

Our reading of the term "militia" as referring to a state military force is also supported by the fact that in the amendment's first clause the militia is described as "necessary to the security of a free State." This choice of language was far from accidental: Madison's first draft of the amendment stated that a well-regulated militia was "the best security of a free country." Anti-Federalist Elbridge Gerry explained that changing the language to "necessary to the security of a free State" emphasized the primacy of the state militia over the federal standing army: "A well-regulated militia being the best security of a free state, admitted an idea that a standing army was a secondary one." Yassky, *supra*, at 610 (quoting THE CONGRESSIONAL REGISTER, August 17, 1789). In any event, as we will explain *infra* at 32, 45-47, 53-55, it is clear that the drafters believed the militia that provides the best security for a free state to be the permanent state militia, not some amorphous body of the people as a whole, or whatever random and informal collection of armed individuals may from time to time appear on the scene for one purpose or another.

Finally, our definition of "militia" is supported by the inclusion of the modifier "well regulated." As an historian of the Founding Era has noted, the inclusion of that phrase "further shows that the Amendment does not apply to just anyone." Finkelman, *supra*, at 234. The Second Amendment was enacted soon after the August 1786 – February 1787 uprising of farmers in Western Massachusetts known as Shays's Rebellion. What the drafters of the amendment thought "necessary to the security of a free State" was not an "unregulated" mob of armed individuals such as Shays's band of farmers, the modern-day privately organized Michigan Militia, the type of extremist "militia" associated with Timothy McVeigh and other militants with similar anti-government views, groups of white supremacists or other racial or religious bigots, or indeed any other private collection of individuals. To the contrary, "well regulated" confirms that "militia" can only reasonably be construed as referring to a military force established and controlled by a governmental entity.

Judge Kleinfeld with Judges Kozinski, O'Scannlain, and Nelson took exception but their complaint failed.

Dissent, 2003, to the denial of a rehearing of *Silveira* by the Ninth Circuit en banc.

This preposterous anarchic assertion is in the court record without any repudiation by the Supreme Court.

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right of the people to keep and bear arms to their active military service in some state-run unit, the prefatory language compels an interpretation that protects the right of people as individuals to keep and bear arms.

Much of the panel opinion addresses the meaning of the term "militia," yet the panel fails to acknowledge the controlling authorities that establish the meaning. The word "militia" is a term of art, and does not mean in the Constitution and laws of the United States what it means in some popular and journalistic usage — a group of ultra-right wing individuals who arm themselves as a paramilitary force. The panel defines militia as "the permanent state militia, not some amorphous body of the people as a whole."⁵⁵ But the law establishes with the utmost clarity that the militia is precisely what the panel says it is not, an "amorphous body of the people as a whole."

The Unit States v. Miller Second Amendment must apply. the term Militia the history of the writings of enough that able of acting citizens enrolled Supreme Court proceed on the basis of the

That is, gun lobby's "the armed populace at large". We have degenerated this far that the preposterous doctrine has established itself in the federal judiciary without any contradiction from the Supreme Court, Senate or Senate Judiciary Committee.

These are federal judges under oath of public office. How many more of these anarchic flakes will pass through the Senate Judiciary Committee and be confirmed by the full Senate?

concert for the common defense. We shall see that "enrolled," for purposes of militia service, means something more like being registered for the draft, listed in the computer rolls for

⁵⁵*Silveira*, 312 F.3d at 1072.

⁵⁶*United States v. Miller*, 307 U.S. 174 (1939).

⁵⁷*Id.* at 179.