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# KC3 NEWS UPDATE

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Volume 6, Issue 2

February 2000

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## Annual Membership Meeting

The KC3 annual membership meeting will be held on Saturday, March 4<sup>th</sup> from 11:00 a.m. to 4:00 p.m. at the Salato Wildlife Education Center, located on US 60 just outside Frankfort. See the enclosed map for directions.

The election of officers and members of the Board of Directors will be held at this time.

The election of Directors will be the first order of business. We will also update you on current legislation pending in the General Assembly. This will be followed with discussions on any issues that members may want to bring up. There will be cold cuts on hand for lunch.

After the general membership meeting, a Board of Directors meeting will be held to elect officers for the coming year.

The annual membership meeting gives you the chance to meet with the directors and officers of KC3 and allows you to have a voice in your organization.

Please plan to attend. Help chart the course that KC3 will take in the coming year. We need your input and look forward to seeing you.

**RKH**

## What a Session So Far

The news from the 2000 General Assembly in Frankfort has been mostly good, but we haven't won every fight so far. Here's a rundown on how things are going.

HB 15 - This is the bill to bar cities and counties from suing gun manufacturers for damages caused by criminals using firearms. The first test came in the House Judiciary Committee where Rep. Geveden (1<sup>st</sup> District, Ballard, Carlisle, Fulton, Hickman and McCracken Counties) filed an amendment to strike out the language that said the General Assembly found that the manufacture, lawful design and marketing of

firearms was not "an unreasonably dangerous activity and does not constitute a nuisance per se." He was supported in this by Rep. Wilkey (22<sup>nd</sup> District, Allen, Simpson and Warren Counties). Since it did not strike out the provision barring lawsuits, Rep. Damron did not object too strenuously.

After that was accepted, the bill passed in the committee and went to the floor of the House. The vote was no contest, with the bill passing 81-14. The 14 voting against it were: Paul Bather, Thomas Burch, Larry Clark, Joni Jenkins, Susan Johns, Eleanor Jordan, Mary Lou Marzian and Jim Wayne from Louisville; Jim Callahan and Arnold Simpson from Northern Kentucky; Jesse Crenshaw and Kathy Stein from Lexington; and Ira Branham from Pikeville.

The bill is now in the Senate and is expected to get through the Judiciary Committee and to the floor fairly soon. You might call your senators and ask them to support this bill.

HB 156 - This bill amended our concealed carry statute (KRS 237.110) to specify that **all** retired police officers met the training qualification and could be issued a license without attending the concealed carry class. It also specifies that an individual denied a license has 90 days in which to appeal the denial.

The fun on this one came in the floor fight. Rep. Kathy Stein of Lexington introduced a floor amendment to eliminate the law passed in 1998 that allows pastors and church officers (who are licensed) to carry concealed in church buildings if the church governing body approves. That floor amendment failed by 79-13.

Rep. Stein tried again with a floor amendment that would require the pastor or church officers to get written permission from the head of their church to allow them to carry concealed in church buildings. This is not the head of the local church, this is the head of the entire denomination world wide whose written permission would be required. That floor amendment failed 75-19.

With both floor amendments failing, the bill itself was now voted on by the House and passed 89-8. The bill is now in the Senate where it has been assigned to the Judiciary Committee. Look for an amendment or two on this one, amendments we will probably like. That's all we want to say at this point.

HB 210 - This bill would have made the use of a firearm by a convicted felon to commit another crime (e.g. a convicted felon committing an armed robbery) an offense that would allow sentences to be consecutive instead of concurrent. Up to now the prosecutors in Kentucky have not pressed on the "convicted felon in possession of a firearm" issue because the sentence was just rolled into the sentence for the underlying crime. Just picking numbers out of the air, if armed robbery was a 10 year sentence and a felon in possession of a firearm was a 5 year sentence, the criminal did only the 10 years for the robbery with the 5 years for the gun possession being served "concurrently." This bill would have the armed robber doing 10 years for the armed robbery plus another 5 for being a felon in possession of a firearm. This bill failed in the House Judiciary Committee. We hope it can be added as a floor amendment to some other bill because it did have 30 cosponsors and will undoubtedly pass if brought to the floor.

HB 331 - This was an attempt to legalize the unlawful conduct of several police chiefs in the Commonwealth by removing from the law the requirement to auction confiscated, abandoned and forfeited firearms to FFL dealers. So far as I'm concerned, those police chiefs who refused to comply are guilty of a Class A misdemeanor under KRS 522.020. They are "public servants," they are intentionally depriving another of a benefit (the police officers who could have additional equipment and body armor purchased from the proceeds of the auctions), and they are refraining from performing an act required by statute. That being said, let's get to what happened.

In the Local Government Committee, where Rep. Eleanor Jordan presented her bill, Rep. J. R. Gray (6<sup>th</sup> District, Lyon, Marshall and McCracken Counties) introduced an amendment that completely reversed the meaning of Rep. Jordan's bill. His amendment did not pass in Committee. KC3 was there to testify on that one. The bill, as introduced by Rep. Jordan, sailed on to the House where it arrived with a thud on the floor. Rep. Gray introduced his amendment as HFA 1 (House Floor Amendment 1). The amendment removed all language from HB 331 and substituted several new provisions. First, all confiscated,

abandoned and forfeited firearms must be transferred to the Department of State Police within 90 days of coming into the custody of the police or after being released by the courts, whichever is later. Second, the Department of State Police must hold an auction of these firearms with the proceeds going to the Department of Local Government for the purpose of providing grants to police and sheriff's departments for the purchase of body armor. Third, it includes any ammunition confiscated, abandoned or forfeited. After a spirited debate on the floor, HFA 1 passed by a vote of 63-31. Then, with HFA 1 now having become HB 331, HB 331 passed 82-14. It is now in the Senate where it has been assigned to the Judiciary Committee.

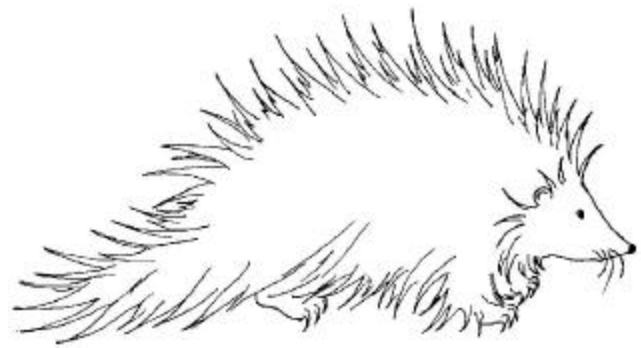
HB 410 - This one started as a bad bill but has been corrected into one we like. Originally this bill included the "covering" of a serial number as a felony for "defacing" a firearm. Craig Palmer of KC3 spotted that one and contacted the NRA/ILA representative. She contacted the bill sponsor, Jody Richards. Speaker Richards immediately saw that covering a serial number with a scope or a piece of camouflage tape was not an attempt to "deface" a firearm. He produced an amendment that said the attempt had to be to "permanently deface the firearm" to be a violation. The amended bill passed out of the Judiciary Committee and was recommitted to the Appropriations and Revenue Committee. We have no idea why it went there. It should not have any problems, however.

HB 492 - This is the Trigger Lock bill all over again. The intent can be seen from the comment of the bill's sponsor, Rep. Jim Wayne, during testimony on HB 331. He said the answer to the problem of violence was to disarm everybody. What a wonderful thought! Anyway, this bill has not moved in the House Judiciary Committee. We hope it doesn't, but calls to your representatives opposing it would not be a bad idea.

HB 498 - This bill would enshrine the Federal "Lautenberg" law in the Kentucky statutes. That way, even if Lautenberg is repealed on the Federal level, we would still have it. You remember "Lautenberg," the law that says if you have ever had a misdemeanor domestic violence conviction, you may no longer own a firearm. The sponsor of this bill is Rep. Wilkey with Rep. Geveden as a cosponsor. We hope it doesn't move from the House Judiciary Committee where it now sits.

SB 103 - This is Sen. David Karem's attempt to do the bidding of the mayor of Louisville. This bill has some

similarities to HB 492. It purports to be all about safe storage of firearms and even “encourages” the use of the NRA Eddie Eagle program in schools. Not bad, right? Then comes the kicker, it repeals our preemption law, KRS 65.870. That way, the city of Louisville could enact their own firearms legislation. It would still be unconstitutional under the Kentucky Constitution, but you would have to go to court to get it overturned. This bill is stalled in the Senate Judiciary Committee where we expect it to stay. We think the votes are there to defeat the bill if the sponsor asks that it be called in committee.



Now a few words about what NRA has done for us in this session. The most effective thing they have done is send us a representative from ILA who is marvelous. Her name is Nicole Palya, and she knows what she is doing around a legislature. She knows who to see, how to talk to all of the powers that be, and they listen. Oh how they listen! The lady is a wonder, and I’m sure glad she’s on our side. I’ve been bouncing around the Capitol and Capitol Annex since 1996, but she has already made more friends in more places than I knew existed. Whatever NRA is paying this lady, it isn’t enough.

One thing that gets the attention of all legislators is the “green slips.” Any message you call in to the Message Line, 800-372-7181, is entered in a computer and printed on a green slip of paper. A messenger carries those around to the legislators’ offices, and the legislators go over them. Believe me they go over them! We have heard from more than one that they listen to the folks back home on any issue. If you call and leave a message, your legislator will read that message, trust me. That’s why it’s so important that you call and express your opinion to them.

Our quickest way of getting folks notified of upcoming votes is by e-mail. If you have e-mail and haven’t given us your address, please send it to me at [rprudem@kih.net](mailto:rprudem@kih.net). We do not send you unnecessary items, and your address is not spread all over the Internet. We suppress the list of recipients on all messages to KC3 members. Please, if you aren’t already receiving our e-mail messages, let us know your address so we can include you in the broadcasts.

**RLP**

**Visit KC3 on the Internet at  
[www.kc3.com](http://www.kc3.com) or [www.kc3.org](http://www.kc3.org)**

## **General Assembly Contact Information**

These are some of the contact numbers that can be used to get information on upcoming legislation and to leave messages for your representatives. The two numbers you will use most will be the " Bill Status Line" and the " Legislative Message Line". When you leave messages for your representatives be sure to be POLITE and TO THE POINT. The individuals taking your message only work there, they do not make the bills!

### **KENTUCKY GENERAL ASSEMBLY TOLL FREE NUMBERS**

Bill Status Line	1-888-701-1488
Legislative Message Line	1-800-372-7181
Calendar (Meetings) Line	1-800-633-9650
Citizen Contact Line	1-800-592-4399
Education Hotline	1-800-242-0520

The address for legislators during the session is:  
 Legislator name,  
 Legislative Offices, Capitol Annex,  
 702 Capital Avenue  
 Frankfort, KY 40601

The fax number for all members is: 502-564-6543

For additional information you can contact KC3 at:

Kentucky Coalition to Carry Concealed, Inc.  
 P.O. Box 1249  
 Owingsville, KY 40360-1249  
 Office/Fax - (606) 674-9193  
[www.kc3.org](http://www.kc3.org)

# WHAT IS WRONG WITH YOU PEOPLE? AN ESSAY ADDRESSED TO THE CURIOUS.

Howard Conwell Mayberry, Jr.

First, the reader may wish to know in small measure who is writing. The writer is *not an expert* in the subject at hand, possessing in fact a BS degree in fine arts, and is a painter. Neither is the writer a firearms *aficionado*, but does understand their importance with respect to the Second Amendment, and in turn, the amendment's importance. This writer relies on the writings of the Founders of this American Republic wherein they speak for themselves through their speeches, journal articles, letters and debates, and the topical collection of this record called *documentary histories* of the Constitution and the Bill of Rights. It is therefore maintained here that their record is the divisor of the sheep and the goats from among the body of authors, academics, executives, legislators, jurists and whosoever's proposing to instruct us in what things constitutional *mean*. Because of the necessity to help defend the Second Amendment from current attempts to subvert it, the writer holds membership in The Second Amendment Foundation, Law Enforcement Alliance of America (primarily for, but not limited to, police officers), Gunowners of America, The Citizens Committee for the Right to Keep and Bear Arms, the NRA and the Kentucky Coalition to Carry Concealed.

This essay was precipitated by conversations heard on one of the nation's better radio "talk shows." The subject under discussion at the time was the "gun control" provisions of the Juvenile Justice Bill (S245) before the Congress. One caller denied government authority to execute those provisions that would impinge upon the rights of the non-criminal, law-abiding citizen, and in response to whom someone next asked, "What is *wrong* with you people?" It is regrettable that those with the better grasp of their Second Amendment rights, demanding that those rights be respected, may be diagnosed as having something "wrong" with them by those who know less. This essay is directed to those whose education has not progressed into Americana enough to have become familiar with the record of the Founding Fathers on the subject of the Bill of Rights and therefore not capable of competently discerning truth from fraudulent propaganda, or reaching constitutionally legitimate decisions regarding Second Amendment issues. What is "*wrong*," indeed!

Next, the essential context: In the Declaration of Independence, paragraph two, **Thos. Jefferson** wrote the famous, "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.....etc." This is a statement of a concept called "Natural Law," having its origin in the Bible, delineated by early and medieval church fathers and refined in later times, especially in the 17<sup>th</sup> and 18<sup>th</sup> centuries by such political thinkers as Buchanan, Sidney, Locke, Reid, Burke and Montesquieu. Natural Law presupposes God's absolutes in the world and man's ability to differentiate between moral and immoral, good and evil, and his ability to construct his social and political edifices on those absolute principles of the moral and the good. It is the further premise of Natural Law that we, the people, being the grantees of God are sovereign over our own government, that our rights are inherent in each of us, and *legitimate* government, as our servant, is obligated in its constrained authority to protect our exercise of those retained rights. Because God so established it, it is thus "natural" to the world. This relationship is by divine and unchanging principle and is, as **Jefferson** described it, "fixed and unalterable."

It remained for the Founding Fathers to put Natural Law theory into a workable concrete structure as the foundation for the Constitution and government of the American Republic. Our rights referenced in the Bill of Rights are a *constitutional acknowledgment, not a granting, of our God-given, pre-existing rights*, for neither the Constitution nor government has a single "right" to give. It is the people who **lend** to their government, in the form of a constitution, a small portion of *their* rights as authority for that government to fulfill the commission imposed upon it by the people, and nothing more. Also, the people may, *in their sovereignty*, change the authority and/or form of their government through their Constitution, as stated by **Samuel Adams**: "(T)he people *alone* have an incontestable, unalienable, and indefeasible right to institute government and to reform, alter, or totally change the same when their protection, safety, prosperity, and happiness require it." (Writer's emphasis.) The hierarchy is God, the individual and hence the people, then government.

In September 1787 the proposed Constitution was sent from the Constitutional Convention to the Congress,

and thence to the states for ratification. After initial success the ratification process slowed as the arguments of critics, erroneously called “anti-Federalists” by the Federalist supporters of ratification, became more widely disseminated. The primary anti-Federalists’ objections were, (a), that the Constitution, as “the Supreme Law of the Land,” gave to the federal government too much power; and (b), that since standing armies had historically represented a threat to liberty in the hands of tyrants, and since the Select Militia (Article I, Section 8) was subject to Congress’ authority to federalize it, the liberty of the people and the existence of the General Militia (the Well Regulated Militia of the future Second Amendment) could be endangered by arbitrary government; and the object of primary concern (c), that the proposed constitution contained no declaration of rights retained by the people as a delimiting barrier to government authority.

The Federalists counter-argued that the powers and authority given to the federal government were not beyond those presently exercised by the states, but duplicative and limited as necessary for national governance, not the larger task of state governance. The Federalists agreed that a standing army is a threat to liberty, but no tyrant could hope to successfully use the military for subjugating the people or infringing their liberties because the right of the people to keep and bear arms, including military type arms, existed with or without a declaration of rights; and besides, a military under strict control is needful as a training cadre for a larger army in time of war. In Federalist Paper # 28, **Alexander Hamilton**, after discussing the use of force to put down illegal rebellions, offered this exception: “If the representatives of the people betray their constituents, there is no resource left but in the exertion of that original right of self-defense which is paramount to all positive forms of government...” Continuing in the Federalist Paper # 29, **Hamilton** stated, after declaring a national militia to be injurious to the work of the people and beyond the capability of the federal government, that a localized militia is more reasonably maintained. He then wrote, “Little more can reasonably be aimed at, with respect to the people at large, than to have them properly armed and equipped;” and to insure it they should be turned out once, twice a year. However, **Hamilton** continued, “The attention of the government ought particularly to be directed to the formation of a select corps of moderate extent upon such principles as will really fit them for service in case of need.” His presentation here is that the General Militia (the Well Regulated Militia, Second Amendment), the people, ought be

properly armed and equipped for military, from whose ranks will come members of the smaller Select Militia (Art. I, Sec. 8), under state/federal control.

**Hamilton’s** analysis: “This will not only lessen the call for military establishments, but if circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little if at all inferior to them in discipline and the use of arms, who stand ready to defend their rights and those of their fellow citizens.”

**James Madison** addressed the same issue in the Federalist Paper #46, after establishing that “ultimate authority, wherever the derivative may be found, resides in the people alone,” observed that should any attempt be made to use the army against the states or liberties of the people, that army would be opposed by “a militia amounting to near half a million citizens with arms in their hands...” It was also assumed that in the event of the people having to defend themselves from their own government, the Select Militia would for the most part, if not wholly, desert the federal authority in favor of the people. Federalists asked whether any militiaman would help destroy his own liberty and that of his fellow citizens. These arguments were generally fruitful, but there yet remained that one objection so powerful that it threatened to stop the Constitution’s ratification altogether.....the demand for a constitutional acknowledgment of our God-given, pre-existing rights *retained by the people*.

The Federalists, led by **Madison**, the Father of the Constitution, argued strenuously and emphatically that a declaration of rights was completely unnecessary because **the proposed constitution gave to government no authority whatsoever to control or invade the rights of the people; and should any such attempt be made, the people have the right to reclaim the abused authority from government.** (As an aside, in the Foreword to Professor M. E. Bradford’s book, *Original Intentions on the Making and Ratification of the United States Constitution*, Professor of History Forrest McDonald, in an esoteric yet interesting exercise, discloses that more than two-thirds of the Constitution addresses the task of making government act in accordance with law.) Constitutional attorney Stephen P. Halbrook, in his article “*The Right of the People or the Power of the State; Bearing Arms, Arming Militias, and the Second Amendment*,” relates of a broadside by one **Alexander White**, also a Federalist member of the Virginia Convention, against anti-Federalist charges of dangers to rights and liberty in the absence of a declaration of rights. **White**

accused the anti-Federalists of Pennsylvania, in their “Dissent” paper, of attempting to “induce the ignorant” into believing that Congress would have powers that it *would in fact not have*. He wrote, “There are other things so clearly out of the power of Congress, that the bare recital of them is sufficient,” following which he listed certain rights now found in the Bill of Rights, **among which rights we find our right to arms, the Second Amendment.**

The anti-Federalists completely agreed that government had no such authority, but did not agree that the proposed constitution, as it was then written, clearly preempted a claim of authority over the rights of the people via some contorted and fictional interpretation. Since the ratified constitution would become “the Law of the Land” and the delineator of government authority and power, the anti-Federalists demanded that it contain *a declaration of rights as acknowledgment of their rights’ immunity to that government authority and power*. In this way, should any in government ever invade the liberty of the people, or attempt to establish a tyranny (dictatorship) over them, not only would the people have the defense of Natural Law and God-given rights, but the Constitution as well, to serve as their philosophical and legal justification for whatever action may be necessary for the defense of themselves, their liberty and Constitution. Therefore, to placate the anti-Federalists and secure their support for ratification in the Virginia Convention (which represented the make-or-break point for the proposed constitution), **Madison** promised his leadership in the first Federal Congress in amending the Constitution with a declaration of rights. On 6/8/1789 he, as **Representative Madison**, introduced into the 1<sup>st</sup> Federal Congress “private rights” amendments; the **very same rights** regarding which he, the Federalists and anti-Federalists all agreed, **government has no authority**. What do we find in that list of **primary representative rights retained by the people over which government has no authority? The Second Amendment!**

During congressional committee discussions of what became the Second Amendment, led by **Madison**, there were no debates about the substance of the amendment because of a uniformity of conviction both inside the Congress and out; and such discussions that could approach debating were over matters of wording. It was deliberately decided, upon the warning of **Representative Elbridge Gerry** of Massachusetts, to add no requirements or qualifiers at all in the fear that any could be twisted and subverted by those in a future government by a redefining of the amendment in such

a way as to give government a fraudulent pretense of authority and control over the citizens and their arms. Yes, it was the deliberate intent of the Bill of Rights’ authors (and everyone else, for that matter) to make this amendment particularly immune to any government authority; and they wanted no “loopholes” through which an attempt could be made. *Had they wished to give to government any kind of “gun control” authority whatsoever they could, and would, have done so*. They did not. They could have covered any future eventuality by ending the Second Amendment with, “...shall not be infringed, *except for some reasonable or common sense purpose*.” They did not; and that because they were dealing with a principle whose God-given origin and inviolability are superior to time and man’s innovations. It was their opinion that any law which by its effect impedes the free exercise of this right must be considered as an effective infringement, and null and void.

The core of it is that where authority has not been constitutionally given to government, the pretense of authority may not be assumed or presumed; and should such an attempt be instituted, its implementation is automatically null and void. Read **Alexander White**, a member of the first Federal Congress: “But no doubt can arise in the American governments, the fundamental maxim of which is, that sovereignty is vested in the people, a position so plain and simple that the meanest capacity can comprehend it, and so well established in theory and practice, that no man will deny it. Consequently should Congress attempt to exercise any powers which are not expressly delegated to them, their acts would be considered as void, and disregarded. In America it is the governors not the governed who must produce their Bill of Right: unless they can shew the charters under which they act, the people will not yield obedience.”

They believed everyone, including children, should be well trained in the maintenance and use of arms. Why did they not then require it? Because it would have empowered government authority over the decision of which citizens may, and may not, be qualified to own and use firearms; and the very purpose of the Second Amendment was (and is) to deny to government such authority. They did not believe that convicted felons or the insane should be armed, nor should conscientious objectors be obligated to arms, yet they did not tie even those exclusions to this amendment. Why was this immunity so uncompromisingly important?

Here are just several representative samples of that large body of Founding Father declarations regarding our rights recognized in the Second Amendment:

**George Mason:** “I ask, who are the militia? They consist now of the whole people.” And: “To disarm the people, that is the best and most effective way to enslave the them.”

**John Adams:** “Arms in the hands of the citizen may be used at individual discretion for the defense of country, the overthrow of tyranny or private self defense.” And: “Resistance to sudden violence, for the preservation not only of my person, my limbs, and life, but of my property, is an indisputable right of nature which I have never surrendered to the public by the compact of society, and which perhaps, I could not surrender if I would.”

**James Madison:** “Americans need never fear their government because of the advantage of being armed, which Americans possess over the people of almost every other nation.”

**Patrick Henry:** “The great object is that every man be armed...” And: “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 ruined.”

**James Wilson:** “The defense of one’s self, justly called the primary law of nature, is not, nor can it be abrogated by any regulation of municipal law.”

**Thomas Jefferson:** “No free man shall ever be debarred the use of arms.” And: “The constitutions 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.”

**Richard Henry Lee:** “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.”

**Alexander Hamilton:** “Before a standing army can rule...the people must first be disarmed.”

**St. George Tucker:** “The right of the people to keep and bear arms shall not be infringed, and this without any qualification as to their condition or degree, as is the case in the British government.” And: “This may be considered as the true palladium of liberty....The right of self-defense is the first law of nature; in most governments it has been the study of rulers to confine this right within the narrowest limits possible. Whenever standing armies are kept up, and the right of the people to keep and bear arms is, under any color or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction.”

**Samuel Adams:** “The said constitution shall never be construed to authorize Congress to prevent the people of the United states who are peaceable citizens from keeping their own arms.”

**Tench Coxe:** “The power of the sword, say the minority of Pennsylvania, is in the hands of Congress. My friends and countrymen, it is not so, for THE POWERS OF THE SWORD ARE IN THE HANDS OF THE YEOMANRY OF AMERICA FROM SIXTEEN TO SIXTY. The militia of these free commonwealths, entitled and accustomed to their arms, when compared with any possible army, must be *tremendous and irresistible*. Who are the militia? *are they not ourselves*. Is it feared, then, that we shall turn our arms *each man against his own bosom*. Congress have no power to disarm the militia. Their swords, and every other terrible implement of the soldier, are the birth-right of an American....The unlimited power of the sword is not in the hands of either the *federal or state government*, but where I trust in God it will ever remain, *in the hands of the people*.” (all emphasis Coxe’s.) And, on the Second Amendment in a series of public press articles explaining the Bill of Rights during the writing process, with the assistance of **James Madison**, friend and political ally : “As civil rulers, not having their duty to the people duly before them, may attempt to tyrannize, and as the military forces which must be occasionally raised to defend our country, might pervert their power to the injury of their fellow citizens, the people are confirmed by the article to keep and bear their private arms.”

The reader will notice a common concern, direct or implied, woven through the above representative quotations, that being in addition to personal self defense the people’s ability to repel “tyranny.” (tyranny: from an overt invasion of rights by government to outright dictatorship.) Virtually all of their discussions on the keeping and bearing arms/citizen militias were in the context of protecting the people’s liberty from tyranny at the hands of their own government. The Founders knew that government---any government---has a compulsion to unilaterally and continuously expand its authority in the absence of a restraining fence compelling it to remain within its established bounds; and that should the absence of such a fence allow that expansion to occur, it can only be at the expense of the rights and liberty of the people. They knew that until Jesus Christ returns there will always be those occasional rulers of despotic inclination who, if unrestrained, will seek to enslave the defenseless; and therefore, that no human government can exist without the possibility of tyranny. **The fact is, the Bill of Rights (and the larger body of rights represented, Ninth Amendment) is prohibitive to government. Neither may government presume authority not constitutionally delegated to it (Tenth Amendment).** They also knew that only a

*knowledgeable and armed people* could successfully intimidate and compel government to stay within the bounds imposed upon it by them through their Constitution. To the Founders of the Republic, the defense of one's liberty, rights, and Constitution is virtually synonymous with personal self defense.

It is not, as some may like us to believe, that the Founders left us little or no record, challenging us to only suppose what the amendment's meaning may be; nor is it that they spoke, but so cryptically or badly that we must choose from a collection of equally plausible interpretations. No, they spoke clearly and often on the subject, readily available to those who care enough to read the large record they left to us. **The entirety of their record, and that of their public at large, make it unequivocally clear that the unhindered protection of the people's exercise of this right outside of the authority of government was of first and uncompromised importance not only because of the right of personal self defense, but because the people's unfettered right to arms and militia is the necessary and final defense of their liberty and Constitution from the most probable source of tyranny, officials of their own government behaving as tyrants (dictators). One would not give, and the Founders did not give, to the possible source of tyranny any control over the means and ability of the people to defend themselves against that same source!**

Furthermore, it was the intent of the Founding Fathers that we, in being prepared against tyranny, ought to equip ourselves with the *same arms as may be used against us by any would-be tyrant!* (Arm: any non-ordinance weapon which can be carried and operated by the individual.) These gentlemen were well aware of, and anticipated, scientific and technological progress, and as concerns firearms they had no doubt that *the people deserve and require the technology of their time.* Today, that means semi-automatic pistols, the misnamed "assault rifle," large capacity magazines and even the light machine gun. Tomorrow, it may mean a Star Trek phaser gun and after that a universal, all-purpose ray gun. The technological sophistication of the arm, or the number of arms possessed, or any other related consideration has absolutely no bearing whatsoever on the free exercise of this right.

Another opinion worth noting is that of **Supreme Court Justice Joseph Story**, son of one of the Founding Fathers (making him a Founding Son?), and a powerful intellect on the Court from 1811 to 1845. **Justice Story** wrote a book, *A Familiar Exposition of The*

*Constitution of the United States*, for the common citizen's understanding of the Constitution, which is still in print. From his remarks on the Second Amendment several are relevant to this essay: "One of the ordinary modes, by which tyrants accomplish their purposes without resistance, is, by disarming the people, and making it an offense to keep arms, and by substituting a regular army in the stead of a resort to the militia. The friends of a free government cannot be too watchful, to overcome *the dangerous tendency of the public mind to sacrifice, for the sake of mere private convenience, this powerful check upon the designs of ambitious men.*" The importance of this article will scarcely be doubted by any persons, who have duly reflected upon the subject. The militia is the natural defense of a free country against sudden foreign invasion, domestic insurrections, and domestic usurpations of power by rulers.....*The right of the citizens to keep and bear arms had justly been considered, as the palladium of the liberties of a republic;* since it offers a strong moral check against the usurpations and arbitrary power of rulers; and it will generally, even if these are successful in the first instance, enable the people to resist and triumph over them." (emphasis added.)

The foregoing digest is just a small glimpse of the work of the Founding Fathers that has stood and been defended with blood over the generations and worthy of honoring by continuing its defense. Yet, were these Founding Fathers to return to us in disguise and repeat the entirety of their views, as illustrated by the above quotations, can there be any doubt that the anti-Second Amendment propaganda machine would have them demagogued as a bunch of radical, right wing, extremist whackos? That is certainly how their contemporary defenders are often slandered. Could the Founding Fathers have had a better understanding than do we of the duplicities of which human nature is capable and the expansive appetite inherent in unrestrained government, and that the mixture of the two demands precautions and vigilance? If there is something *wrong* with the amendment's contemporary defenders, let it then be known that it was *wrong* first and foremost with the architects of this American Republic. Which begs the question: *Inasmuch as radical and extreme are relative words, indicating a severe degree of dislocation or departure from a standard reference point, and meaningless unless related to that standard reference, and since the Bill of Rights and its authors can be the only standard by which any issue touching the Second Amendment (or any other constitutional provision) is to be judged for orthodoxy, who is it then whose positions are far removed from the standard of the Bill of Rights and its authors, and consequently are in fact the real radical and extremist whackos on the current scene?* No, there is absolutely nothing *wrong*

with the Second Amendment's defenders on this point.

From the time of the Brady Bill to the current brouhaha in the Congress this writer has written, faxed and e-mailed to approximately four hundred eighty-seven members of the Congress, and in 1996 all one hundred thirty-eight members of the Kentucky General Assembly, asking this question: *Inasmuch as the authors of the Constitution (including the Bill of Rights) and their Founding Father peers are the only true and reliable authorities on the meaning of the Constitution, can you show me from the Constitution or from the expoundings of these authors or their peers on the subject of constitutional meaning and intent, where they gave, or intended to give, to you in government any authority to define, regulate, or nullify the law-abiding citizen's rights recognized in the Second Amendment?* **To date I have received exactly zero answers to that question.** But then, my question is a trick question. They cannot show me an authority that does not exist in the entire record of the Founding Fathers, which record does however contain their adamant denial of it! They can refer only to a counterfeit authority of late 19<sup>th</sup> and 20<sup>th</sup> century revisionist judges who view conformity to the Constitution as optional, if not mostly disrecommended.

Look around. There is no shortage of people, even elected officials, who believe that any idea, goal or complaint may be addressed by just "passing a law." Do we ever hear it asked, "But is there constitutional authority?" A recent Pew Research poll claimed that two-thirds of our people believe that enacting more gun control laws is "more important than protecting the rights of Americans to own them." This writer assumed that such people would be no more concerned about any of their other rights than they are about those of the Second Amendment. Bingo! The *USA Weekend* poll of 7/4/99 shows as much, with many willing to trade rights for "safety." It is their Bill of Rights, but do they care; or do they even *know* enough to care? At the onset of the War for Independence, **Patrick Henry** gave his famous speech wherein he asked in the conclusion, "Is Life so dear, or Peace so sweet, as to be purchased at the price of Chains and Slavery?" Some seem to think so. Just recently a writer in the Readers' Views section of the *Courier-Journal* editorial page criticized a previous writer's charge that a certain federal action was not constitutionally permitted with a contemptuous, "So what?" Alexandr Solzhenitsyn wrote, "To destroy a people, you must first destroy their roots." If one compares what our Founders said and did with today's general level of knowledge of it, many roots have indeed been severed.

*Are we to have government by propaganda and opinion polls through demagogic goading of emotional panic?* This nation is a constitutional republic, not a democracy. **Jefferson** said he would many times over rather suffer the tyranny of King George than the tyranny of the democratic mob. Our Constitution, our Bill of Rights, are *not* subservient to day to day opinion; neither the public's, nor the Congress, nor the courts'. Defenders of the Second Amendment refuse to reduce themselves to the level of the least common educational denominator; and there is nothing *wrong* in that.

So, if the above digest about the Second Amendment being immune to government infringement is true, why do we have approximately 20,000+ "gun control" laws? Before addressing that problem, and it is a problem, let us examine the legitimate methodology for treating the Constitution. Within this methodology there are basically two schools of thought. One, *strict constructionism*, holds that it is the exact and precise handling of the text which determines the meaning and application of constitutional law. The other, called *textualism* or *originalism*, holds that since statutory text is composed of so many words having a very narrow range of possible meaning, exact meaning is best determined by viewing the text through the lens of the understanding of its meaning at the time of ratification or, its *original meaning*. For the purposes of this paper, we designate these two together as *Orthodox Constitutionalists*.

Statutory law is law of specific content and meaning as created by legislative action, *and must be applied or interpreted on the basis of the meaning of its text*. For the judge, then, the determinant for decision-making is limited to *the meaning of the statute's text*, with judicial discretion limited by any latitude in the text. Therefore, the courts in dealing with statutory law are obligated to *discover the already existing law within the meaning of the text*, or if necessary within the objective meaning of the text as it was understood upon ratification, rather than *making law* with precedent and the court's own opinions or preferences. The role of precedent in statutory law is only to provide insight into previous handling of the text and as supporting reference in the final decision based on text and meaning.

The Constitution, *the Law of the Land*, is a legislative product and as such is the *supreme statute of all American law*. *It has text, and text has meaning*. Where the issue before the court is clearly discernible with respect to the Constitution, adjudication is merely a straightforward applying of the Constitution's appropriate provision. However, should there be some

ambiguity the court must do some interpretation before applying anything; and that means ferreting out the objective *legitimate meaning of the text as it was understood upon its ratification*. What is the *context* of the provision in question? We often speak of the “intent” of the statute’s authors (called *legislative intent*), as I have done in this paper; this is a *subjective* intent. We usually assume that legislators accurately write into law that which they intend; something not always 100% true, especially today. However, as current Supreme Court Justice Antonin Scalia has written in his book regarding the Founding Fathers’ view of applying and interpreting the Constitution versus the view of latter-day revisionists (*A Matter of Interpretation—Federal Courts and the Law*; Princeton University Press, 1997), “Men may intend what they will; but it is only the laws that they enact which bind us.” So, what is that “meaning” that will bind us? That brings us to another form of “intent,” called *objective intent*, which I have also relied upon in this paper.

Here, we may introduce the idea of “understanding.” In short, what did the normally intelligent individual, presumably *objective* in the law’s analysis, *understand its meaning to be at the time of enactment*? That, then, is the objective understanding of intent. When **Madison’s** committee submitted the Bill of Rights, what did the whole House *understand the meaning of the text to be*? What did the Senate *understand it to mean*? What did the ratifying conventions of the states and the people at large *understand the text of the Bill of Rights to mean*?

In this regard **Jefferson** stated, “On every question, carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meanings may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.” By the use of the word “adopted,” Jefferson appears to refer us back to the states’ ratifying conventions and their debates over the *meaning of the proposed constitution’s text*, the objective intent, although legislative intent cannot be altogether ruled out of consideration.

Fortunately, this kind of dilemma did not afflict the writing and ratification of the Bill of Rights. This Bill of Rights was not created by **Madison’s** committee in a vacuum, as was rather much the case with the writing of the Constitution. Everyone, including the public at large, already knew what they wanted the rights amendments to say.....and *mean*. Indeed, a number of the states included in their constitutional ratification documents an itemized demand for a declaration of rights. The people provided both the content and

meaning they wanted the provisions of the declaration to have. Thus, the “intent” of the authors of the Bill of Rights was to write its text to conform to the meaning already demanded by the people. As a consequence, and as concerns the Second Amendment in particular, there is no discrepancy between the text, the legislative intent and the common understanding (objective intent) of it. It is the intent of defenders of the Second Amendment to insist that the amendment’s integrity remain free from the *infringement* of misrepresentation and subversion; and there is nothing *wrong* with that.

**Jefferson** was critical of what he believed to be the self-expanded power of the federal judiciary, and further believing it would encourage a judicial absolutism, he wrote, “The Constitution is a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please.” He further wrote, “It has long, however, been my opinion, and I have never shrunk from its expression,...that the germ of dissolution of our federal government is in the constitution of the federal judiciary; an irresponsible body, (for impeachment is scarcely a scarecrow) working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief, over the field of jurisdiction, until all shall be usurped from the states, and the government of all be consolidated into one. To this I am opposed; because, when all government domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another, and will become as venal and oppressive as the government from which we separated.” He also said, in a letter to a friend, that in the early years of the republic any threat to the people’s liberty would come from the Congress, but at some point in the future that threat would be found in the federal judiciary. Was Jefferson a psychic, or just terribly intelligent?

Consider the restraints on government and the remoteness of tyranny in post-revolutionary war times; and yet the Founding Fathers devoted an inordinate amount of thought and effort in its prevention. Nevertheless, from the first days of the republic there seems to have been those courts that occasionally attempted to push the envelope of their constitutional jurisdiction. In addition, although very rarely done it was not completely unheard of for some courts to quietly slip in a little bit of judge-made law method (Common Law) in order to tie up a loose end or two when applying a statute to a particularly unique case. Consider Jefferson’s fears of an abusive judiciary and that when all power is drawn to Washington,

government will become “venal and oppressive.”

From the beginning there were occasional, localized and short-lived attempts at “weapons (not gun) control.” The first more broadly organized efforts at gun control—actually “gun prohibition”—began on the conclusion of the Civil War. A number of communities, not under direct Union Army governance and still retaining their native white administrations, enacted firearms prohibition laws out of the fear that the newly emancipated slaves could be disposed to holding a grudge. The tacit agreement was that the laws would be enforced *only* against blacks. These things were not much of a legal problem at the time because there was the supposition that the Bill of Rights was a prohibition against the federal government only. This does not answer the question of all our firearms laws, but it does show that our history is not woven through with anything even remotely approaching a desire for such things.

At this point the astute reader will begin to identify the source of the 20,000+ “gun control laws.” Current liberal thought regarding the Constitution, law and government really began in a formalized way, insofar as this writer knows, in the 1870s with influential Harvard law professor Christopher C. Langdell. He, fascinated with Darwin’s theory of evolution, thought that if man is evolving so must his society, and that law and government can assist, if not direct, that evolution. His philosophy gained real strength during the 1930s and 40s, and has been variously known as *Evolutionary Law*, *Relativistic Law*, *Positivist Law* and *Teleocratic Law*, but for the purpose of this writing we will use the term *Constitutional Revisionism*.

Neither the Constitution nor the structure of government was predicated upon the idea that it is within the proper function of either to *evolve* society, for that would presuppose a people inferior to the power of government to direct and control them in pursuit of that evolution. Indeed, it is implicit in every facet of this nation’s founding that free individuals living free lives would, accumulatively as a people, “evolve” themselves in their own time, at their own pace, and in directions of their own choosing. To quote Professor McDonald again, regarding the construction of the Constitution: “The nomocratic view, which accorded with the original understanding of almost everyone involved, is that *the Constitution was designed to bring government under the rule of law, as opposed to achieving any specific purpose.*” (emphasis added) This “nomocratic view,” (Greek, nomo: law; custom; common usage), the rationale of the Constitution and the Republic,

stands diametrically opposed to the evolutionary, or “teleocratic” (Greek, teleis: progress toward intended purpose as the result of planning and skilled direction of forces.) view of the Langdellian revisionists. Surely, Langdell had something different in mind, for which purpose the very nature and legal functions of the Constitution were either a hindrance or an outright prohibition. This presented a real problem. However, Langdell knew a way out of the contradiction, and today we know it as “case law.”

From among the facets of law we need deal with only two: Common Law and Statutory Law, the latter of which we previously discussed. Common Law has been built up over the centuries, decision by decision, representing the accumulative wisdom of judges in addressing a myriad of problems and disputes not covered by legislative statutes or monarchical decrees. Thus, a judge refers not to the text of legislative statutes, but to previous court decisions (precedent) regarding similar issues, applies any other considerations he thinks appropriate and his best knowledge and thought to the issue at hand and arrives at what is presumed to be the best possible decision for the parties, society and the law. Thus, “law” is built up judge by judge, case by case, and is known as “judge-made law,” or “case law” and in this sense is “evolutionary.” Because of this process, Common Law lends itself more to pragmatic and variable, sometimes open-ended, decision-making than to explicit and consistent continuity of law.

When stripped away to the core, Langdell and his apostles merely divorced the Constitution from its legitimate Statutory Law status in order to treat it as if it were Common Law. This *reconstitution of the Constitution* represented a 180° paradigm shift. However, in order to make this case law method seem appropriate, to rationalize the appearance of legitimacy, it was necessary to redefine the essential nature and purpose of the Constitution to conform to it.

Within that context Constitutional Revisionism asks us to now believe that the Constitution is not concrete Statute Law, derived from abstract principles, which delineates in a specific way the authorized functions and limits of government. Instead, we are asked to believe that the Constitution is actually a listing of abstract principles, idealized premises, *incomplete* and not properly applicable until the details of its meaning are filled in by the courts as they view the evolving need to do so, over and over again .

This concept is nicely wrapped up in statements

attributed to famous jurists over the past seventy years or so, admittedly out of context but when assembled into a group do express an overview reflected in the application of the Constitutional Revisionist philosophy: That if there is any law behind and superior to the sovereignty of the state, and of interest to moralists and statesmen, it is of no concern to the judge or lawyer; that the Constitution is what the judges say it is; that the justification for a law is in its help in reaching a social end; that the task of jurisprudence is to be rid of rigid legality and achieve a pragmatic sociological science; that constitutional provisions must draw meaning from the evolving standards that mark the progress of a maturing society; that the Constitution should be interpreted in light of the direction the American people want to go. It is recommended that these sentiments be reread and their implications considered.

So, what are the more specific premises by which this philosophy approaches (or as many say, attacks) the Constitution? From the writings of some of the more prominent law professors and judges adhering to the evolutionary view, sometimes referred to as the “living Constitution,” we may digest several notable landmarks of their constitutional panorama. These landmarks may appear curious or threatening, or both.

We are asked to believe that the Founding Fathers did not consider their thinking to be the final word in political morality and, therefore, did not construct the Constitution of specific and concrete provisions, but instead constructed a Constitution of abstract principles to be used by future generations as a framework for evolving decision-making. We are asked to believe that essential nature and purpose of the Constitution is not to place the authority of government under the strict limitations of law and the parallel security of the rights of the people, but to provide government with the *legal tools* for the continuous evolving of society.

One wonders why anyone would believe the Founding Fathers viewed morality as *evolving*, or that their thinking represented just so many footprints in some on-going trek of that morality? After all, they based their work on that which we earlier discussed under Natural Law; the **absolutes** of those transcendent things God-ordained and God-given-----the sovereignty of the people over their government and their *inherent rights*. Why have so many people over so many years attached the word “inviolable” to the Constitution? Where was it written that they envisioned something more true and noble awaiting in

the hands of a future judiciary, that they viewed the judiciary, year by year and generation by generation, as their constitutional co-authors who write, rewrite and write again? This writer has not yet seen such things from the Founding Fathers, but has from those who profit in power by the believing of them.

The Founding Fathers realized that changes in duties, administration, even governmental form may become necessary from time to time. For such purpose they provided Article V of the Constitution. Where is there a corresponding provision in the Constitution empowering the judiciary with similar prerogative?

We are asked to believe that because the Constitution is composed of abstract principles, it does not delineate with precision what constitutes its content, or meanings. It does not definitively establish that only by being “ratified” through the ratification procedure does the text, or perhaps the “original meaning,” or any other considerations acquire the exclusive claim to being the “Supreme Law of the Land.” Continuing this idea, we are asked to believe that the Constitution’s text does not declare itself to be single, sole source of meaning, and therefore, to determine what constitutes “the Constitution” as the *authority for binding constitutional law one must also look outside the body of the text*. In short, “the Constitution” as it exists within its text is incomplete, and demands other concepts, ideas, writings, new principles, etc., etc., be added to that text before “constitutional law” may be known.

A constitution, by definition and logical requirement, must contain within the borders of its text that which is sufficiently clear that it is normally understandable and executable. **If** the Constitution suffers from the shortcomings and defects as indicated above it is neither understandable nor executable, so how can it be the “Law of the Land”? Do we not frequently hear of courts striking laws down as unconstitutional because they are declared, on the basis of their text, to be vague and unenforceable? **If** the above contention is true then such a Constitution is **no** constitution at all, but a composition of broad and incomplete abstractions, a recommended outline.

The Constitution, by virtue of being *a constitution*, declares and requires that it is the sole source of meaning of its own text. Similarly, its existence as **the** Constitution and the legitimacy of all laws made dependent upon their conformity to it, establishes that it is **the** Law of the Land.

Finally, **if** the Constitution’s text does not indicate what

the content of that ratified is, does not specify what the Law of the Land is, blah, blah, then how did the Federalist and the Anti-Federalist delineate anything as a subject for debate. The fact is, the Founders were able to debate the particulars of content and meaning because *that text* would become the “Law of the Land” upon ratification. None of the Founders were such a fool as to sign a blank contract, hand it someone with instructions that he may fill in the details or meanings or obligations as he sees fit, and then walk away; and neither did they draft such a Constitution. If the Constitution is so incomplete in its abstract principles, so unclear in its content or meanings and its exclusivity in law, just why should we believe that the unending and effectively *ad hoc* additions of the Constitutional Revisionists can make it any more clear and applicable.....and it will certainly never be complete. Is there a shell game at work here?

If it is necessary to consult outside the Constitution itself, the only rational source is the *understanding of meaning* of that text on the part of those who ratified it into law. Otherwise, one may as well seek the answer in tea leaves, Tarot cards, the shapes of clouds, or graffiti on the wall.

We are asked to believe that because of the claims listed above the proper requirements and procedures for seeking out true constitutional meaning and decisions are:

1. That the Constitution’s abstract principles command judges one generation after another to continually review, construct, and revise with fresh judgment that masterplan represented by the Constitution, while constrained by a judicial integrity to honor past decisions;
2. That in the quest for the *binding constitutional law* for application in judicial decision-making, the appropriate constitutional text is required only as the abstract meaning’s *exclusive point of departure*, then possible consideration of legislative history, and concluding with the weighing of other considerations of principle that will fill out the full and applicable constitutional meaning, in *terms of what the Constitution ought to mean today in response to society’s current needs and goals*. However, such decisions must not be *irreconcilable* with the text.

The seeking out of *continuous review* and *fresh judgments* can have no other practice than the deliberate finding of *new meanings* to replace the original textual meanings. If the Constitution’s text is the *exclusive point of departure*, then the text is “exclusive” only for finding some other non-constitutional, more important considerations

which will then disclose what the Constitution *really* means. Theoretically, then, the complete meaning of the Constitution is to be found anywhere but in its text!

The Martindale-Hubbell glossary of legal terminology defines “review” in several similar ways, all of which may be distilled down into one: *A judicial reexamination and reconsideration of the legality or constitutionality of something, with the power to annul, such as the proceedings of a lower tribunal or legislative enactment or government action.* Therefore, when a “something” is brought before the court by a question of its constitutionality, it is being made subject to review, and in effect placed on *trial* to determine whether it is *guilty* of being unconstitutional, or *not guilty* by virtue of being constitutional. However, considering the hall of mirrors into which this philosophy draws us, possibly we should ask whether it is the Constitution itself that is to be reviewed, put on trial as it were, to determine if “fresh judgments” are required to reshape the meanings of its principles to conform to a particular decision the court wishes to legitimize.

It is amazing that *integrity* is not measured by keeping faith with the Statute Law of the Constitution, as Abraham Lincoln said, “Our safety, our liberty, depends upon preserving the Constitution of the United States *as our fathers made it inviolate*. The people of the United States are the rightful masters of both Congress and the courts-----not to overthrow the Constitution, but to overthrow the men who pervert the Constitution.” (Writer’s emphasis.) One must ask where it is that the Constitution *insists*, or where its clauses *command* any such thing as giving judicial precedent higher authority than the Constitution’s text?

So, what are these *other principles* and their sources upon which modern constitutional meanings and decisions so crucially depend? We do not know the identity of the principles until we need to look for them, or their sources until we find them. However, original meanings of constitutional provisions are not altogether in exile, but may be allowed to the degree thought beneficial for society’s evolutionary progress.

Further, it is alleged to be not only proper, but required, for the courts to unilaterally treat statutes, including the Constitution, as if they were Common Law by weighing the abstract meaning, legislative history, but more importantly what the statute “ought to mean in terms of the needs and goals of our present day society.” Clean, concise and to the point. The above “ought to mean” idea merely reiterates that the text of the U.S. Constitution, its original and legitimate

meaning, although acceptable for *initial* consideration, are all irrelevant and sacrificial when weighed against a revisionist judiciary's ability to arbitrarily declare what the Constitution "ought to mean."

The Constitution is to no longer be that Law of the Land we have had since the birth of the republic. Instead it is becoming, over these past sixty-five or seventy years, a kaleidoscopic Constitution that changes its shape, pattern and meaning every time the revisionist judiciary gives it another twist and turn. Instead of each of us looking to our Constitution confident in its longevity and meaning, we are increasingly compelled to look to this or that court to see if they have decided whether it "ought to mean" today what it "ought to have meant" yesterday, and to wonder if it "ought to mean" something else tomorrow. To repeat: Such a Constitution is no Constitution at all!

Is it at all possible that the Constitutional Revisionists believe that the Founding Fathers "ought" to have written a Constitution of abstract principles to be continuously redefined by "fresh judgments," and therefore they did, and that it is up to their judiciary to treat the Constitution as they do? From the revisionists' point of view, why bother with what the Founding Fathers said, why bother with what they did, when one already knows full well what they "ought" to have said and "ought" to have done?

After all this, we are thrown the practically meaningless sop that *nothing irreconcilable with the text may be considered as part of the Constitution*. Were one speaking of the objective intent of original understanding, one would be on safe ground, but within the context of the revisionist philosophy and observable behavior of some courts of recent history that is not necessarily, or even probably, the case. Does anyone not know that general abstract principles are by their nature far, far more susceptible to being twisted and bent and stretched into a variety of shapes. How difficult can it be for those well practiced to reshape the text's abstract principle to a dimension large enough to allow their decisions to have the appearance of constitutional reconcilability; or, as an alternative, simply and unilaterally declare one's decision to be reconcilable, and therefore constitutional. Whatever!

The subject of reconcilability with the text brings up another consideration which has some importance, at least in the view of this writer. A maxim: Only those things which exist within the boundary of the Constitution can be legally recognized as

"constitutional," and for a judicial decision to be a "constitutional decision" it must of necessity be composed of constitutional reasonings, justifications and provisions. There is a mechanism in law called "incorporation," whereby one law or provision, call it A, is made an integral part of another law or provision, called B. It is said, then, that A is incorporated into B, with the meaning of B now becoming the total of both A and B. When the Constitutional Revisionists reach beyond the boundary of the Constitution's text and original meaning for those other more decisive meanings, those "fresh judgments" that they say "ought" to be, and if their consequent decisions are to have even the pretense of "constitutionality," they are then of logical and implicit necessity "incorporating" those other non-constitutional meanings into the Constitution.

The defense of the revisionists is that by creating constitutional meaning, even if from non-constitutional sources, they are not rewriting or changing the Constitution but really fulfilling the intent and command structured into it by the Founding Fathers in order for the Constitution to be continually resupplied with new meanings that respond to evolving needs. Nonsense and bilge water! Remember Article V of the Constitution? Were the revisionist defense correct, their approach to the Constitution would represent a second amending method: the courts functioning as a perpetual "amending committee," unilaterally creating new meanings as *they* view the need; and we would find this explicitly and prominently displayed, as is the amendment process, in Article V or possibly Article III. It is not. Furthermore, *if* there were a constitutionally legitimate court authority to rewrite the Constitution with the "fresh judgment" of new meanings as outlined, one would then have to ask why the Framers bothered to write, why the ratifying conventions bothered to ratify, and why the people acquiesced to such a totally inefficient and superfluous provision as Article V.

**One may tinker with, parse and euphemize the language all one wishes, but the essential truth is that the revisionist system is a mechanism for unconstitutionally rewriting, unconstitutionally amending, the Constitution while hiding behind the fiction of fulfilling it! Possibly this is why the Ninth and Tenth Amendments are hardly visible to revisionist judges and legislators anymore.**

The unspoken supposition of this philosophy is that whereas the needs of the evolving society may be beyond the people's appreciation of what is good for

them, a revisionist judiciary is far better equipped to direct society's evolution because judges have precedents, expert sources for information, and their own wisdom with which to effect immediate changes in constitutional law by the *fiat accompli* of their judicial decisions.

Does not **Jefferson's** warning of judges who will treat the Constitution as wax, his belief that the federal judiciary will move like a thief over the field of jurisdiction until "all shall be usurped," his admonition against "trying what meanings may be squeezed out of the (Constitution's) text, or invented against it," and his warning that eventually any threat to our liberty would come from within this same judiciary, seem prophetic in light of Constitutional Revisionism? **Justice Story**, echoing **Jefferson's** remarks, had this to say about the proper respect for, and treatment of, the Constitution: "It is to be interpreted, as all other solemn instruments are, by endeavoring to ascertain the true sense and meaning of all the terms and we are neither to narrow them, nor to enlarge them, by straining them from their just and natural import, for the purpose of adding to, or diminishing its powers, or bending them to any favorite theory or dogma of party. It is the language of the people, to be judged according to common sense, and not by mere theoretical reasoning. It is not an instrument for the mere private interpretation of any particular men." Carried to its logical conclusions, and worse yet its complete application, revisionist law stands as a rejection of the Founding Fathers and the foundation they stood upon and the work they achieved. The revisionist philosophy of law is alien to those things American.

In fairness to some individual Constitutional Revisionists several things ought to be noticed, however much violence the whole of the philosophy works on the Constitution. Admittedly, this philosophy exists in varying degrees among those who hold it, some freely crossing back and forth between Constitutional Orthodoxy and Constitutional Revisionism, depending on the issues at hand. Further, one will find areas of mutual agreement on some constitutional issues, although possibly by different reasonings. Also, some occasionally acknowledge that there may be several provisions of the Constitution that are so concretely specific that nothing other than the text alone can have validity. Unfortunately, there are also a zealous few of them who believe it undesirable to ever consider the Constitution's original meaning or even the authors' legislative intent in judicial decision making, referring instead to the modern *case law* decisions of what "ought" to be, issued by like-minded

judges.

Nevertheless, the reader should know that the massive rise in "gun control" laws and court decisions exactly parallels the rise in influence of Constitutional Revisionism in the courts and in the legislative bodies of the nation. We have 20,000+ "gun control" laws not because the Founding Fathers intended such provisions, for they certainly did not; not because that is what the Constitution says, for it certainly does not; not because that is what it means, for it certainly does not. Read the documentary histories. **We have 20,000+ "gun control" laws, regulating the law-abiding citizens' civil rights in contravention of the Second Amendment's text, its objective meaning and the authors' legislative intent, because the Constitutional Revisionists have gone outside the Constitution for "fresh judgments" that will remake the Second Amendment into what they think it "ought" to be!**

In this respect we must applaud the state of Vermont, whose motto is "Live free or die," because it is the **only** state in the Union in 100% compliance with the Second Amendment. In Vermont there are no "gun laws" at all. In Vermont it is a criminal act to carry *any weapon*, or anything usable as a weapon, in the commission of a crime or with the intent to commit a crime. That is the way the people of the Constitution and the Bill of Rights thought it "ought" to be!!!!

But there is hope. Consider that Professor Lawrence Tribe, in a chapter contributed to Justice Scalia's 1997 book, remarks of the Second Amendment not as an individual right, but as a militia authorization for the states. However, this past May in a New York Times article, "*More legal scholars reaffirm individuals' right to bear arms*," William Glaberson reported that many liberal "legal scholars," including Harvard law professor Lawrence Tribe (who deserves credit for integrity), who in the past dismissed the individual's rights under the Second Amendment, *are now researching the Founding Fathers' record*, the documentary history, and are deciding that it really does acknowledge an individual right to keep and bear arms! *Just now researching?*

However, such an event causes one to wonder: If there is a body of liberal constitutional scholars and presumably judges as well, those supporting the evolutionary vision of the Constitution, who are just now researching the documentary history of the Second Amendment, how much more of the Constitution's documentary history has been, and remains, similarly unstudied by this fraternity because

of its fixation on case law and the evolving what “ought” to be? One may hope that as judges and constitutional academics have some contact with the Constitution’s text, and the documentary history that lay behind that text, there may be a revival of legitimacy in treating the Constitution.

Recall that the original purpose of our Constitution was not only to establish government but to *constrain its jurisdiction by law*. Recall that the original purpose of the Bill of Rights was to codify within the “Law of the Land” the acknowledgment of those pre-existing rights retained by the people.

In contradiction, the current assault against the Second Amendment is another example of a civil right undergoing an incremental slicing away under the deception that it is a legal, socially necessary and reasonable thing to do. That which is an inviolable, unfringable civil right (for the non-felonious and mentally competent), existing outside the realm of governmental authority, is transmuted into nothing more than a governmentally regulated and diminishable *privilege*. And another maxim is this: If the Constitution can be redefined to mean what it “ought” to mean, then all our rights can just as easily be redefined to be what they “ought” to be; not by authority, but by the weight of power, and whatever pillage successfully perpetrated against one right, can just as well be perpetrated against all our rights. In fact, if the Constitution, in matters of government authority or citizen rights, is defined by “fresh thinking” from non-constitutional sources, then government authority is not out of the rights *lent* by the people, but by rights *taken* from the people by a branch of government, the judiciary fulfilling its view of what “ought” to be. That is thievery; but the Founders called it tyranny.

Current **Justice Antonin Scalia** has an ominous observation on this thinking: “If the courts are free to write the Constitution anew, they will, by God, write it the way the majority wants; the appointment and confirmation process will see to that. This, of course, is the end of the Bill of Rights, whose meaning will be committed to the very body it was meant to protect against: the majority.” However, some law historians believe such a process will more likely lead to the courts rewriting the Constitution the way *they* want, which in this writer’s view, opens the door to a possible paternalistic dictatorship of an elite judicial oligarchy. Just a thought. The Founding Fathers thought very much about such things.

In comparing the philosophies, you are given first the

constitutional yardstick of the Founding Fathers, of the American foundations and history, and method of the Orthodox Constitutionalists. It is of steel, a true and unchanging measure day after day for every person and every purpose, determining constitutional legitimacy or illegitimacy; that single, inviolate standard in conformity to which all valid law must be shaped.

Now, you are given the constitutional yardstick of the Constitutional Revisionists, appearing to be a standard for measuring, yet printed on very elastic rubber. Being so made, it may be compressed or expanded so that its constitutional measurements change, shaping and reshaping the meanings of the Constitution to embrace whatever approved goals need the appearance of legitimization.

Those who instigate or promote the anti-Second Amendment fever must of philosophical necessity stand with the Constitutional Revisionists. **Do you not see the ideas of the Constitutional Revisionists implicit in all the anti-Second Amendment sophistries? It must be so, because not a single argument for “gun control” authority affecting sane and non-felonious citizens----not one----can be traced back to any of the Constitution’s and Bill of Rights’ authors or their Founding Father peers, the ratifying conventions, or the will of the people!** No, the “gun control” advocates would rather divert our attention with the more recent “ought-to-be” case law of the revisionist courts and an awful lot of fraudulent propaganda.

One hears today a number of what may be called *pseudo-arguments* from the anti-Second Amendment circle, pretending to possess substance but designed to seduce an impressionable public as “reasonable” or “common sense” justification for the small, incremental erosions of this civil right. These pseudo-arguments are little more than statements of incidental facts, or myth, sometimes outright lies; irrelevant “red herrings” drawn across the path of the Constitution and the Second Amendment.

The evidence illustrates the wisdom of our Founders in recognizing those transcendent and permanent foundation blocks upon which they constructed a Constitution for a sovereign people, recognizing the God-given and pre-existing rights retained by them. It must be stated, and this writer subscribes to it unequivocally, that **no amount of “studies,” no amount of ands or ifs or buts, no amount of propaganda-driven opinion has any modifying relevance at all to the Constitution and our rights.**

**If we are, and intend remaining, the sovereign people possessing liberty and unalienable rights, it is not possible for any of the specious ramblings and musings of the anti-Second Amendment crowd to undermine the imperative necessity the Founding Fathers recognized in the Second Amendment.**

There are many clichés thrown around by the anti-Second Amendment crowd which are supposed, we suppose, to represent some kind of shorthand for argumentation, but which are both unimportant and false or preempted by the Second Amendment: Of course we can pass any law we want.....We have a gun crisis (or epidemic, if you like).....Guns are too accessible today ..... Controlling guns is more important than any right to own them.....No one needs that many guns..... Second Amendment rights may be subject to “reasonable governmental purpose” by the courts.....We live in different times than the Founding Fathers did.....No one has a legitimate need for an AK-47.....so on and so on and so on. Do not look to the Constitution or the Founders of this republic for support of these little slogans; you will not find it.

Of greater importance are some proposals which continue to float around ignoring, as stated previously, that our God-given rights were inherent in the first man, will be no less inherent in the last, and all in between. Just as the exercise of our rights is independent of time, so is it not dependent upon anyone’s, including government’s, permissive estimation or opinion of our “need” for them or control over them. Some suggest that all firearms owners be licensed, others suggest that all firearms be licensed as well, others suggest just “registering” firearms and their owners, others suggest requiring citizens to pass a qualification test before being allowed to own a firearm, others suggest that very high tax be placed on firearms and ammunition (Senator Moynihan thought 1,000% would be nice); and on and on it goes.

In considering these ideas please remember God, not government or our Constitution, is the grantor of our liberty and rights, having made them inherent in each of us; and the Founding Fathers were careful and clear in preempting any possible claim of government as grantor or authority over those rights. The following will explain why such things as suggested above cannot be done with *legitimate authority*; and we use the idea of licensing as the example. A license is a *privilege right* assigned by an owner of, or authority over, (the grantor) a something to another party (the grantee) for a period of time or until revoked. *How can legitimate*

*government license to us as a privilege that which is already pre-existing and inherent in us as a right? It cannot! What does government own or possess by authority in the rights of the Second Amendment that it may constitutionally license or otherwise regulate? Nothing!*

The same preemption stands in the way of all the other above suggestions. The **only** requirement or test or qualification that government may apply is that we not be a convicted felon and that we not be legally adjudicated as mentally incompetent. Let us change the subject to some other right, say for instance, those pertaining to the First Amendment: religion and speaking. Who will tolerate being compelled to secure a license to form a church congregation, or even to go to church, or go on a speaking engagement or even speak your mind at a public forum? Who will tolerate being compelled to submit to government-approved training, just to make sure you are “qualified” of course, before being *allowed* to have such a license? Who will tolerate being taxed in order to exercise an inherent, pre-existing right? Unrealistic? Redefine the Constitution, set aside the Bill of Rights, and it is no trouble at all to construct an argument *proving* that such requirements are *reasonable, common sensible and needed*.

Invariably someone, not yet having fully comprehended the concept of God-given, inherent rights will jump up and say that the Second Amendment and firearms are “different,” and need to be treated differently from other rights. Now, that may be a very fine *opinion*, but opinion does not, and cannot, mean a whit constitutionally. Invariably, someone, not yet having fully comprehended the scope of their own liberty, will jump up and say something like, “Yes, but the courts have ruled.....” One is then compelled to ask whether those courts referred to were Orthodox Constitutionalists or were they Constitutional Revisionists; and whether they used the Constitution the Founding Fathers wrote, or the one still being rewritten by the revisionists; and whether any judge can render a legitimate “constitutional decision” if it is based on something other than the Constitution?

As each restrictive law is passed the conspirators invariably say that it is “*a step in the right direction, but much more needs to be done.*” Is that not a tacit admission that each law, proposed or enacted, is not an end in itself but preparation for the next scheduled proposal, all taken together presuppose a future objective.....the complete destruction of the Second Amendment?

Since the anti-Second Amendment lobby finds nothing but condemnation from the Founding Fathers and the

Constitution---the real one---they must move their battle onto another field, one more hospitable to fraudulent purpose with fraudulent argument. That battlefield is *contemporary only*, sidetracking the Constitution with the red herrings of anti-Second Amendment propaganda. This contemporary battlefield is composed primarily of four components: (1) propaganda, (2) exploitation of events, (3) statistical studies. These three provide impetus for (4) legislative or court action in revisionist-friendly venues.

Propaganda. A few years ago, through the expertise of a retired corporate merchandising manager, the analysis was that the group would never undermine the Second Amendment arguing on a rational, intellectual basis because of the role of the firearm in American history and its continuing acceptance and mystique. Consequently, the anti-Second Amendment groups promoted a new and negative image for the firearm using the tools of advertising and marketing, just as a product is “sold” to the public, and adopting the tools of the animated cartoon---infusing into an inanimate object the characteristic of “life” qualities; mind, personality, volition and action. Those qualities, and supporting visual appearance, for the firearm must be sinister and threatening, even evil. The strategy was to restructure the public’s psychological perception of the firearm on an emotional level in the expectation that a remolded public opinion would more easily tolerate the sacrificing of that portion of the Bill of Rights a small slice at a time. It is not whether the propaganda message is true or not, *but whether through repetition and attack the public can be made to accept and act upon it as if it were true.* Jefferson’s dreaded *tyranny of the mob*.

The large majority of the national mass news media is more than a willing participant in the propagandizing of the public. Never do they challenge the statements or statistics of the anti-Second Amendment intrigue, accepting them as if they are established fact; but when dealing with Second Amendment defenders interviews frequently have the appearance of an adversarial interrogation.

Is it not more than strange that of all the television news magazine shows on the subject of guns and citizen militias in recent years, not a single one has thought to present an in-depth explanation of the Founding Fathers on the Second Amendment? Is it not strange that the major news or news magazine media do not report, nor does entertainment dramatize, any of the several million times a year some good citizen with a firearm *stops* a serious criminal act, even murder? However, a recent documentary *just happened*

to remark about the “NRA’s opposition to gun control” measures as it *just happened* to show security camera video of a bank holdup in progress. That is real propaganda! Is it not strange that they, except for several minutes of one documentary, completely avoid the research which puts the lie to the anti-firearms *newspeak*?

When certain powerful officials in national government, functioning on public money, team up with special interest groups and the predominant media to gently coerce a public opinion into demanding, or at least accepting, those things which the trio want to see done, what fool will say that liberty is secure?

Events. The anti-Second Amendment coterie has its propaganda machine at the ever-ready to attach itself parasitically to any prominent tragedy involving a firearm. Even before the blood of the victims dries, the conspirators seek to inflame and exploit emotion-driven passions to their cause by bursting into the mourning with a blaming of firearms and the demonization of Second Amendment defenders instead of the killers. The killers’ victims became the sacrificial lambs on the altar of the agenda. These people give little attention to the darkness of mind and soul which motivates these killers because there is no agenda profit there. The focus must always be on guns, guns, guns; as if were it not for the guns the insane would become the picture of mental health and evil ones would become saintly.

While we are in the proximate vicinity of *firearm accessibility versus the responsibility of dark minds and souls*, consider. This writer is 67 years old, so you know that he spent his teenage years in the mid-forties and early 50s. Do you think that generation, whether as youth or adults, had no one who may have felt isolated or outcast or rejected or ridiculed or insulted or pressured or whatever other psycho-distortion one may think of? Do you think there were no conflicts? We of that generation had no “gangs,” but we had groups of guys who “hung out” together, the major preoccupation of whom was sports and girls; and at the appropriate time we began doing adult things, taking the good with the bad

Much is made today of the number of guns in circulation and their alleged “easy availability,” as if it were some astounding recent phenomenon. Nonsense. Today’s *gun count* is based on government records of sales, but millions and millions of firearms were already in private hands before record keeping began. This writer has the impression that there were *at least* as

many firearms *per capita* during his youth as may be the case today. We all knew where our parents kept their firearms and ammunition, usually in a drawer or the closet shelf. We were told to leave them alone, and we did. Some of our friends had their own, usually a rifle....but not always. Nevertheless, securing a firearm would have never been a problem.....had we been of that “mind.” As adults, one could purchase a firearm at the gun shop, the sporting goods store, the pawn shop, the hardware store, various department stores such as Sears Roebuck or Montgomery Ward and etc., and even hundreds of mail order sources. Now, my younger and naive readers, **that is real availability and accessibility;** and it demands some answers.

Since all generations of youth and adults previous to this one have had their “problems” personal and group, and since there has never been a shortage of firearms, and since firearms have been far, far more *available* in the past than in recent years, and if “guns and their easy accessibility” is in fact the problem, how is it that those of the previous generations have not only not slain their tens and hundreds, but not done so frequently? Could it be that the moral structure of the society in which they lived, and their own personal morality did not allow such things to come to mind, much less action? The truth is that so many today find that it takes much less thought or effort to target “guns” than does developing the belly required to dig into those evasive, deep and dark hearts to discover what makes someone decide to pick up a weapon----any weapon----and murder; and the anti-firearms, anti-Second Amendment people simply find the opportunities too convenient and exploitable to pass up.

Studies. Studies and statistics are informative regarding the effectiveness and future directions of law enforcement, and the more esoteric interest of criminologists and sociologists, but are meaningless before the Constitution. There have been a small number of “studies” conducted in recent years regarding the private ownership and use of firearms related to self defense and crime. Insofar as I know *there are no anti-firearm studies, including several funded by the Centers for Disease Control (with tax dollars) without the biasing taint of a connection to an anti-Second Amendment group or individuals, excepting one university research work; and all, including the university research, have been criticized for research sins ranging from sloppiness, to biased selection of data skewing the results, to outright misrepresentation of data.* For instance, there is the claim of anti-Second Amendment groups that “14 children are killed by firearms every day.” From what I have read of this “research,” allegedly originating from the CDC, it defines *everyone*

*nineteen years and younger to be a “child,” including also teenagers killed pursuing criminal activity, gang fight fatalities, and fatal drug dealing disputes, etc.* That messes up the picture of a “child,” does it not?

Representative of studies supporting Second Amendment rights are those of criminologist Drs. Gary Kleck and Marco Hertz of Florida State University, sociology Drs. James Wright and Peter Rossi, and University of Chicago Law and Economics Professor John Lott and economics graduate student David Mustard. Not only have these three research teams no ties with pro-firearm groups but, unlike the anti-firearms research, their research conclusions not only remain successfully unimpeached, but have received peer review praise for professional integrity, thoroughness and completeness. Indeed, Kleck, Wright and Rossi initiated their studies assuming firearms in private hands to be of no value, or reason for additional “gun control” laws. Unfortunately, the facts turned their assumptions upside-down.

It is feasible to recite only a short, combined list of highlights from these studies, with the notation that where U.S. Department of Justice data (FBI) overlap, that data is consistent with the studies, while none contradicts them:

1. A criminal act is prevented or stopped by the private citizen’s use, or threat of use, of a firearm approximately 2.75 million times a year, with actual use being approximately one-half million times. (With some mathematics, we can estimate that armed citizens may well save 34, 320 lives per year, although there are other higher estimates. Anti-Second Amendment people frequently promote more “gun control” laws by saying, “If we can just save one life....” The current unjustified homicide rate is roughly 18,000 per year, so to “just save one life” they are willing to sacrifice a *minimum* of two lives.)
2. If *all* states recognized the citizen’s right to carry a firearm, there would be 1,500 fewer homicides, 4,000 fewer rapes, and 60,000 fewer assaults per year, plus a savings of about 3.1 billion dollars.
3. The group of states prohibiting citizens from carrying arms have a 30% higher homicide rate and a 19% higher rape rate than states recognizing the right to carry arms.
4. The probability of serious injury or death is approximately 2.5 times greater for a woman offering no resistance to a criminal attack than for a woman resisting with a firearm.
5. While firearm purchases have risen over recent years, accidental firearm deaths have been declining, including among children (220, ages 0-15 years in 1997).

6. Of all criminals shot in the commission of a crime, 75% are by armed citizens and 25% by police.

Violent, or confrontational, crime has been in decline for several years and various spokesmen attribute it to a variety of causes: a good economy, more police on the street, community policing, tougher prison sentencing of convicted criminals, and so on. It is plausible that some combination of these factors are present in varying degrees. However, one factor **never** mentioned is the increase in the number of armed citizens creating a *detering fear factor* in the criminal. About 80% of imprisoned criminals say they avoid potential victims who they believe may be armed, and that they fear encountering the armed citizen more than encountering the police. The Lott study, implicitly buttressed by Kleck's, *covering every county in the U.S. over a fifteen year period*, demonstrates over and over again that wherever the number of citizens carrying a firearm goes *up*, violent crime goes *down!* Some may attempt to dismiss it as a meaningless coincidence. If so, there is every valid reason to believe that if more law-abiding citizens are armed possibly even more of those meaningless coincidences will occur.

This writer is acquainted with a few police officers. When the "concealed carry" law was introduced in the Kentucky General Assembly (1996) one officer friend polled some of his fellow officers on the measure. Results: 19 in favor of a citizen concealed carry law, and 2 against. This *off-the-cuff* result is rather consistent with more official surveys of "street cops" across the nation on Second Amendment issues. The 1999 Annual National Police Survey, conducted by the National Association of Chiefs of Police, questioned 18,102 chiefs and sheriffs. Ninety-three percent support law-abiding citizens' purchasing firearms for self defense, 66% reject limiting firearm purchases to one per month, 56% believe that gun shows are not a notable source of illegal firearms for the criminal. This writer asked another officer, whose beat was in Louisville's crime hot spot area, what his opinion of the concealed carry law was. His reply, as accurately as can be reconstructed: "I love it! As far as I'm concerned the good people already have that right by the Second Amendment. Right now I'm the only armed person the bad guys have to worry about. But if the good people are armed, and the bad guy is looking at someone as a potential victim, he's got to worry about that person being someone who'll turn the tables on him.....and anything that makes the bad guys worry more is fine with me."

Legislative/courts. An emotionally excited population, no longer thinking about such trivial things as the

Constitution and rights, is supposed to cry out to Legislatures and courts demanding solutions to an illusionary problem of firearms, while real problems of morality and criminal responsibility for criminal acts are swept to the side.

*Why must there be something "wrong" with those who insist upon, as Lincoln did above, "preserving the Constitution of the United States as our fathers made it inviolate?" It is everyone's duty and privilege; the Founding Fathers said so. We are not considering a superficial and transient judicial or legislative housekeeping chore, or some trivial administrative issue continuously open to opinion, review and revision. We speak of the retained rights of the people, the Bill of Rights; the civil rights of every single citizen of this nation, even those who choose not to exercise them. It is a nonfeasor government that fails to protect the unalienable integrity and exercise of those rights, and a malfeasant government that in a breach of its authority infringes and plunders them.*

In summary, the conspiracy seeks to destroy that article of the Bill of Rights titled the Second Amendment inch by inch. More and more of good citizens are determined not to give an inch; and not only is there nothing wrong in that, there is virtue in it. We must all remember whatever assault accomplished against the rights of the Second Amendment, can with equal ease be accomplished against the entire palladium of our rights.

To ask what is wrong with the insistent defenders of the Second Amendment is to ask the wrong question. More appropriately, the questions are: What is wrong with the anti-Second Amendment conspirators? Why are they so arrogant as to hold the Bill of Rights, and every citizen's rights, as small sacrifice for the benefit of their own private philosophy and opinions? Why must the keystone of our identity---a people of God-given, unalienable rights---suffer attack from a disrespectful portion of its own beneficiaries? Why are so many of our people, and especially in government, so constitutionally uneducated as to treat these perversions as if honorably presented and worthy of honorable consideration? Why, why are the anti-Second Amendment conspirators such terribly bad Americans; and what must they do to pass the time away on Independence Day, or Constitution Day or Bill of Rights Day?

**This writer has attempted to be diligent in ascribing nothing to the Founding Fathers that will not be found in their record. Nevertheless, trust nothing attributed to them written here. Go read the Founding Fathers for yourself and see, in**

**their own words, what they said the Constitution and the Bill of Rights means, because they are the exclusive and sole authorities. All others, including executives and legislators and judges, have only opinion, either concurring or contradicting, either obedient or rebellious, either supporting or subversive! END**

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## Reciprocity Update

We've been getting a lot of questions concerning what states currently recognize Kentucky's CCDW permit and what other state's permits are recognized by Kentucky. First of all, all state-issued permits are valid in Kentucky as of July 15, 1998. The change in our law is as follows:

KRS 237.110 (17) (a) reads:

"A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky."

As of January 5, 2000 the Kentucky State Police posted the following information on their web page:

### CCDW Reciprocity

Effective, July 15, 1998, Kentucky recognizes valid carry concealed weapons licenses issued by other states.

Written inquiries regarding recognition of Kentucky carry concealed licenses have been made to all other states and U.S. territories.

The following states have advised that they will recognize valid Kentucky carry concealed licenses:

1. Arizona
2. Arkansas
3. Florida
4. Georgia
5. Idaho
6. Indiana
7. Louisiana
8. Michigan
9. Mississippi
10. New Hampshire
11. Tennessee
12. West Virginia
13. Wyoming

Persons with a valid Kentucky carry concealed license may apply individually to the United States Virgin Islands Police Department for temporary reciprocal recognition of a CCDW license while in the Virgin Islands. This temporary recognition is normally for ninety (90) days from the date of issue. An application for temporary privileges may be requested from: Office



of the Commissioner, Criminal Justice Complex,  
Charlotte Amalie, St. Thomas, VI 00802.

The following states/territories have advised that they will not recognize valid Kentucky carry concealed licenses:

1. Alabama
2. California
3. Colorado
4. Connecticut
5. District of Columbia
6. Guam
7. Hawaii
8. Illinois
9. Iowa
10. Kansas
11. Maine
12. Maryland
13. Massachusetts
14. Minnesota
15. Missouri
16. Montana
17. Nebraska
18. Nevada
19. New Jersey
20. New Mexico
21. New York
22. North Carolina
23. Ohio
24. Oklahoma
25. Oregon
26. Pennsylvania
27. Puerto Rico
28. Rhode Island
29. South Dakota
30. Samoa Territory
31. Vermont
32. Virginia
33. Washington
34. Wisconsin

This list will be updated periodically as responses are received from the states/territories.

#### **KSP Web Page, 9-2-99**

This is the official list the KSP is putting out. There are a couple of items that you might want to note. Vermont is listed as a state that **does not** recognize Kentucky's permit. Technically, Vermont recognizes no state's permits. That's because in Vermont a permit isn't required to carry concealed.

In addition according to the Montana Department of Justice web site, Montana will recognize the Kentucky's CCDW permit. The web site is at:  
<http://www.doj.state.mt.us/lw/weaponslist.htm>

KC3 is advising our members and any other interested parties to do the following before travelling to another state. Contact the permit-issuing agency in the state you wish to visit. Ask them if their state recognizes Kentucky's permit and if they do ask them to send you a letter on official letterhead stating so. Also request a copy of their CCDW laws. Most states are more than willing to give you this information. Study the laws of the state you're going to visit before your trip so you don't get yourself in trouble. And keep a copy of the official letter you receive with you at all times when you're carrying concealed. Once you have read the CCDW laws of some other states I think you'll start to appreciate what a really great law we have in Kentucky.

If you need the addresses of the permit-issuing agencies in other states, I strongly recommend you pick up a copy of the *Traveler's Guide to the Firearm Laws of the Fifty States*, By J.Scott Kappas, Esq. You can find information on ordering this book from KC3 later in this issue. We usually have it available for sale at gun shows, also. Folks, I'm not just trying to make a sales pitch here. I think that Scott Kappas' book is an invaluable reference for any CCDW permit holder. All contact addresses are listed in the back of the book. And the synopses of the other state's laws are great.

Well I hope this answers some of your questions. We'll let you know when we receive updates via e-mail, our web page, and this newsletter.

**RKH**

**Visit KC3 on the  
Internet at  
[www.kc3.com](http://www.kc3.com) or  
[www.kc3.org](http://www.kc3.org)**



## Hall of Shame/Hall of Fame

In order to keep this column up to date, we need your help. If you see a business that is flagrantly posted against concealed carry, let us know. If possible, please send a photo of the offending sign. That way if any one calls up KC3 to deny that their business is posted, we'll have photographic evidence to the contrary. If you see a "No Concealed Carry" sign, feel free to notify the owner or manager of that establishment that they are pulling the welcome mat out from under over 40,000 law-abiding Kentuckians. **DO NOT** get confrontational, just explain things in a calm and rational tone. Remember that we have the facts on our side, so use them and don't let your emotions get the better of you. I also want to thank our members who have notified us of postings via e-mail and other communication. Now on to the list.

The following businesses have chosen to post their premises off-limits to the legal concealed carry of weapons. Please use this information to help you decide where you want to spend your hard-earned money.

**Accordia of Kentucky (Blue Cross/ Blue Shield)**  
**Ashland Oil and their SuperAmerica stores**  
**Bargain Supply Company** in Louisville.  
**Bashford Manor Mall, Jefferson Mall, Oxmoor Center, and Mall St. Matthews** in Louisville  
**Cinemark Theatres** in Lexington  
**General Electric** of Louisville  
**Hawley-Cooke book stores** in Louisville.  
**Levi-Strauss**  
**Louisville Gas and Electric**  
**Louisville Water Company**  
**Ol' Don Jacobs Used Cars** in Lexington  
**Oxmoor Toyota** in Louisville  
**Showcase Cinemas** in Louisville  
**Star Ford** in Louisville  
**Buckhead Mountain Grill** in Lexington  
**Salt River Electric Cooperative** in Bardstown, Springfield, Taylorsville, Bullitt County  
**BCD Construction Company** in Bardstown  
**Tinsel Town Theatres** in Louisville  
**Valvoline Instant Oil Change** on Westport Rd., in Louisville.  
**Louisville Zoo**  
**Burger King** in McMahan Plaza, Louisville  
**Bluegrass Cellular** on Scottsville Rd., Bowling Green  
**Challenger Lifts, Inc.** on 200 Cable St., Louisville  
**Fifth-Third Banks**  
**Hospice of the Bluegrass** in Lexington, Frankfort,

Paris, and Cynthiana.

**Shelter Insurance**

**Hobby House** on Preston Hwy. in Louisville.

**Southeast YMCA** on 5930 Six Mile Ln. in Louisville.

**Florence Mall** in Florence.

**Pediatric Care of Northern Kentucky** on 20 Medical Dr. in Edgewood.

**Showcase Cinemas** on Meadow Ln. in Erlanger.

**Holley Performance Products** on Russellville Rd. in Bowling Green.

**Molnlycke-Scott Health Care** on Louisville Rd. in Bowling Green.

**Wendy's Restaurants** in Bowling Green.

**Franklin Square Shopping Center** in Frankfort.

**Pizza Hut** on US 127 in Frankfort.

**Paul Sawyier Public Library** on Wapping St. in Frankfort.

**American Bag Company** in Stearns.

**National Amusements Theaters** in Erlanger and Florence.

**First Federal Savings Bank** on 216 W. Main St. in Frankfort.

**Chevron Food Mart** on 3334 Clays Mill Rd. in Lexington.

**Pomeroy Computer Resources** in Hebron

**Central Bank and Trust Co.** in Lexington.

**University of Louisville Hospital** in Louisville.

**Richmond Mall** in Richmond.

**Lexmark** In Lexington.

**Gannett Direct Marketing Services, Inc.** in Louisville.

**Tecumseh Engines** in Somerset.

**The Humana Building** in Louisville.

**Bergen Brunswig** on Produce Road in Louisville.

**Louisville Bedding Company** on 10400 Bunsen Way in Louisville.

**Dr. Bizers VisionWorld** on Breckenridge Lane in Louisville

**Airgas Industrial & Specialty Gasses (formerly Central Welding Supply)** in Lexington.

**Burger King** on I-65 at exit 2 in Franklin.

**Kentucky Utilities** office in Middlesboro.

**South Central Bell** in Middlesboro.

**O'Neil Steel** on Almond Ave. in Louisville.

**Philip Morris** in Louisville.

**The Bell South Mobility Service Center** on Outer Loop in Louisville.

## New Additions

**H&S Hardware** in Jeffersontown and Louisville have "No Concealed Weapons" signs.

## Hall of Fame

There are many stores out there that don't post against concealed carry. We'd like to thank all of the businesses that welcome CCDW permit holders into their stores. However there are times when a store either goes out of its way to welcome permit holders or reverses a previous anti-CCDW position that merit special recognition. Those businesses belong in our Hall of Fame.

**Movie Warehouse** in Owensboro.

**Classic Car Wash** in Florence and Ft. Wright. They've said that CCDW holders are welcome to carry at their establishments.

Some of you have sent in businesses that have "No Concealed Weapons" signs and may wonder why they haven't appeared in the Hall of Shame. We're not condoning any business that prohibits concealed carry but we're trying to limit the Hall of Shame to those businesses that flagrantly ignore the law by posting signs barring all weapons, bar carry on parking lots in violation of OAG 98-12, or just have a particularly moronic sign on their business. We're trying to keep the list to a manageable level.

Again, let us know of other business that you see that don't welcome CCDW permit holders. And please, if you know of any businesses that have removed their signs, please let us know about them too. We'll gladly put them on our Hall of Fame list. I'd really like to eventually have a bigger Hall of Fame than Hall of Shame list.

RKH

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Internet at  
[www.kc3.com](http://www.kc3.com) or  
[www.kc3.org](http://www.kc3.org)**

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# The 250 Club

We wish to thank the following individuals who are members of the 250 Club  
for their continuing support of KC3 and its efforts:

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Members of the 250 Club pledge just \$10.00 per month  
(\$2.50 per week) over the next six months. Business,  
group, and organizational memberships welcome!  
For more information contact Secretary Pruden at:

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