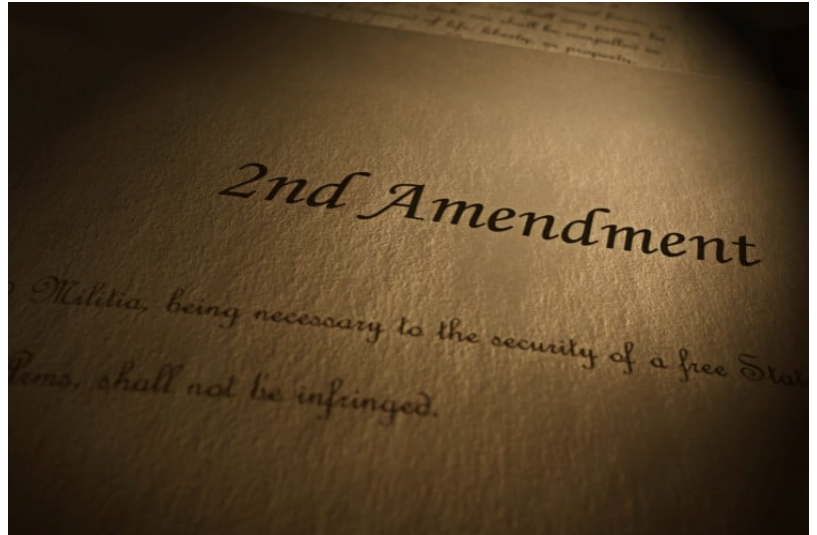




Written by [Joe Wolverton, II, J.D.](#) on October 11, 2023

Second Amendment and the Protection of the Citizen Militia

In an [op-ed published this week](#), Vermont-based attorney Noel Hudson viciously and ignorantly attacked the advocacy by many of his fellow citizens for the formation of a citizen-militia. Over the course of about 1,200 words, Hudson's hubris and ignorance of U.S. and Constitutional history was on full display. There is no reason to refute every word of Hudson's screed because so much of it can be dismissed with a couple of keystrokes and a Google search. Or, more preferably, reading the words of the Founding Fathers. What this article will do, however, is present an irrefutable recitation of the record of the role of citizen militias in securing the restoration of self-government to the 13 states that seceded from the British Empire.



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The Minutemen Were Militia Men

The American War for Independence, fought from 1775 to 1783, was a monumental struggle that witnessed the establishment of 13 new nation-states and reshaped the course of history. While the courage of the Continental Army and the leadership of figures such as George Washington are well-documented, one often under-appreciated aspect of the war was the vital role played by the citizen militia.

In the years leading up to the war, Colonial Americans were well-accustomed to serving in their local militias. These militias, composed of ordinary citizens, played a crucial role in the early phases of the conflict. They were the first line of defense against British oppression and were instrumental in sustaining the war effort.

Advantages of a Militia

One of the key strengths of the citizen militia was their intimate knowledge of the local terrain. These individuals were intimately familiar with the rugged landscapes and dense forests that characterized colonial America. This local knowledge gave them a significant advantage over the well-disciplined but often unfamiliar British forces. The militia could launch surprise attacks, ambushes, and engage in guerrilla tactics, using their knowledge of the land to outmaneuver the enemy. Such tactics were pivotal in the early stages of the conflict.

This understanding of the inherent advantage of militias was expressed by Thomas Gordon, a man of immense influence on the Founding Generation, in his book *Three Political Letters to a Noble Lord, Concerning Liberty and the Constitution*, written in 1721:

Each man, says Livy, chose his relation or his neighbor for his companion in the war; they



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made a solemn oath to be true to each other, and resolved to conquer or to die together. The confederacy consisting all of relations or friends whose virtue, valor, and abilities were known to each other raised and animated their courage and inspired them with such sentiments as had like to have proved fatal to the Roman power. Such a combination makes the interest of one the interest of all. Their motives and their ends are all the same; their counsels are regularly directed and their conduct from thence is so uniform that no ambition or confederacy can disturb them.

Moreover, the citizen militias represented a highly motivated and ideologically committed force. They were not professional soldiers, but patriots who took up arms to defend their homes, families, and newfound ideals of liberty. This unwavering commitment bolstered their resilience in the face of adversity. They endured extreme hardships, limited supplies, and unforgiving conditions throughout the war.

The citizen militias that sprung up across the American colonies during the War for Independence played an indispensable role in securing America's freedom. Their intimate knowledge of the terrain, unwavering commitment to the cause, and their ability to adapt to the changing nature of warfare were instrumental in achieving victory. While the Continental Army deserves its due credit, it was the citizen militia that proved to be the unsung heroes of the American War for Independence, the very literal expression of the spirit of liberty that helped secure the safety and liberty of 13 self-governing states.

The Second Amendment Created to Protect the Citizen Militia

The Second Amendment to the U.S. Constitution has long been a subject of debate and interpretation. Its language, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed," has led to varied interpretations over the years. However, a compelling and historically sound argument can be made that the Second Amendment was designed primarily to protect the right of the people to form militias.

The Second Amendment, in its historical context, emerged from a deep-seated fear of standing armies and the oppressive potential of a centralized military force. The framers of the Constitution had witnessed how oppressive regimes in Europe used standing armies to maintain control and suppress dissent. To counteract this, they envisioned a system where citizens, organized into local militias, could serve as a bulwark against potential tyranny.

Indeed, the vast majority of advocates for the right to keep and bear arms are well-versed in the profound connection between the Founding Fathers' apprehensions regarding a standing army and the essence of the Second Amendment.

Thomas Jefferson, George Mason, Elbridge Gerry, Melancton Smith, and James Winthrop were motivated by a crucial concern when they championed the inclusion of a Bill of Rights in the federal Constitution. Their conviction rested on the belief that safeguarding the sovereignty of the several states against the presence of a standing army during peacetime was imperative. To that end, Article 2 of the Bill of Rights, known as the Second Amendment, was crafted with the specific purpose of achieving this critical objective.

As one of the chief proponents of adding protection against standing armies to the U.S. Constitution, Elbridge Gerry pointed out that the purpose of a militia, and the protection thereof proposed by the Second Amendment, was "to prevent the establishment of a standing army, the bane of liberty."



The Definition of Militia

The key phrase, “A well regulated Militia, being necessary to the security of a free State,” underscores this intent. The framers were concerned not just about foreign invasion but also about the ability of a central government to subvert the rights and liberties of the people. By empowering the people to form militias, they ensured that a civilian force could act as a check on government overreach.

Furthermore, the use of the word “militia” itself implies an organized, community-based force. The definition of “militia” printed in Samuel Johnson’s *Dictionary of 1786* is “The trainbands.” As for the trainbands, they were “A company of trained civilian militia.” In other words, a militia referred to a body of local, part-time citizen-soldiers who could be called upon in times of need. This concept aligns with the idea that the people have the right to bear arms in order to serve in these community militias, thus securing the free State.

While the Second Amendment has been the subject of legal and political discussions, the historical context, the framers’ concerns, and the intent of safeguarding against centralized authority strongly suggest that its primary purpose was to protect the people’s right to form militias. This interpretation aligns with the broader theme of the Constitution, which emphasizes the importance of a government of, by, and for the people. It underscores the framers’ commitment to a system where the citizens themselves played a fundamental role in the preservation of liberty and the protection of the nascent federation of small, self-governing republics.

Power of the Militia Compared to That of a Standing Army

There is evidence of the Founding Fathers’ regard of the citizen militia as the undeniable and indefatigable defender of liberty. Admittedly, this information is sort of hidden in plain sight, as many of the essays and letters penned by the Founders are more often referred to than read. Take *Federalist* 46, for example.

In *Federalist* 46, James Madison clearly and convincingly makes the case for the protection and perpetuation of the citizen militias then organized in every state. Madison, using history as the prologue to the future, reminds readers of the relative stronger position of militias compared to standing armies. Madison explains:

Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government; still it would not be going too far to say, that the State governments, with the people on their side, would be able to repel the danger. The highest number to which, according to the best computation, a standing army can be carried in any country, does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms. This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties, and united and conducted by governments possessing their affections and confidence. It may well be doubted, whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops.

Correct Constitutional Meaning of Well-regulated



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Finally, I would like to take a paragraph or two to refute one of the claims made by Hudson near the end of his op-ed. Addressing the ignorance of those who claim the Second Amendment protects the right of the people to form militias, Hudson writes:

Legions of contemporary firearms enthusiasts insist with equal parts confidence and ignorance that “well-regulated” had nothing to do with government regulation at all, and that our Constitution enshrines the right of independent bands of armed men to make fundamental decisions about what our laws mean and whether we live in a state of peace or war, all while answerable to no one but themselves.

I think all the foregoing analysis and recitation of the historical record is sufficient to reveal the fundamental errors in Hudson’s claims. There is one last quotation I’d like to include that specifically addresses the meaning of “well-regulated” as expressed in the Second Amendment. Hudson implies that it means that the government can regulate the right to keep and bear arms and labels anyone who argues otherwise as acting with “deliberate menace.”

I’ll give the last word to William Rawle, who described the meaning of “well-regulated” as it pertained to the Second Amendment in general and the militia specifically:

In the second article, it is declared, that a well regulated militia is necessary to the security of a free state; a proposition from which few will dissent. Although in actual war, the services of regular troops are confessedly more valuable; yet, while peace prevails, and in the commencement of a war before a regular force can be raised, the militia form the palladium of the country. They are ready to repel invasion, to suppress insurrection, and preserve the good order and peace of government. That they should be well regulated, is judiciously added. A disorderly militia is disgraceful to itself, and dangerous not to the enemy, but to its own country. The duty of the state government is, to adopt such regulations as will tend to make good soldiers with the least interruptions of the ordinary and useful occupations of civil life. In this all the Union has a strong and visible interest.



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