not necessarily by the words but rather by the phrases which are used. We will analyze the Amendment word for word or phrase by phrase as the situation dictates.

### A. “A well regulated militia”

The origin of the term “*well regulated militia*” goes back to 1698 when it was coined by Scot patriot Andrew Fletcher in his book, *A Discourse of Government with Relation to Militias*.

In this edition, Fletcher supported a constitution which

*“put the sword into the hands of the subject for he that is armed, is always, master of the purse of him that is unarmed. I cannot see why arms should be denied to any man who is not a slave, since they (arms) are the only true badges of liberty.”*

Fletcher held that the political objective of an armed populace was to prevent tyranny and therefore favored a militia comprised of all the people and independent of the crown.

Fletcher described a militia not subject to the authority of the chief executive as a “*well-regulated*” militia.

*“Let us now consider whether we may not be able to defend ourselves by well-regulated militias against any foreign force... as well as from the danger of slavery at home.”*

George Mason was a Virginia statesman who insisted on the protection of individual liberties in the composition of both the Virginia and federal constitutions. In 1776, Mason drafted the Virginia state constitution in which his declaration of rights became the first formulation of the doctrine of inalienable rights. They were to influence Thomas Jefferson in drafting the Declaration of Independence. Most state constitutions followed Mason’s format and the federal Constitution’s Bill of Rights also incorporated his ideas. In fact, George Mason, a member of the Constitutional Convention in

Philadelphia, was the man who actually wrote the Second Amendment. It is therefore instructive to note his comments on the bearing of arms.

In early 1775, Mason developed a plan for establishing the Fairfax County, Virginia, Militia. In his paper entitled, “*For Embodying the People*,” Mason wrote,

*“A well regulated Militia, composed of the Gentlemen, Freeholders, and other Freemen” (is) necessary to protect “our ancient Laws & Liberty” from the standing army.*

In summary, for Mason a “*well regulated militia*” consisted in the body of the people organizing themselves into independent companies, each member furnishing and keeping his own firearms, always ready to resist the standing army of a despotic government.

#### **B. “... being necessary to the security of a free State”**

This phrase indicates that the Founders believed that a “*well-regulated militia*” was necessary in order for each individual State to ensure its security.

The initial purpose of the militia was to insure against the unconstitutional exercise of power by the standing army of the federal government.