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REVISED: WHAT THE SECOND AMENDMENT RIGHT REALLY IS

To hear millions of gun owners repeatedly tell it, the 2nd Amendment guarantees them a "constitutional right" to own and use their guns. Does it really?

Let's look at it again, defining the words and phrases. What did they mean in the 18th Century, the 19th Century and what do they mean in this Century?

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 people" [who are these people exactly? surely not every single person] may indeed believe they have a right to keep and bear arms, but the Right in the Second Amendment is concerned with only one use, one purpose, for doing so. The singular Constitutional purpose for the people keeping and bearing arms is to make it possible for them to belong to a well-regulated Militia and the one purpose of a Militia is to maintain the security of the State, eg in Shays' Rebellion in 1786 when farmers in Western Massachusetts mounted an armed rebellion against a Court and freed indebted farmers from their prison. That group of soldiers (an unauthorized Militia) marched on the Armory in Springfield and were repelled as renegades [not simply a groups of Americans exercising their Gun Rights] by an authorized Militia from Eastern Massachusetts called out for that purpose by the Governor.

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.- 2nd Amendment

The Founders were very suspicious of a standing, professional Army (ie- of the United States) such as other Nations had. They did not want one. By "Army" the original 1787 Constitution meant the militia system whereby individual States would organize and train official (well-regulated) Militias that could be called into National Service by the Congress when it deemed the Nation's well-being was threatened, as George Washington did in the Whiskey Rebellion of 1794. These were volunteer troops on temporary duty, not a standing or professional Army. Thus per the 2nd Amendment (in the Bill of Rights)"the people" were responsible to keep arms to use them for this purpose as needed for the security of a free State or Nation [in the 18th Century].

Constitution Art 1, Section 8 Clauses 11, 12, 13, and 14.

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; To declare War, ... To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years; To provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval Forces;

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;

"[Whiskey Rebellion in 1794 [was an] uprising that afforded the new U.S. government its first opportunity to establish federal authority by military means within state boundaries, as officials moved into western Pennsylvania to quell an uprising of settlers rebelling against the liquor tax. Alexander Hamilton, secretary of the Treasury, had proposed the excise (enacted by Congress in 1791) to raise money for the national debt and to assert the power of the national government. Small farmers of the back country distilled (and consumed) whiskey, which was easier to transport and sell than the grain that was its source. It was an informal currency, a means of livelihood, and an enlivener of a harsh existence. The distillers resisted the tax by attacking federal revenue officers who attempted to collect it.

Enforcement legislation touched off what appeared to be an organized rebellion, and in July of 1794 about 500 armed men attacked and burned the home of the regional tax inspector. The following month President George Washington issued a congressionally authorized proclamation ordering the rebels [not simply a crowd of American Patriots exercising their gun rights] to return home and calling for [authorized] militia from four neighbouring states. After fruitless negotiations, Washington ordered some 13,000 troops into the area, but opposition melted away and no battle ensued."

- Encyclopedia Britannica]

Not a lot changed until 11 States seceded in the mid 19th Century and their Militia went with them and threatened the Union. Northern Militia could not stem the tide and it was time for a Federal Army in the usual meaning of the word. The old Militia System was replaced. There was even a National Draft in 1863 (although many were able to avoid it). When

the Union defeated the Confederacy, Congress was determined to reconstruct even punish, those States that had seceded and that called for the direct involvement of the Federal Army. Their role during Reconstruction was first spelled out and authorized in the First Reconstruction (also called the Military) Act, followed by the 13th Amendment. First Reconstruction Act, also known as the Military Reconstruction Act, March 2, 1867

"It split the states into five military districts, each under the control of a Northern General whose responsibility it was to protect life and property. The First Reconstruction Act also demanded the need for new state delegates and constitutions, the ratification of the Fourteenth amendment, and the provisions of equal rights for each citizen. The most radical aspect of the Act was the enfranchisement of all citizens, except ex-Confederates, and so provided for the coming of black suffrage.

[President Johnson]attempted to veto the bill. He saw ... the danger in the power bestowed on the military commanders. To [him and fellow Southerners] it appeared as if Congress were attempting to establish a military monarchy in the South, in which the will of the commander was law, and in which cruelty against the South could be exercised at a whim. The commander could condemn a person to death without trial, determine the rights of property and the person, and dispose of land and goods. The South considered this their eventual, long feared subjugation to the North." Source: <http://historyengine.richmond.edu>

What is relevant here to our discussion of the Militia is that the concept changed from what the Founders had in mind in the 1st Amendment. Militia continued but evolved into what we know as the National Guard. Books and Articles about the History of the Regular Army in the United States begin with the Militia and follow that development: they are still volunteer citizen soldiers who train are organized and are ready to serve their respective States or the Nation when called upon to do so. Here is a typical account-

"The National Guard, the oldest component of the Armed Forces of the United States and one of the nation's longest enduring institutions, celebrated its 372nd birthday in December of 2008. The National Guard traces its history back to the earliest English colonies in North America. Responsible for their own defense, the colonists drew on English military tradition and organized their able-bodied male citizens into militias.

The Guard doubled the size of the Regular Army when it was mobilized in 1940, more than a year before Pearl Harbor, and contributed 19 divisions to that war, as well as numerous other units including Guard aviation squadrons. More than 138,000 Guardsmen were mobilized for Korea, followed by numerous smaller mobilizations for the Berlin Crisis, Vietnam, and numerous strikes and riots at home. Approximately 63,000 Army Guardsmen were called to serve in Desert Storm, and in the decade since then Guardsmen have seen a greater role than ever before -- conducting peacekeeping in Somalia, Haiti, Saudi Arabia and Kuwait, Bosnia, and Kosovo. Following the attacks of September 11, 2001, Guardsmen were called up by both their States and the Federal government to provide security at home and combat terrorism abroad. Today, in addition to its usual state-side requirements and OCONUS peace-keeping missions, the Army National Guard is heavily engaged in both Iraq and Afghanistan."

This is the context for interpreting the 2nd Amendment today. It must be understood, not as it was in Colonial Days, but as it applies today.

"The citizen-soldiers who make up the National Guard have fought in every major American war since 1637. War has changed a great deal since 1637, and today's Guard must be prepared to fight in a high-technology environment, using complex weapons and equipment. The men and women of today's Guard are ready to become full-time professional soldiers if the need arises, whether for federal or state missions just as they did in 1637." Source:

<http://www.arng.army.mil/history/>

If people want to claim a right of individuals to buy weapons for solely private (and usually recreational use), the same as a motor vehicle, they may do so under appropriate laws and regulations. But it seems very obvious to me that the Second Amendment is not the source or guarantee of that right, notwithstanding the decision of the Supreme Court in 2008 and 2010 (Heller and McDonald). If people want to claim their 2nd Amendment Right, they should join the Guard.

Posted by Cal in Current Events at 14:07