The Militia of Washington County, Arkansas

"Defending Liberty And Serving Washington County Since 1994."

"The Silver Bullet"

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The Militia of Washington County, Arkansas

Presents: A Public Notice of

Discovery, Findings, and Facts

Constituting

A Cause of Action, Cause, Case, And Claims:

A Formal Rebuttal to the Validity of
the National Firearms Act of 1934.

We, The People of the State of Arkansas,
The Constitution of the State of Arkansas,
The Invincible Second Amendment,
And The Written Constitution for the United States of America
- The Supreme Law of The Land.

versus

The Fraudulent and Criminal Conversion of Public and Private Property By Bodies and Agencies of the Federal Government

- 170 pages -

The Honorable Mike Huckabee
Governor, State of Arkansas
State Capitol
Little Rock, Arkansas
Date:

Dear Sir,

The Militia of Washington County, Arkansas, with understanding and true allegiance to Almighty God, in fulfilling its duty to uphold the Constitution and Laws of the State of Arkansas, has, for the past several years, been diligently engaged in researching the validity and effects of the National Firearms Act of 1934. The attached document presents the results of that research, and provides overwhelming evidence that the National Firearms Act of 1934 is unconstitutional and not valid law. The Act violates numerous Articles and Amendments of both the Constitution for the United States of America and the Constitution of the State of Arkansas. This "rebuttal document" also demonstrates that the Act is a blatant and repugnant violation of the Ninth and Tenth Amendments of the Constitution for the United States of America, and infringes upon the lawful sovereignty and jurisdiction of the State of Arkansas. The various federal agencies, and their agents, involved in the upholding and enforcement of this Act have knowingly, willingly, and maliciously perpetrated no less than fraud, deceptions, criminal conspiracy and conversion, countless criminal acts, and levy of war against We The People and the State of Arkansas. As Governor, sworn by Oath to uphold and defend the Sovereignty, Constitution, and Laws of the State of Arkansas, We The People call upon you to end all State cooperation with any federal agencies or agents in the upholding, pursuance, or enforcement of the National Firearms Act of 1934.

The attached document titled:

The Silver Bullet. The Militia of Washington County, Arkansas Presents: A Public Notice of Discovery, Findings, and Facts Constituting A Cause of Action, Cause, Case, And Claims: A Formal Rebuttal to the Validity of the National Firearms Act of 1934.

provides extensive evidence against the validity of the National Firearms Act of 1934.

We also call to your attention in Appendix IV of this document, a listing of the previous documents sent by certified mail and filed with your office, as well as other public officials and media.

Yours in the Cause of Liberty,

Paul Glenn Smith

Paul Glenn Smith, Commander

Hollis Wayne Fincher

Hollis Wayne Fincher, Lt. Commander

Preface

Section. 1. The Militia of Washington County, Arkansas.

After several months of open public debate the Militia of Washington County, Arkansas, was established on July Fourth in the Year of our Lord Jesus Christ, 1994, by the citizens of northwestern Arkansas for the purpose of supporting the Constitution of the State of Arkansas; "… to execute the laws, repel invasion, repress insurrection and preserve the public peace…"as mandated by Article Eleven of the Constitution thereof.

The Headquarters Building for The Militia of Washington County, Arkansas is located on 1.6 acres at 15566 E. Black Oak Road, County Road 57, Fayetteville, Arkansas 72701.
The Official State Flag of The State of Arkansas flies over Militia Headquarters, and Is a formal declaration and notification to all that The Militia of Washington County, Arkansas is under the jurisdiction of The State of Arkansas. Musters are open to the public and are held every Friday evening at 7 p.m.

See website: http://www.arkansasmilitia.com/militia.htm for more information on the Militia of Washington County, Arkansas.

Section. 2. Attention.

Several recent court decisions have consistently held that the state owes a Citizen no personal police protection whatsoever. The United States Supreme Court and lower State Supreme Courts have consistently held that there is no Constitutional right to be protected from the criminal element, nor is there any liability if the police fail to protect you. In 1856 the United States Supreme Court declared that law enforcement has no duty to protect a particular person, but only a general duty to enforce the laws. (*See* Part 1, Section 6, Sub-Section 4, Sub-subsections 4-8.)

Section. 3. Prior Communications with Public Officials.

Having recognized that most private citizens are unaware that they cannot depend on law enforcement to protect them at all times, and that law enforcement is under no obligation to do so, the Militia of Washington County, Arkansas has conducted a public campaign over the last ten years to educate citizens, politicians, public officials and authorities, and law enforcement, as to the true purpose and meaning of the Second Amendment of the Constitution for the United States of America. There has been an ongoing and incessant strategy and movement by government at all levels for many years to disarm

law abiding citizens of the Arms that are their rightful property, and to deprive them of the true scope of their Second Amendment rights and guarantees. While continuing to confiscate the lawful property of citizens, government has totally deceived the public with a false claim of security by leading them to believe that such "gun-control" measures would, in fact, reduce crime. Statistics prove exactly the opposite. The constitutional and lawful way to deal with GUNS, or, for that matter, ANY OTHER IMPLEMENT, such as baseball bats or nylon stockings (you can strangle someone with them!), and CRIME, is to PUNISH THE CRIMINAL AND NOT THE OBJECT!

"Quemadmodum gladius neminem occidit, occidentis telum est"

("A sword is never a killer, it's a tool in the killer's hands")
Lucius Annaeus Seneca "the younger" ca. (4 BC - 65 AD)

A machine gun in the hands of a law abiding citizen used for the lawful defense of person, family, or community, is one thing, that same gun in the hands of someone committing a criminal act, or with the OBVIOUS intent to commit a criminal act, is an entirely different matter. It is simply NOT PERMISSABLE, under our State and Federal Constitutions, to deprive a law abiding citizen of a constitutional right under the false -assumption that doing so will have ANY effect in stopping a criminal intent on committing a crime. In fact, historically, it is GOVERNMENTS that have shown, time and time again, that THEY are the ones who are most dangerous with Arms In their hands. Wars, oppressions, dictatorships, warlords, and rule by criminal gangs are more often than not the legacy and result of government disarming the populace and retaining all "control" of Arms for themselves. "Control" is what governments do worst, especially when it comes to Arms, and that is precisely WHY we have a Second Amendment in the U.S. Constitution as well as similar "Declaration of Rights" articles in the various State Constitutions.

Another false claim by government is that Americans can always rely on their Armed Forces to protect them against massive civil disorders, riotings, or outright invasion from a foreign power. The disorders that have taken place at different times in American history are well known and need not be repeated here as they are well documented. As to the danger from foreign invasion, or a Nazi-like dictatorship being something that "CAN'T HAPPEN HERE!" we draw to your attention the following GOVERNMENT poster from World War II:


IT CAN HAPPEN HERE!
-UNLESS WE
KEEP 'EM FIRING!

Obviously, the United States government was concerned that it "could happen here!"

Now if America WERE invaded, and foreign troops were prowling our streets, raping and plundering, do you think you might feel the need to protect yourself and your family with an Arm of current military utility and use, like, for instance, A MACHINE GUN? Or maybe even rocket-propelled grenades? AMERICA DOES HAVE ENEMIES IN THE WORLD! The Second Amendment does not specifically EXEMPT ANY ARMS from the scope of its protection!

Government "gun-control" measures are based on deceit and fear, but there is very little LOGIC to them. Here is a recent example:

> Rep. Jim Moran (D-Va.) - the guy who beat up an 8-year black kid in a parking lot a couple years ago - has introduced a new gun control bill, calling for a ban on .50-caliber rifles, saying terrorists are obtaining them as his excuse du jour. Our response would be, if terrorists have .50-caliber weapons (legally or not) to use against ordinary Americans, shouldn't ordinary Americans be allowed to have them in self-defense? Duh.
>
> – Charles Demastus, Freedom Watch list.

Since the Militia of Washington County was founded in 1994, numerous public notices have been written and filed with our county, State, and federal public officials (*See,* Appendix IV, Distribution List. Past and Present Documents.) concerning the Second Amendment, the militia, and various State and federal "gun-control" schemes, legislation, and the enforcement thereof. As of this date, our claims and notices to protect the rights and lawful property (the "right to keep and bear Arms") of We The People, guaranteed by our Constitution of the State of Arkansas and the Constitution for the United States of America, have gone unanswered and therefore stand uncontested by those public officials and authorities notified. **Their lack of timely response and rebuttal constitutes Default of any claims, or demands, closure of controversy, Estoppel at common law, and their right of action is now forever gone.**

By this written and issued Public Notice to the People of Arkansas, and to the all Public officials who have sworn an oath before God to uphold our Constitutionally guaranteed rights, We The People hereby reclaim our right to keep and bear **"Firearms"**, especially those enumerated in the National Firearms Act of 1934.

Introduction.

"The most effectual means of preventing tyranny is to illuminate, as far as practical, the minds of the people at large, and more especially to give them knowledge of those facts which history exhibits, that possessed thereby of the experience of other ages and countries, they may be able to know ambition under all of its shapes, and be prompt to exert their natural powers to defeat its purposes."--Thomas Jefferson

Section 1. Warning: Notice of Evidence, Prior Knowledge, Constructive Knowledge, Constructive Notice. (*See also,* misprision of felony, misprision of treason, federal witness, Part 1.,Sec.1.> Claimant.)

This document gives ***prior knowledge***, ***constructive knowledge***, and ***constructive notice***, and contains sufficient ***material*** and ***rebuttal*** evidence, evidence that was in existence at the time of the *Miller* case, upon which the National Firearms Act of 1934 hinges, as well as ***new evidence***, in fact, a ***preponderance of evidence***, and ***evidence to support the findings*** in this document, to show that the National Firearms Act of 1934 is ***null and void*** by several Articles of the written Constitution for the United States of America, 1791, and provides probable cause, and to both morally and at law, incriminate, arrest, indict, find guilty, hold accountable, and convict any member of State or federal government who hereafter engages in, upholds, or enforces the unlawful National Firearms Act of 1934 on loyal and law abiding American Citizens. The following charges, evils, and wrongs are among the abhorrent, repugnant, unlawful, illegal, and unconstitutional acts connected with the pursuance, upholding, and enforcement of The National Firearms Act of 1934: Constitutional, judicial, legislative, criminal, and civil malpractice, malfeasance, incompetence, and malversion; obstruction of justice; non-disclosure; malconduct; criminal negligence; criminal conversion; fraud and constructive fraud; negligent and reckless criminal damage to, theft of, and destruction of, lawful personal property; mental, emotional, and monetary damages and sufferings to, and destruction of, countless lives, families, and children; reckless endangerment; false arrest, false imprisonment, and kidnapping; assault, battery; and murder; misrepresentation; misprision, misprision of felony and treason; civil conspiracy, criminal conspiracy; leze majesty; treason; and numerous other high crimes and misdemeanors.

In *Brady v. Maryland, 373 U.S. 83 (1963)* the principle that,

"Suppression by the prosecution of evidence favorable to an accused who has requested it violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution" PP. 86-88.

This principle was upheld by both the Maryland Court of Appeals and the United States Supreme Court.

Section 2. Types of evidence and findings presented in this document.

This document supplies such **"material"** and **"rebuttal"** evidence (*See* Appendix I. Definitions From Black's Law Dictionary.) relevant to the validity of the National Firearms Act of 1934 on the following key points:

§§**1.** It provides the **missing** evidence, **direct** and **circumstantial** evidence, **scientific** and **expert** evidence, **material** evidence, **exculpatory** evidence, and **rebuttal** evidence to the **rebuttable presumption** argued by the government in the *Miller* case that the arms in question were used primarily by gangsters and criminals and had no common militia or military utility and that they also had no utility in providing for the common defense, and were therefore not protected by the Second Amendment and could therefore come under the "Commerce and Taxation" powers of Congress to regulate by The National Firearms Act of 1934. This "rebuttable presumption" was allowed to stand and become case, as it was not challenged by Miller since he was dead, and the other defendant in the case, Frank Layton, reached a plea bargain agreement and therefore also presented no "rebuttal evidence." This document provides **all of the above classes of evidence**, providing proof beyond any doubt, of the common Militia and Military use, and their utility for the common defense, of the Arms covered by the National Firearms Act of 1934, and that therefore said Arms are not now, never have been, nor can they ever be, subject to the Commerce and Taxation powers of government and Congress, but have, in both law and in fact, always enjoyed, continue to enjoy, and will always enjoy and be under, the protections guaranteed We The People by the Second Amendment, as well as various Written Articles of, the Constitution for the United States of America, thus making the National Firearms Act of 1934 null and void. Therefore, from the point of view of true law, the Act never existed, and all enforcement in pursuance thereof is fraudulent and criminal. The failure, by federal prosecutors, and numerous "expert" witnesses, including officers and agents of various federal agencies, especially the Bureau of Alcohol, Tobacco, and Firearms, to present, in both the original *Miller* case, and in

all prosecutions under the NFA over the years since its creation, evidence of the common military and militia utility of the arms covered in the NFA, amounts to nothing less than **constructive fraud**, and is a willful violation of the Brady principle regarding the prosecution's **suppression** of **exculpatory evidence.** Such failure, by federal officers and agents, who should be considered "experts" in the field of Firearms, to present, in numerous prosecutions under the NFA, the material evidence, and the exculpatory evidence, concerning the military and militia utility of the Arms covered by The Act, is sufficient **evidence**, **direct** and **circumstantial**, **scientific**, **expert**, **material**, **and inclupatory evidence**, of a long standing **criminal conspiracy** by the federal government, its agencies and agents, to deprive citizens of their Constitutional rights, lawful property, and due process of law, and to confiscate and **criminally convert** private and public property to government control and effective ownership. Further, to let stand such an obvious fraud and misrepresentation, because "no evidence to the contrary" was presented in the *Miller* case, evidence which it was the **duty** of even the prosecution to present, as it was both material and exculpatory, is a gross miscarriage of justice, an attack on the very foundations of our Constitution and Justice system, and has resulted in untold physical and emotional sufferings, injuries, and even death to persons, as well as the loss of perhaps billions of dollars in confiscated, destroyed, or damaged private and public property, pursuant to the enforcement, prosecutions, seizures, and imprisonments conducted under the mantle of the National Firearms Act of 1934.

"Concept of "suppression" as that term is used in rule that suppression by the prosecution of material evidence favorable to an accused on request violates due process, implies that the government has information in its possession of which the defendant lacks knowledge and which the defendant would benefit from knowing. *U.S. v. Natale*, C.A.N.Y., 526 F.2d 1160, 1170. *See also* Withholding of evidence." – Black's Law Dictionary, Sixth Edition, from definition of term "Suppression of evidence."

The fact that Miller was dead did not relieve the government attorneys from the responsibility of presenting CORRECT information to the court concerning the militia and military utility of the Arms covered by the National Firearms Act of 1934, nor from the rule regarding "suppression of evidence" favorable to the other side, either in the original District Court case where the NFA was declared unconstitutional, or in the appeal before the Supreme Court, as the rights of ALL American citizens were at stake in the court's decision, and not just Miller's and Layton's.

§§**2.** It demonstrates beyond doubt that the National Firearms Act of 1934 violates numerous Articles of the Constitution for the United States of America, the Supreme Law of the Land, and is therefore null and void.

§§**3.** It shows that the National Firearms Act of 1934 violates the Laws of Almighty God, and therefore violates the most deeply held religious and moral convictions and principles of We The People, and is therefore null and void.

§§**4.** It demonstrates beyond doubt that the National Firearms Act of 1934 is repugnant to the Tenth Amendment of the Constitution for the United States of America, because it invades the reserved domain and jurisdiction of the State of Arkansas and of We The People, and is thereby null and void.

§§**5.** It will show beyond doubt that the National Firearms Act of 1934 is a **civil conspiracy** based on **fraud**, as well as a **criminal conversion** of private and public property by prohibiting private ownership, and the unconstitutional transfer of that ownership to the federal government, which then converts that property through licenses guaranteeing a monopoly to the manufacturer of the said "Firearms," and then making criminals of the original owners, We The People.

Section 3. Abstract of the Miller Case.

The National Firearms Act of 1934 (AKA: National Firearms Act, NFA) was passed as a crime control and revenue raising measure by the congress of the United States. The National Firearms Act was subsequently declared unconstitutional by a Federal Judge, Heartsill Ragon, in the Federal Court in the Western District at Fort Smith, Arkansas, June 11, 1938.

The case was about two men, Jack Miller and Frank Layton, who were arrested for transporting in Interstate Commerce, a shotgun with a barrel shorter than the 18 inches set by the United States Congress as the minimum legal length.

The Federal Judge of that Court declared the National Firearms Act void because it violated the Second Amendment of The Constitution for the United States of America. Miller and Layton were then set free.

The United States appealed the decision to the U.S. Supreme Court on the grounds that the "Firearms" prohibited by the Act were used only by gangsters and criminals and had no Militia utility, and therefore were not protected by the Second Amendment.

The Supreme Court reversed the District Court decision **for lack of evidence** of Militia or Military utility of the short barreled shotgun carried by Miller. Miller had been found dead of gunshot wounds, and neither Miller, Layton, nor their counsel appeared before the Supreme Court with evidence that was, in fact, readily available. The Court stated, *"… In the absence of any evidence tending to show that possession or use of a "shotgun having a barrel of less than eighteen inches in length at this time has some reasonable relationship to the preservation or the efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice that this weapon is any part of ordinary military equipment or that its use could contribute to the common defense." Aymette v State, 2 Humphreys {Tenn.} 154, 158.*

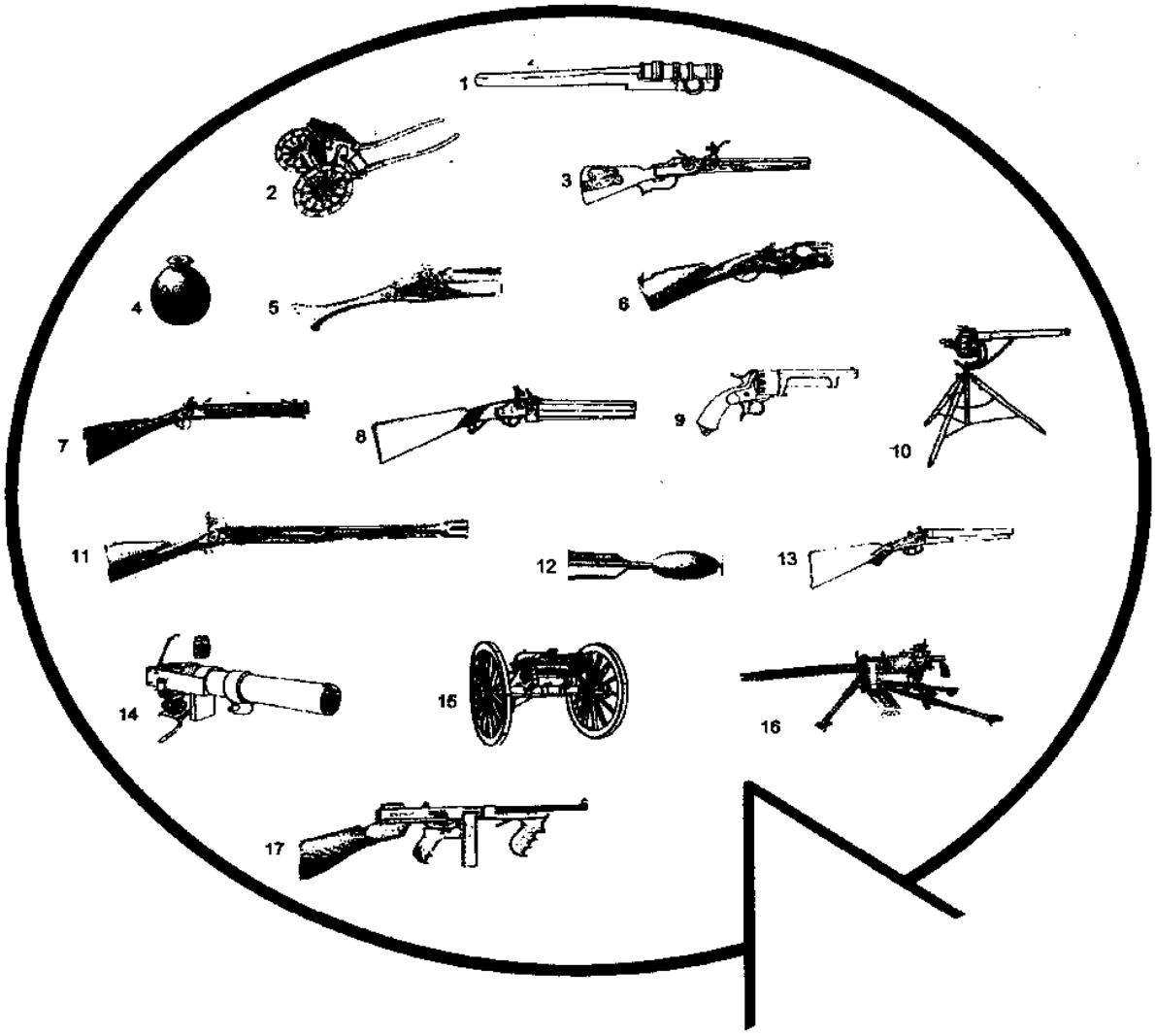
The Supreme Court did not accept the federal government's unfounded contention that the Second Amendment protected only a collective right to "Arms," belonging to the States, as it recognized Miller and Layton's standing to challenge the National Firearms Act's validity. It was merely the failure to present readily available evidence of Militia utility of the short barreled shotgun, the short barreled rifle, the machine-gun and the silenced Arms that allowed the unconstitutional National Firearms Act to stand.

These very firearms have now been in "common use" for decades by police and military, thus providing, albeit belatedly, the missing evidence which voids the Federal Government's Claim of non utility. The use by the State and federal government of the "Firearms" prohibited by the National Firearms Act, while fining and imprisoning private Citizens for possessing the same kind of "Arms," is fraud and a criminal conversion of the private Citizen's property.

In addition, the same kind of firearms dismissed as only "gangster" arms by the government attorneys, and accepted as an unrebutted presumption of fact by the court, were also in common military and militia use at the time of the Miller case, and in long years past as well. (See Bibliography, Appendix IV) The presumption was FALSE, and went unchallenged due to the peculiar circumstances surrounding the case: Miller (dead) and Layton (plea bargained). The court could certainly have required expert testimony, or required investigation regarding the kind of arms in question, and since constitutional rights were at stake, the failure to do so amounts to incompetence and misprision. In the case of the government attorneys, one can only conclude outright fraud, misprision, misrepresentation, and suppression of evidence favorable to the other side.

Diagram 1.

A Representation of the Scope of the 2nd Amendment prior to the National Firearms Act of 1934.



Breach of 2nd Amendment

The above kinds of Arms anticipated the kinds of Arms removed by the National Firearms Act of 1934, arms which were previously protected by the patented scope of the 2nd Amendment.

"In patent law, an invention is anticipated by prior art when the invention is not new or lacks novelty over that art. *Topliff v Topliff*, 145 U.S. 156, 12 S.Ct. 825, 36 L.Ed. 658. Defense of "anticipation" in suit for patent infringement is made out when, except for insubstantial differences, the prior patent contains all of the same elements operating in the same fashion to perform an identical function. *Ropat Corp. v. West Bend Co.*, D.C. Ill., 382 F. Supp. 1030, 1036." - from Black's Law Dictionary, Sixth Edition.

This Act, with all its incidents and abuses, has now become what the Constitution for the United States of America and the Constitution of The State of Arkansas defines as Treason, the "levy of war," which is punishable in Arkansas by death or life in prison.

Anyone with any familiarity with the Arms of the American police and military, as well as other governmental agencies, knows that the short barreled shotgun, the short barreled rifle, the machine-gun, and silenced arms, are of the kind in common use, both in the past and present, nation wide, by military and police. (*See* Bibliography and Diagrams.) This meets the Supreme Court's declaration of Second Amendment protection of Arms in "common use". <u>All inferior courts are bound thereby.</u>

Part 1. Public Notice, Claim Of Right And Property, Evidence Of Theft And Wrongs.

Section 1. Case, Cause, Cause of Action, and Claims. An action, claims, case, cause of action, and cause for the redress of grievances, enforcement and protection of rights, and the prevention of wrongs, in the matter of the illegality of the National Firearms Act of 1934, and the continuing and ongoing enforcement thereof. Such Act, in effect and fact, being both a civil conspiracy and a criminal and fraudulent usurpation and conversion of private and public property, as well as the denial, infringement, and usurpation of numerous Constitutional rights and protections, violations of sovereignty, numerous jurisdictional violations, and causing damages, sufferings, and losses, both material and mental, to persons and property, both private and public, and to We The People, by various bodies and agencies of the Federal government and all those, including local and State authorities and agencies, working in conspiracy and concert with them. The Cause, Cause of Action, Case, And Claims shall be severable from one another. The denial or dismissal of one shall not affect the validity, legality. or urgency under the law of the others.

Section 2. Claimant: Brought on behalf of "We The People" by The Militia of Washington County, Arkansas.

§§**1. Misprision of felony (18 U.S.C. §4); Misprision of treason (18 U.S.C.A. §2382)**

We cite the following (*see website,* U.S. Code Search):

-CITE-
18 USC Sec. ***4*** 01/22/02
-EXPCITE-
TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 1 - GENERAL PROVISIONS
-HEAD-
Sec. 4. Misprision of felony
-STATUTE-

> Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

(*See also,* Misprision of felony, Misprision of treason. Appendix I, Black's Law Dictionary, Sixth Edition.)

As per the above cited **18 U.S.C. §4**, and **18 U.S.C.A. §2382**, it is our duty to bring forth and to present to ALL local, State, and federal public officials and authorities the evidence contained in this document concerning the many crimes, frauds, wrongs, violations of rights, damages both tangible and mental, misrepresentations, and treason connected with the unlawfulness, illegality, and enforcement of The National Firearms Act of 1934, such constituting numerous felony violations of law, both State and federal, as well as the Constitution for the United States of America, the Constitution of the State of Arkansas, and, in all probability, the Constitutions and laws of numerous other of the several States.

§§**2. Federal Witnesses.**

In light of the evidence presented herein of numerous felony crimes committed by agents of the federal government, and local and State authorities and agents acting in concert and conspiracy with them, We hereby declare, assert, and claim, that all members of the Militia of Washington County, Arkansas, as parties to the presentation of this document, and with full knowledge of the evidence contained herein, are thereby become **"federal witnesses,"** and that any attempt to intimidate, harass, coerce, falsely arrest, or bring frivolous or other unlawful and unconstitutional civil or criminal actions against said members of the Militia of Washington County, Arkansas with the intent of intimidation, coercion, or hampering, shall be considered **"witness tampering,"** and **"intimidating, or tampering with a witness, victim, or informant,"** such being yet further crimes and violations of law. *See*, **18 U.S.C. PART I > CHAPTER 73 > Sec. 1512.**

Section 3. Noticed: Those, and Any, Bodies, Agencies, and Officers of the Federal Government who have, and are responsible for, depriving "We The People" of our Constitutional Rights under the Second Amendment and various Articles of the Written Constitution for the United States of America, through the creation, upholding, and enforcement of the unconstitutional and odious National Firearms Act of 1934 (hereinafter, aka: NFA, the Act, the National Firearms Act), to include, but not be limited to, the following:

Legislators responsible for creating and upholding the Act; the Federal Judiciary, where it has issued warrants, orders, conducted trials, issued and handed-down rulings, decisions, and convictions, in pursuance of, and upholding, the Act and/or its enforcement; Federal Prosecutors pursuing warrants, charges, indictments, prosecutions, evidence, and cases under, and in pursuance of, the Act and/or its enforcement; the Bureau of Alcohol, Tobacco, Firearms and Explosives, its officers, agents, directors, and the employees

thereof; the Federal Bureau of Investigation, its officers, agents, directors, and the employees thereof; the Internal Revenue Service, its officers, agents, directors, and the employees thereof; the Treasury Department, its officers, agents, directors, and the employees thereof ; the Justice Department, its officers, agents, directors, and the employees thereof; the Drug Enforcement Agency, its officers, agents, directors, and the employees thereof; any federal agency whose Officers and Agents in any way engage in, conspire, collaborate, or are involved in, individually or in a group, the arrest, imprisonment, injury, murder, trial of, conviction of, confiscation or damage of the property of, any law abiding citizen not otherwise deprived of their rights by due process of law, in pursuance of, and upholding, the Act and/or its enforcement. In addition, any local or State authorities or agents who consort or conspire with any of the above cited entities, agencies, officials in the upholding and enforcement of the Act. Further, **Notice is hereby served to ALL public officials and agencies, local, State, and federal that this document contains vital and important evidence of crimes, as well as other information and classes of evidence relevant to the validity of the National Firearms Act of 1934.**

Section 4. Legislation and the Courts vs. the Second Amendment, and the Constitution for the United States of America.

Some trifle with the Second Amendment's clarity, validity, and power, but there is not a clearer, more forceful, more precise and less ambiguous, self explanatory Article within the Constitution for The United States of America than the Second Amendment, which Declares a "certain unalienable right", and protects the scope of that right by an absolute prohibition against infringement by all branches of state and federal government.

Our Declaration of Independence and the Constitution for the United States of America are among the most precise and powerful documents ever written by man. Each was written at a time when armies marched, ships sailed, and kingdoms stood or fell at the stroke of a pen. Each was written by the most astute, precise, and learned English writers ever to articulate the concept of man's freedom. This was a time when an error in language would have no recall, and could result in disaster for all concerned. The authors of the Constitution used the fundamental laws of the English language to precisely shape the declaratory and restrictive clauses found within the Constitution for the United States of America. Therefore, ignorance of these laws, so plainly stated, cannot be pled by agents of government at any level.

Petty politicians and supposedly learned men have written millions of words declaring the Second Amendment void, but the excellence of the signers of the Declaration of Independence, and the command of written English by the Constitution's framers, as well as their determination to preserve their most valued, Creator-endowed rights prevails. The Second Amendment of the Constitution for the United States of America is still the enforceable, and invincible, Supreme Law of the Land.

This document is a formal rebuttal to the fraudulent and criminal conversions of private property, treason, and other "high crimes and misdemeanors" by agents of the federal government, the Bureau of Alcohol, Tobacco, Firearms & Explosives, et al, who, as "professionals" and "experts" in the field of firearms, may be deemed to have "constructive knowledge", and thus thereby commit malpractice and fraud (past, present, and continuing), through willful failure and neglect to disclose, with malice aforethought, vital information and evidence concerning "Firearms" utility and common use in the past, as well as the changes from World War II to the present, from the federal courts and the United States Legislative body.

This Document presents absolute facts and indefeasible new evidence and/or evidence that was not presented at the time of *United States Vs. Miller* that show, without controversy and beyond a shadow of doubt, *"the right of the people to keep and bear Arms"* belongs to the private American Citizen alone. This "right" does not belong to the State, which for our protection, security, and benefit was created by We the People, and which We the People, as masters, also have the right to alter or abolish. Neither Police nor the Military have the "Right" to "keep and bear" Arms; for them it is a "Duty." Only We the People have the unalienable right to keep and bear Arms.

The principle in *Brady* is applicable here:

"To establish Brady violation, requiring reversal of a conviction, defendant must show that prosecution has suppressed evidence, that such evidence was favorable to defendant or was exculpatory, and that evidence was material; evidence is "material" if there is reasonable probability that, but for failure to produce such evidence, outcome of case would have been different. *U.S. v. Barragan*, C.A.Fla, 793 F.2d 1255, 1259; *Brady v. Maryland*, 373 U.S. 83 S.Ct., 11194, 10 L.E.2d 215. *See also* Evidence, Relevancy; Relevant evidence. " (from definition of "Material evidence" in Black's Law Dictionary, Sixth Edition)

The willful failure to disclose (non-disclosure, suppressed evidence), by government prosecutors, "experts", and agents, in numerous prosecutions (past, present, and continuing), this relevant material and exculpatory evidence regarding kinds of Firearms in common military and militia use, as well as their utility for common defense, evidence that would be favorable to defendants charged with violations under the National Firearms Act of 1934, constitutes professional and constitutional malpractice, malfeasance, incompetence, and outright fraud. Such evidence, had it been presented in the *Miller* case, would no doubt have resulted in the original ruling that declared the National Firearms Act of 1934 to be a violation of the Second Amendment, and therefore null and void, being upheld rather than overturned. This is a blatant violation of "due process" and "due process rights.

In this light, and in the face of mountains of evidence of its invalidity. it is a **criminal act** to enforce The National Firearms Act of 1934. Lawful property has been confiscated, lawful property has been damaged, innocent lives and families have been placed in danger, destroyed, and ruined forever, by the unlawful raids, arrests, fines, confiscations, and imprisonments carried out under the fraudulent, deceptive, discriminatory, and unconstitutional National Firearms Act of 1934. There must be, as a remedy at law, class action Lawsuits, with awards to the damaged citizenry of tens of billions of dollars, and criminal actions brought on behalf of the American People, against any such abusive, murderous, criminal, and un-American Officers, Agents, Conspirators, and Perpetrators.

Section 5. The Invincible Second Amendment.

We The People retain absolute, plenary power to be Armed. Therefore, the scope of that right cannot be lawfully "infringed", i.e., by Oxford Dictionary definition, "broken into, shattered, crushed, defeated, invalidated", nor shall the oath of office be broken or contravened, nor shall any one serving in State or federal government refute, contradict, weaken, impair, mitigate, break in, or encroach upon the Second Amendment, or any other Amendment. The powers delegated to government are amendable, but the rights and powers reserved by the people are higher, unalienable, and unapproachable by any lesser power that We The People delegated to either State or federal governments, and still further, that, ***"no Article of the Constitution is to be without effect"***, and further, ***"all acts repugnant to the Constitution for The United States of America are Null and Void"***, as Declared in the Land Mark, Supreme Court Finding, *Marbury v. Madison*, therefore, no one is bound to obey an Act of Government that is prohibited by the Constitution, the Supreme Law of The Land, therefore, The National Firearms Act of

1934 is repugnant to that Constitution, and is **"Null and Void."**

Section 6. Problems with Prior Legislative and Judicial Acts, and the "Anti-Gun," "Gun control" mentality. Theft and Criminal Conversion of a Right.

"Disarm the people... that is the best and most effective way to enslave them." George Mason.

There is at present, a movement to disarm the People of the several American States for further debasement and plunder. This movement stands or falls on the following false presumptions:

§§**1. False Presumption No. 1 and Rebuttal.**

False Presumption Number 1. The untenable position of traitors within the State and federal government that "the right of the people to keep and bear Arms", belongs to the State, and not to the people, as expressly Declared by the Second Amendment.

Rebuttal to False Presumption Number 1.

§§§**1.** If the "right to keep and bear Arms" belongs to the States, then why is the Second Amendment needed at all? The State/federal relationship was established by the Constitution, and no further amendments were needed or necessary to preserve that Constitutionally settled issue. We the People, by the Second Amendment, reserved forever our own right to "Arms"

Fact: The Second Amendment to the Constitution for the United States of America, as ordained by unanimous agreement of the several states, declares:

"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." **This is what the Second Amendment to the Constitution for The United States of America declares to be the Law of the Land!**

A very simple test can easily discredit that seditious, subversive, un-American political policy which is now being forced upon We the People. By merely exchanging two words, "**State**" and "**people**", it can be shown conclusively to whom the "right to keep and bear Arms" belongs.

To illustrate what the Constitution for The United States of America does not say…

"A well regulated Militia being necessary to the security of a free **people**, the right of the **State** to keep and bear Arms shall not be infringed."

If no other evidence were available, this simple test alone would be sufficient to conclusively prove ownership of the "right" by the people, and bring closure to this subversive doctrine.

§§§**2. Further**, the States and people are declared to be different and separate in the First, Second, Third, Fourth, Fifth, Ninth, Tenth and Thirteenth Amendments of the aforesaid Constitution, which by their adoption, amended individual State Constitutions. **Remember that the Thirteenth Amendment abolished slavery along with all its incidents, in every state in the Union, and every state thereafter admitted had to alter their respective Constitutions accordingly. Nonetheless, all slaves have historically been either armed with inferior weapons or totally disarmed.**

§§§**3. Further**, if the "right of the **people** to keep and bear Arms" belongs to the state, as some contend, where are the state patents to their firearms inventions? If the state owned the "right", We the People would not be allowed to patent state-owned property. There are hundreds of patents related to "Arms", and not one is owned by the State or federal government. It is a well-settled fact that We as masters do not allow our servants in government to compete with the private sector.

§§§**4. Further**, all who are elected to represent the people, and are employed in governmental service, are bound by Oath to support our 'Rights". They have no standing to challenge or disqualify a Constitutionally patented instrument on the basis of non-utility, and then to prohibit its production, use, or possession by the original owner.

For government to qualify the prohibited "Arms'" utility, and then allow a licensed corporation to produce and market that instrument at a profit, while fining and imprisoning the original owners for possessing or producing the same kind of instrument is unlawful conversion of private property and the creation of a monopoly. The patented instrument is, in this case, "the right to keep and bear the Arms" prohibited by the National Firearms Act of 1934.
The State or federal government is required to purchase the right to use a patented invention from an individual Citizen or corporation, or that act would be the taking of private property for public use, without just compensation, which is prohibited by the Fifth Amendment.

If, in fact, the "right of the people to keep and bear Arms," belongs to the State, as some contend, then let the State government take up their arms and fight the people's battles. Let the Governor and the Executive branch lead the charge, followed by state

legislators, with the state's supreme court in tow. How grown men can promote such nonsense is beyond reason. If, in fact, the "right belongs to the State, then why have the Militia at all? To believe this ridiculous theory of State ownership in the face of a crystal clear Second Amendment, and in denial of hundreds of years of written American History, would require one to become delusional.

The fact is that We the People have reserved our own Amendment, declaring the right to "keep and bear", meaning to carry, support, uphold, produce, bring-forth and manufacture Arms for supplying our own Military Force, i.e., the Militia, the Citizen Soldier. All law abiding Citizens, regardless of wealth or renown, have, by birthright, "the right to keep and bear Arms", and to always possess the lawful force to subdue tyranny.

§§§**5. Further**, it was We the People who founded the North American Colonies, defeated a Monarch, and established a new form of government. We delegated through our servant agents, the states, power to the federal government "To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions," thereby guaranteeing security throughout the Land. Had We the People not reserved our own "right to keep and bear Arms," the State would by now be virtually defenseless because of the federal government's meddling, bullying, terroristic threats, extortion, bribery, foreign entanglements with the UN, and an endless stream of encroachments on the Sovereignty of the States.

By Article Eight of The Constitution for The United States of America, We The People gave Congress permission "To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel invasions; To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;"

This delegation of power settled any question of state/federal Militia relationship and status. However it created a great controversy among the people. We The People, while ridding ourselves of one Tyrant, did not wish to assure the emergence of another. Thus We reserved to ourselves "the right to keep and bear" our own Arms.

§§§**6. Further**, if the right to keep and bear Arms were a State's right, the National Firearms Act of 1934 would still be void, This Act of federal government would still be prohibited and barred by the Tenth Amendment. Under the Tenth Amendment, We The People are the founders, original Owners, Claimants, and co-holders of corporate power with our servant agent, the State. Further, if the

Constitution were void of both the Second, and Tenth Amendment: the Right to keep and bear Arms is just as surely claimed and protected by the Ninth Amendment.
Still further, the right to keep and bear Arms is protected by the First Amendment, as the unalienable right to defense of self, family, church, community and state, is a moral conviction and duty under the Laws Almighty God.
The placement of vital components to be protected in different clauses is standard procedure in all patents, contracts, constitutions, etc., and is fully understood by all the legal institutions. We absolutely do not, under any circumstance, allow our servants to have standing to use our tax dollars to continually contest and challenge our written authority, or to bring us before our courts.

§§§**7. Further**, all acts of state or federal government that abuse a Citizen by arrest and trial are subject to review and nullification. The plenary right and duty of a jury to acquit in the face of a perceived injustice or Constitutional violation by government is absolute. The "right to keep and bear Arms" is our Birthright as Americans and will never be relinquished or surrendered.

§§§**8. Still further**, our right to "Arms" is claimed under the First Amendment, as an expression of our religious conviction, to have equal and just Laws throughout the Land. Furthermore, our Divine mandate and sense of duty compel us to defend ourselves, our homes, our families, and our fellow countrymen.

For government to compel a citizen to defend another country with tax-funded, government- approved Arms, and then to arrest, convict and imprison that same citizen for possessing the same kind of Arms for the defense of his own family, home and state is nothing less than aiding and abetting our enemies, and an attack on the American People and our Constitutional, Republican form of government.

The "right to keep and bear Arms" permeates every thread of our society. Our most deeply held religious beliefs, our ability to make war, our personal and common defense, State defense, our police powers, hunting, shooting, collecting, our manufacturing industry, scientific research, standing and respect by foreign nations, our history, our future, our past, and our birthright, are all irrevocably connected to the American Citizen's "right to Arms".

To allow our servants to appropriate or to convert that "right" into a privilege, and to allow them to dictate the kind of arms permitted while continually challenging our authority by fining or imprisoning their masters is to turn the proper relationship between the People and their government upside-down. Such an inversion is

unconscionable by our religious conviction. The "right to keep and bear Arms" is an American birthright, to be bequeathed to our posterity, and can never rightly be surrendered by the People.

The Second Amendment itself has put our cherished rights forever out of reach of all agencies of State and Federal government. The strategy of placing vital components of the thing to be protected within more than one clause, or Amendment, may not be understood by the private citizen, but is perfectly understood by any law student, lawyer, patent attorney, or judge.

§§§**9. Further**, for a judge, lawyer or legislator to pretend otherwise is an act of misconduct, malfeasance, misconstruction, and abuse of their Constitutionally-delegated powers.

Any firearms regulatory scheme by state or federal government is forever unobtainable, prohibited, and void. We the people, in forming our new government, declared we would have "no King but Jesus", and further, "that all men are created equal". We determined never again to allow the feudal system of a king, a royalty or a standing army to usurp our priceless, God-given freedom. Therefore, We chained government with an Oath to the Constitution, and liberated ourselves with our invincible Bill of Rights which, if necessary, We will defend.

§§**2. False Presumption No. 2 and Rebuttal.**

False Presumption Number 2. That the Congress of The United States of America can lawfully use the conditional and restricted power that We the People delegated to it, that is, the power to "tax" and "to regulate Commerce between the foreign Nations and among the several States, and with the Indian Tribes", as an instrument of Law to overcome or evade the Second Amendment's prohibition and bar against 'infringement' in order to support the current scheme of the regulation of firearms under the National Firearms Act of 1934.

Rebuttal to False Presumption Number 2. We can now see that this proposition is void. Congress cannot lawfully, by the legislative powers We delegated to them, enter the scope of the "right to keep and bear Arms." The proposition that the state or federal government can legislate within our private domain is absurd. They, by sworn Oath, have bound themselves to support the Constitution. Therefore, all state and federal government officials are contractually bound by Oath and wages, and have no Lawful standing to challenge or amend our Bill of Rights.

§§**3. False Presumption No. 3 and Rebuttal.**

False Presumption Number 3. The false presumption that both State and federal governments have the lawful power to continually harass the citizenry and to dictate, restrict, tax, or prohibit the arms or ammunition the individual citizen has the right to keep and bear.

Rebuttal to The False Presumption Number 3. The false presumption that the state and federal government can tax, regulate, register, restrict , or dictate to the people, the kind, or number of Arms, or the amount of ammunition the people shall be allowed to possess, or keep and bear, was anticipated and prohibited. We therefore retain the indefeasible right to our own Arms.

Many adversaries have tried to attack that right by stating that the right to Arms is not absolute, forgetting that the prohibition against infringement ***is*** absolute.

Furthermore, adversarial parties are without standing to challenge that right.

§§**4. False Presumption No. 4 and Rebuttal.**

False Presumption Number 4. The federal government presumes that the arms taxed, restricted, and regulated by The National Fire Arms Act of 1934 "cannot be effectively used as police, military or militia Arms" and are therefore unprotected by the Second Amendment.

Rebuttal to False Presumption Number 4. The National Firearms Act of 1934 is null and void. **The basis in Law upon which the National Firearms Act stands is fictitious and never truly existed.** The Act has been foisted upon the people by the citing of **erroneous** evidence and the **absence of a qualified defense** by Miller's attorney, since Miller himself had already been murdered. No defense was presented on his behalf by counsel, then, in front of the Supreme Court. Miller's accomplice pled guilty afterwards in exchange for probation. Consequently, **We the People have been deprived of that right without "due process".**

§§§**1.** We the People can now be arrested for possessing arms prohibited by the National Firearms Act, the same kind of arms now in common use by police and military forces nation-wide, as well as by allied and enemy armies the world over. The short-barreled shotgun, short-barreled rifle, the machine gun, and the silenced arm have been qualified and used by police and military of this nation for decades. According to the Supreme Court, **"the militia is to appear bearing Arms of a kind in common use at the time".** Therefore, the use by government itself of National Firearms Act-prohibited "Firearms" **voids the government's claim of non-utility, and thereby**

voids the very grounds on which the Act stands.

§§§**2. The false claims of the attorneys representing the federal government in the case, *United States v. Miller* are at the heart of the injustice.**

The attorneys representing the United States **fraudulently** presented the defunct Arkansas Supreme Court's decision in *State V. Buzzard, 4 Ark. 18 (1842)*, as a representative statement of State policy on the subject of keeping and bearing arms. The presentment of the Arkansas Court's finding is totally void because it cites the State Constitution of 1836. Following the imposed Reconstruction Constitutions of 1864 and 1868, the People of Arkansas ordained and ratified a new Constitution in 1874. The People re-addressed the militia in the new Constitution's Article 11, and the Citizen's right-to-arms concept in Article Two, Section 5. The bitter experience of the Civil War and the lawless period that followed gave the State and the People of Arkansas a new appreciation for their right to self defense.

§§§**3.** Once again the right of the People to carry arms for their defense was tried in court, but this time a constitutionally correct decision was made.

The Supreme Court of the State of Arkansas properly held in *Wilson V. State*, that

"To prohibit a citizen from wearing or carrying a war arm...is an unwarranted restriction upon the constitutional right to keep and bear arms. If cowardly and dishonorable men sometimes shoot unarmed men with army pistols or guns, the evil must b e prevented by the penitentiary and gallows, and not by a general deprivation of constitutional privilege." -WILSON V. STATE, 33 ARK 557, AT 560, 34 AM. REP.. 52, AT 54. (1878).

The Tennessee Supreme Court's decision, *Aymette v. State*, 1840, was cited by the federal attorneys in the Miller case, instead of the Arkansas Supreme Court decision in the *Wilson v. State*, 1878, which was **not** presented as evidence for the defense in Miller's prosecution. **One needn't be a legal scholar to surmise why the 1878 Arkansas Supreme Court's finding, which was then and is now current law, was ignored.**

The supposed milestone presented as a bar against the right-to-arms is the State of Tennessee, Supreme Court decision, *Aymette v. State*, Judge Dillahunty presiding. A certain man named William Aymette was arrested, tried, and found guilty for the act of offensively carrying a concealed Bowie knife with the intent to employ it as a

weapon against Hamilton.

The reason We the People do not allow such an act of offense is that We have provided a remedy by the police and judicial powers of the State for settling such affairs. However, such a remedy was not available for Hamilton.

§§§**4. Further**, several recent court decisions have consistently held that the state owes a Citizen no personal police protection whatsoever. The United States Supreme Court and lower State Supreme Courts have consistently held that there is no Constitutional right to be protected from the criminal element, nor is there any liability if the police fail to protect you. In 1856 the United States Supreme Court declared that law enforcement has no duty to protect a particular person, but only a general duty to enforce the laws. {South b. Maryland, 59 U.S. {HOW} 396, 15 L. Ed., 433 {1856 }.

§§§**5. Further**, "...there is no constitutional right to be protected by the state against being murdered by criminals or madmen. It is monstrous if the state fails to protect its residents against such predators but it does not violate the due process clause of the Fourteenth Amendment or, we suppose, any other provision of the Constitution. The Constitution is a charter of negative liberties; it tells the state to leave the people alone; it does not require the federal government or the state to provide services, even so elementary a service as maintaining law and order." {*Bowers v. DeVitto*, U.S. Court of Appeals, Seventh Circuit, 686F.2nd.616 {1982}. See also *Reiff v. City of Philadelphia*, 471F Supp.1262 {E.D.Pa. 1979}.

§§§**6. Further,** see {*Morgan v. District of Colombia,* 468 A2d 1306 D.C. App. 1983} "...Absent a special relationship, therefore, the police may not be held liable for failure to protect an individual from harm caused by criminal conduct."

For a police officer, legislator or judge to assert otherwise is an act of criminal malfeasance and fraud.

§§§**7. Further**, See,

{*Riss v. City of New York*, 239 N.Y. 2d 897 {1986}
{*Hartzler v. City of San Jose*, app,. 120 Cal. Rptr 5 {1975}.
{*Warren v. District of Columbia*, D.C. App., 444 A. 2d 1 {1981}
{*Keane v. City of Chicago*, 98 Ill App 2d 460 {1968}
{*Lynch v. N. C. Dept. of Justice*, 376 S.E. 2nd 247 { N. C. App. 1989}.
{*Marshall v. Winston*, 389 S.E. 2nd 902 {Va. 1990}.

§§§**8.** We can now understand that Hamilton or any other Citizen would have been perfectly within his Constitutional right to keep and bear arms for his or other's defense, as the state offers no remedy for a citizen's personal defense. The state offers no remedy for death or great bodily harm, therefore the citizens must provide for their own personal and common defense. Many law-abiding Citizens have been violated, maimed or killed by being unarmed, while others have been fined and languish in jail for not understanding the difference between "offensive" and "defensive" carrying of arms.

§§§**9.** Most police and prosecuting attorneys do not understand the separation of powers concept, whereby We the People delegate to our agent, the State, the police power of offense, but reserve to ourselves the right for personal and common defense. A clear expression of the relationship of People/State/Federal, is found in the following: We the people, through the States, have delegated to the federal government the offensive power to make War, reserving to the States the power of emergency defense, "No State shall...keep Troops or Ships of War in time of Peace... or engage in War, unless actually invaded, or in such imminent danger as will not admit delay". Article Ten, Section Eight.

§§§**10.** We the People have delegated to the State the power to make war upon the criminal element, and to provide police and judicial services for the people of our State. We the People have reserved to ourselves the right to keep and bear arms for our personal and common defense. As seen above, the courts have repeatedly declared that the police owe no duty of defense to the citizen.

The people have reserved their right to Arms individually, or collectively as the Militia. We also allow the State to call up the Militia for certain purposes. Again, only the People, individually, or collectively as Militia, have a Right to keep and bear Arms. <u>The State and Federal Government's use of Arms is delegated, restricted, conditional, dependent, amendable and removable at the will of We the People.</u>

Without an individual right of defense, the community, State, and civilization as we know it could not exist. Why legislators will oppress, police arrest and judges jail, convict and disarm our most valuable citizens for merely exercising the right to "Arms" is, in itself, a criminal act beyond understanding and justification.

§§§**11.** The National Firearms Act of 1934 was declared void by the Federal Court for the Western District of Arkansas in Fort Smith, Arkansas *United States v. Miller*.

Nonetheless, the U.S. Supreme Court, in *United States v. Miller*,

allowed the said Act to stand only because of lack of evidence. The Supreme Court stated, *"In the absence of any evidence tending to show that possession or use of a "shotgun having a barrel of less than eighteen inches of length" at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice that this weapon is any part of the ordinary military equipment, or its use could contribute to the common defense. "*Aymette *v. State*, 2 Humpres {Tenn.} 154,158.
§§§**12.** This document formally rebuts that false presumption with a presentment of the missing evidence.

The United States Declares "Ordinary Military Equipment" Secured by Second Amendment

The attorneys for the United States, in *United States v. Miller,* further contended ... " *so the arms, the right to keep which is secured, are such as are usually employed in civilized warfare, and that constitute ordinary military equipment..."* The federal government, by its definition of arms, invalidated their own evidence because the "firearms" prohibited by the National Firearms Act are now in common use by the police and military throughout the United States of America !!!

And they further stated, *"…they need not, for such a purpose, the use of those weapons which are usually employed in private broils, and which are efficient only in the hands of the robber and assassin. These weapons would be useless in war. They could not be employed advantageously in the common defense of the citizens. The right to keep and bear them is not, therefore, secured by the constitution".*

Government attorneys also cited *State v. Workman*, 35 W. Va. 367, 373, supra:
"in regard to the kind of arms referred to in the amendment, it must be held to refer to the weapons of warfare to be used by the militia, such as swords, guns, rifles, and muskets – Arms to be used in defending the State and civil liberty – and not to pistols, bowie-knives, brass knuckles, billies, and such other weapons as are usually employed in brawls, street-fights, duels, and affrays, and are only habitually carried by bullies, blackguards, and desperados, to the terror of the community and the injury of the State." Bish. Crim. St. –792

§§§**13.** The above arguments by government attorneys make no sense whatsoever, as ANY Arm, even those of military utility, could conceivably by used by a criminal. Therefore, such a distinction is

pointless. By that logic, ALL Arms would then be banned, and the Second Amendment would be meaningless. Furthermore, to suggest that Bowie-knives (see below), pistols, and billies have not been in common military use is so blatantly FALSE and historically inaccurate, that one might just as well argue that the "Earth is flat", as that would have more credence and make more sense than the above claims.

Arkansas removes Bowie Knife from the prohibited weapons catagory. *"Acts 1973, No. 54,§ 3: Feb. 5, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly of Arkansas that the manufacture and sales of certain knives has brought much favorable publicity to this State, that the prohibitions placed upon the sale of Bowie knives are unneeded and have greatly restricted the manufacture and sale of this historic knife; that the immediate removal of such restrictions would have a favorable impact upon the economy of this State. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from the date of its passage and approval."*

Further, a version of the Arkansas Toothpick Knife, cited in *Aymette*, was adopted for use by the British O.S. S. Commandos in World War Two.

§§§**14. The historical and continued use of these "prohibited" arms by both State and federal government totally voids the government's claim of non-militia/military utility of the "prohibited" Arms under the NFA.**

World War II soon shattered the National Firearms Act mythology. Exactly who certified Judge Dillahunty as an expert on Militia armaments has never been ascertained. We The People certainly never did so. **Time has totally and irrevocably discredited the federal governments claims set forth in *U. S. v. Miller*.**

Further, the criteria of militia/military utility is totally subjective, i.e. totally dependent on opinion. Even among military and police "expert" in the field of arms, there is widespread disagreement concerning the utility of different kinds of arms in any given circumstance.

Further, We The People, as the exclusive owners of the right and property "to keep and bear arms," reserve to OURSELVES the right to determine how best to secure our Liberty, and the kinds of arms best suited and available for that end.

§§§**15. Further**, we find no evidence of a "civilized warfare" doctrine in practice by the federal government. In fact, we find just the opposite. We refer to an expert in that field as our witness. Col. Paul W. Tibbets, the man who dropped the first atomic bomb on Hiroshima, Japan, in his book Enola Gay, stated the following on page six: "Only a fool speaks of humane warfare. There is no such thing, as General Sherman and other competent witnesses have testified. It has the smell of hypocrisy when self- proclaimed humanitarians draw a distinction between an acceptable and intolerable brand of human cruelty".

Furthermore, for a government who dropped white phosphorous, napalm, incendiary devices, and nuclear weaponry on civiliains in World War Two and other Wars, and violated every Indian Treaty it ever signed, murdering innocent Indians and stealing their lands, to then claim the "civilized Warfare doctrine", set forth in *United States v. Miller* as a gun control justification, makes a mockery of its credibility. Remember the peaceful Cherokee Indians and their Trail of Tears, when they were forced from their lands at gun-point by the federal government? Remember the flame-throwers of World War II? Remember "the Indian massacre at "Wounded Knee?" Remember Sherman's march to the sea? Remember Waco, Texas, April 19, 1993?

§§§**16. Further**, remember the federal government's hypocrisy in enacting the Fourteenth Amendment to protect recently freed slaves, while they were at the same time starving Indians on federal reservations? The same army that was used to supposedly free the slaves was now hunting down any Indian who refused to surrender, and killing those who stood in defense of their property.

§§§**17. Further**, shortly after closure of the Miller case in 1939, World War II began in earnest. Suddenly the prohibited "firearms" of The National Firearms Act were in great demand by countries who were being invaded by Germany and the Axis Powers, combatants who had no such misgivings as to what were qualified military arms.

Great Britain and the United States, along with their Allies, were forced to frantically rearm, by the realities of a new type of fast moving war, blitzkrieg, a war that was often brought into the cities and towns of Europe.

§§§**18. Further**, the machine guns rejected by the aforesaid experts were then in great demand by all combatants. The Thompson sub-machine gun was purchased as fast as they could be produced. The Sten sub-machine gun was produced in numbers in excess of four million. This little gun was eagerly accepted by Resistance Forces throughout the Theater of War.

Those who faced a brutal and determined enemy, and whose very existence depended on the Arms necessary to effectively resist, had no qualms about barrel length, magazine capacity, rate of fire, overall length, color, location of the pistol grip, etc., the very restrictions now being unlawfully and relentlessly imposed upon the American citizen.

§§§**19.** Individual American citizens, whose ownership or possession of the aforesaid "firearms" was prohibited by law, could now stand at a machine for hours on end to produce these arms. They then provided them to foreign Nations, at no cost, for defense of the freedom of a foreign country, while they themselves would be fined and imprisoned for possessing the same arms for the defense of their own family or country. **This kind of injustice is the real threat to America. It runs afoul of, is repugnant to, and is prohibited by our Constitution.**

§§§**20. Further**, the distinction between the militia's "citizen soldier" and full time military personnel is not in the kind of Arms or ammunition, but the scope of their call to duty. All able-bodied males are responsible for the defense of themselves and their fellow countrymen. In fact, some of the Citizenry have always had Arms superior to the standard, military-issued Arm, because of the people's continuous refinement, research, and innovative nature. The military, on the other hand, cannot upgrade and re-arm on short notice because of limitations inherent in an organization of that size and complexity.

§§§**21.** Each change of arms by the military must be preceded by a large amount of time for field trials and testing, along with a substantial investment of money. As soon as one Arm is adopted, refinement continues and research on the next generation of firearms begins.

The Militia is always subject to a call to Arms, a Muster at which they are required to appear bearing their own personal military Arms, "of a kind in common use at the time", while the soldier is on full time military duty, supplied with arms and ammunition by the government.

The Militia is the preferred defense of these American states. We the People intend to be Armed, fully equal to, or preferably, superior to our military. The Bill of Rights absolutely guarantees the unalienable rights of the people which are superior to, and of a higher power than, any We The People delegated to our servants in government.

§§§**22.** With the enactment of the National Firearms Act in 1934, a

fundamental change in the status of the people took place. The "right of the people to keep and bear Arms" was **unlawfully converted** from private ownership and public domain to ownership by the federal government. The status of the People changed, from lawful owner and licensor status, to the status of licensee, and privilege status, with the federal government as the licensor and owner of our "right to Arms".

Our servants within the federal government who swore allegiance and support to the Constitution became the de facto owners of this valuable, Constitutionally-patented, intellectual property. The federal government condemned our property, appropriated the right-to-Arms from We the People to themselves, issued licenses to its corporations, and for a fee, allowed We the People to re-purchase and again exercise as a privilege that which was our birthright for over 140 years. This right remains within the scope of our Constitutionally-patented right to Arms. This is an infringement in its clearest form. In 1986, the congress decreed that machine guns made after that date could not be sold for civilian use, thereby completing one phase of the plan for total disarmament of the American Citizenry.

§§§**23.** It is a fundamental and elementary tenet of the law that, whenever the scope of a clause is reduced by one of the claimed components, that clause becomes inoperative. Judges and attorneys understand perfectly well, that, with the removal of the short-barreled rifle, the short-barreled shotgun, the machine-gun and the silenced firearm, from the scope of the Second Amendment, the prohibition against infringement of the Second Amendment would become inoperative. After all, a dozen is no longer a dozen with the removal of a single unit, nor a dollar still a dollar with the removal of one dime.

That one prohibited, Legislative Act in 1934 has, in effect, fundamentally amended the whole Constitution, and changed the whole order and balance of power between We The People, as masters, and our servants in government. Like a computer virus gone amuck, this unconstitutional act has been the cause of untold confusion and grief among honest Citizens ever since. It has destroyed the constitution's intent of "Domestic Tranquillity" and the "beneficent end if its institution" and also led to the infringement of other Constitutional protections, as the weakening of one Amendment tends to have an adverse effect on other Amendments. **"Domestic Tranquillity", the whole purpose of the Constitution, has therefore been adversely affected.**

§§§**24.** Hidden from all but a few careful readers, the Supreme Court, with Judge McReynolds speaking for the majority, accomplished

one of the most remarkable feats in judicial history. While appearing politically correct in upholding the Miller conviction, the Court rejected practically all of the government's presentments, and effectively voided the National Firearms Act, deferring the decision to another day. They fully supported the Second Amendment. All this was accomplished by the use of cryptic language. ("…secret, occult, mystical. A language adopted to conceal.")

The Court knew full well that a shotgun, by a mere legislative act, does not become something else at some arbitrary barrel length, and that soldiers routinely modify any implement to fit the needs of the moment. But by a Supreme Court rule barring judicial notice, Miller and his Attorney were the ones required to present this vital evidence. The Court fully knew that sooner or later this evidence would be presented, and that the National Firearms Act of 1934 would be declared void. The evidence of military, police, and militia utility of the prohibited arms is now public knowledge, unrebuttable and overwhelming. As a result, the National Firearms Act of 1934 is totally void.

There were several patents on the Thompson sub-machine gun and silenced arms that had been issued for these inventions at the time of the Miller trial. These patents, without doubt, incorporated military and police utility.

§§§**25.**By the unconstitutional National Firearms Act of 1934, We the People became disenfranchised and subordinate to our servants within government. This conversion of property by criminal, legislative misconduct was anticipated by the Constitution's authors and was prohibited thereby. **Almost all Articles within the Bill of Rights have been knowingly, cunningly and systematically broken into by the lawyers and the legislative and judicial branches of state and federal government.** "Domestic Tranquillity" is thereby destroyed. This unconstitutional tactical maneuver allows a perpetual challenge and abuse of our Bill of Rights by those who have no loyalty to the American form of government.

Remember the "Separation of Church and State" fiasco, where Thomas Jefferson made his famous statement? Enemies of America used Jefferson's simple summary of an Article as lawful grounds to attack and destroy the prohibitions and the protections of the First Amendment.

§§§**26.** All lawyers and judges perfectly understand the Licensor/Licensee concept. This is the reason we require an oath of loyalty and support for the Constitution, to make those in public office accountable for their commission of high crimes and misdemeanors.

A lawyer, judge, or legislator, who aids or abets this fraudulent conversion of property becomes a coconspirator with those who attempt to overthrow the government of the several states or of the United States. They are morally and legally responsible and are therefore, subject to arrest, fines, and/or imprisonment.

§§§**27.** The Constitution would never have been ratified without a proper guarantee of the "certain unalienable rights" We declared in The Declaration of Independence. The Bill of Rights is inviolate, unalienable, indefeasible, and is not negotiable.

It can now be understood how this act of infringement, or the breaking into the scope of a restrictive clause took place with the Second Amendment, and why this act can never properly have the status of Law. The National Firearms Act of 1934 will forever remain foul, repugnant and unconstitutional, as well as totally void, by the standard declared by the Supreme Court's decision in *Marbury v Madison*. **This unlawful act requires neither obedience nor enforcement.**

§§§**28. Further**, in regards to the Second Amendment of the Constitution for the United States of America, there is an even more fundamental issue than "militia utility" that the Court in the *Miller* case failed to consider. We cite from the following:

United States v. Miller and Short-Barreled Shotguns. By Brian C. Puckett. Copyright 2003. 2118 Wilshire Blvd. #447, Santa Monica, CA 90403. Email: guns1776@earthlink.net.

"The Constitution as originally adopted granted to the Congress power – "To provide for calling forth the Militia to execute Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress." With obvious purpose to assure the continuation and render possible the effectiveness of such forces the declaration and guarantee of the Second Amendment were made. It must be interpreted and applied with that end in view." – 307 U.S. at 178. *U.S. v. Miller.* (Words from Justice McReynolds ruling.)

"Justice McReynolds is saying that the Second Amendment was written to ensure that Americans would always have an effective militia, and that it must be read that way. This is correct. But McReynolds clearly implies, through his subsequent words, his citations, and

his two key sentences, that this is the only purpose of the Second Amendment, and therefore all "arms" whose keeping and bearing the Second Amendment protects must pass some sort of test of militia or military usefulness. The problem is that the Second Amendment says no such thing.

"If the Founders wanted such a test in order to determine which firearms the people could own and use, why didn't they write "…the right of the people to keep and bear military arms shall not be infringed"?

"The simplest, most reasonable answer is that the Founders meant exactly what they wrote. When they wrote "arms", they meant arms in general, and when they wrote "people", they meant people in general – that is, individual Americans – as in every other amendment in the bill of Rights where the term "people" is used.

"The other purposes of the Second Amendment – which were not recognized by Justice McReynolds in the Miller opinion – include ensuring that individual Americans would always have the means to defend self, family, home, business, and property. It is inconceivable that the Founders, living in a land harboring dangerous wild beasts, hostile natives, and criminals operating in an environment of minimal law enforcement, gave no thought to this everyday use of firearms – not to mention the use of guns to provide food, which many Americans take advantage of to this day.

"In fact, self-defense is actually the basis of the militia/military purpose of the Second Amendment. In American history and tradition, the military and militia are ultimately simply individuals acting together to defend themselves and their families, homes, and property. In America the military is considered to be "us", not some "them" to be used by the government to maintain power. Yet the Miller opinion has no reference to this fundamental individual right of self-defense. Every reference deals with the militia or the military and their relationship to defending the colonies or the state.

"Author's Notes:

1. I use the compound adjective "militia/military" because in American history and law the words are inextricably bound together. The militia is a military force supplementing the regular military, and it must be equipped to fight other military forces. McReynolds himself recognizes this; it is clearly implied by the two key sentences he wrote, where his test of constitutional protection for a firearm refer to both the militia and the military.

2. It is important to recognize that, although the Miller Court viewed the Second Amendment as a right that was strictly limited by militia considerations, they nevertheless saw it as an individual right. Were this not so, the Court could have simply refused to give standing to the two individuals Jack Miller and Frank Layton, and/or stated that it was not an individual right, ending the matter. But the Court did not do this; it heard the case.
3. The Supreme Court apparently grasped the fundamental illogic of interpreting the Second Amendment as a state "right". The Constitution gives the federal government (specifically Congress) the power to "[call] forth the militia to execute the laws of the union, suppress insurrections and repel invasions: To provide for organizing, arming and disciplining the militia, and for governing such part of them that may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress." The Constitution gives the federal government (specifically the president) the position of "Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States."

"If the right to keep and bear arms were not an individual right protected by the constitution, a state could completely or effectively disarm its citizens by simply passing a law. That would render the preceding constitutional clauses meaningless because that state would then *have no militia* (armed citizens) to be called forth by the federal government. The Supreme Court does not accept the notion that there are meaningless words or phrases in the Constitution.

"One could argue that the above constitutional dilemma could be "solved" if the federal government established militia armories throughout the several states. The federal government could then hand out guns from these armories when it called forth the militia. But there is an enormous problem with that "solution": *What would be the sense of including the Second Amendment in the Bill of Rights?* There would be absolutely none. Again, meaningless constitutional words are anathema to the contemplations of the Supreme Court.

"Clearly the congressional power is about supplementary arming of the militia, in addition to the people's own private arms. There is no other logical explanation." – above excerpted from: United States v. Miller and Short-Barreled Shotguns. By Brian C. Puckett. Copyright 2003. 2118 Wilshire Blvd. #447, Santa Monica, CA 90403. Email: guns1776@earthlink.net.

§§§**29. ATTENTION, Constructive Notice and Notice of Relevant Evidence is hereby given:**

The entire text of United States v. Miller and Short Barreled Shotguns is hereby entered and cited as evidence showing the failures by the court in the *Miller* case, and the invalidity of the National Firearms Act of 1934, and can be read at or downloaded from the following website URL: http://www.keepandbeararms.com/Puckett/MillerShotgun.pdf

Section 7. Absolute Facts Rebutting the Seditious Anti-Gun Philosophy.

The federal government is a subject of the several states. Those elected to serve therein have no other function than to humbly carry out the dictates of We the People, as declared within the Constitution.

The federal government owes its very existence and continuation to We The People, who created and ordained both the state and federal governments to secure the blessings of liberty to ourselves and our 0posterity.

We The People through our agent, the state, ordained a Constitution for these United States, to be administered by its agent, the federal government, and empowered those elected to serve in the various branches of that government, on the condition that they would be loyal to, and support that Constitution, and would act as representative of the People, deriving their just power from authority and consent of the People. There is no power given to lawfully challenge the Bill of Rights, which is superior law, free from the conditional powers delegated in the Constitution.

Therefore it cannot, as some anti-gun zealots do, be inferred that the "right of the people to keep and bear arms" could be properly construed to prohibit lawful self-defense by the individual, or as a limit on the possession or use of arms to only those men bound to Militia duty in a call to Militia Muster.

Nor can it be expected that the Militia would fight valiantly for the defense of the state, and then stand idly by while their home, family, neighbor or community were threatened. It cannot be reasonably expected that the mother of a family, while not liable to Militia duty, would not use arms for her children's defense. Similarly, no man can be expected to travel upon the highways for police or Militia duty, for the defense of the State, and then be prohibited by law from traveling without providing for the armed

defense of himself and his loved ones.

Are We the People, who in peril crossed the oceans, subdued a wilderness frontier, raised up settlements and towns in the face of many adversities, overthrew a tyrant monarch, instituting a unique form of government for our own protection security, and benefit, under Republican, Constitutional principles to void ourselves of all Common Sense?

Are We, as masters, then to be so debased and disenfranchised that We may only bear Arms approved by our hirelings and servants, whom We have in no uncertain terms ordered *not* to infringe that right? On the contrary, this same right We fully intend to reaffirm, restore, and exercise to the fullest expression of the Military Arts and Sciences.

§§1. Firearms prohibited by the void National Firearms Act.

§§§1. The Shotgun

Of all military firearms ever possessed by man, no instrument has as varied a utility as the shotgun. As a hunting instrument, it can be used successfully to take a variety of small game, and by a mere change in ammunition can be utilized to effectively take any large game that walks the planet.

The Blunderbuss, a large bore, short barreled shotgun, was used on land and sea. It did military duty on board ships and was carried throughout the pilgrim settlements for protection against man and beast, as well as for procuring food for a sometimes desperate people. Lewis and Clark even carried a Blunderbuss while exploring the American West.

Further, as a military arm, it has been effectively used in one way or another, in practically every war since its invention. No other arm is as easy to become fairly proficient with, or as effective at short-range combat. By merely changing ammunition the shotgun can be instantly converted to have dozens of uses, aside from the aforesaid utility. It can be loaded with charges of multi-sized balls, as Washington's soldiers did with their smooth bore muskets, placing three small balls, and then a larger, full caliber ball to give more probable hits at close range while retaining the long-range capability of their muskets. This arrangement is easily duplicated today.

The shotgun can be loaded with small shot of varying sizes, slug, ball, or with various saboted, bullet-type missiles for longer range. It can be charged with special purpose loads, such as lock

busting loads for opening doors, or fletchett rounds for effective, down range suppression capability. Short barreled shotguns can have screw in devices available to upgrade performance to equal the longer barreled shotgun's performance.

There is available a multitude of special use ammunition, such as tear gas rounds. Flare and signal rounds also add to its overall utility. The shotgun also has the capability of line- throwing in emergency situations. Utility companies use shotguns in emergency situations to safely shoot ice laden limbs off high voltage power lines. Game wardens and park rangers even use non-lethal, rubber bullets to repel marauding bears.

As a home defense arm, the short-barreled shotgun is among the best choices available. The ability to tailor a home defense load, suitable for the short-range requirements of the home, makes this kind of arm ideal for the urban homeowner. A shotgun with a barrel of ten to fifteen inches in length gives the homeowner a compact and extremely effective arm, which demands respect from the most hardened of criminals.

The aforesaid shotgun's utility does not end when the length of a barrel becomes less than eighteen inches. In many instances a shorter barreled shotgun is preferable. This is borne out as most, if not all, current manufacturers of shotguns have had these prohibited "firearms" readily available to the police and military for many decades.

NOTICE

The above evidence is widely available from a number of sources. Therefore, any member of law enforcement, the prosecution or the Judiciary who arrest, prosecute, or convict, a private citizen for possessing such an instrument, without probable cause of criminal activity, commits a criminal act by so doing.

§§§2. The Machine Gun

The machine gun is a formidable arm when used in a manner consistent with its capabilities. These guns were held in contempt as "gangster weapons" by our political and military leadership prior to World War Two. However, that contempt was not shared by our enemies, the Axis Powers. These powers knew that there was more to winning a war than simply engaging an adversary head-on. The efficient use of materials was mandatory, as was the provision of firepower suitable to the

requirements and the needs of the various branches of their military.

In earlier times, arms of a longer range could very well decide battles, and battles decide wars. Our American General Patton described the M-1 Garand as the "greatest battle implement ever devised", and for that point in time, that may very well have been correct.

However, from a *quality vs. quantity* standpoint, the wartime cost of the M1 Garand, at over a hundred dollars, plus many hours of highly skilled, precision machine time, versus the Sten sub-machine gun, at a cost of a little more than ten dollars each during the War, and its ability to be made in many small shops with few machine tools, certainly gave the edge to the more economical Sten. A dozen or more soldiers could be equipped with effective firepower for the cost of arming a single soldier with an M1 Garand.

Many citizen soldiers of the French Resistance and other "partisans" were thus equipped with air-dropped Sten sub-machine guns, who otherwise would have been unable to participate in the Liberation of their own country. The Resistance forces saved many downed airmen and performed numerous courageous acts that greatly aided in the overall war effort. Many soldiers who operate outside the main battle area need a compact arm while performing guard duty, driving assorted vehicles, operating boats or aircraft, etc.. Also cooks, couriers, maintenance personnel, military police, etc., need a variety of compact, cost effective, offensive and defensive Arms. As it is in the Army, so it is with the Militia.

§§§3. The Short-Barreled Rifle

Much of what is true of a short-barreled shotgun or machine gun is also true of a short barreled rifle. A short, light rifle, firing a light caliber cartridge of low recoil, offers much to be desired in performing many a task of the soldier. Such an Arm was preferred by soldiers of small stature, such as the Asian soldier, armed with the M1, and M2, thirty caliber carbines of World War Two and Vietnam. The short barreled rifle, by its compact nature accommodates silencers and flash-hiding devices, while retaining a short, overall length. The compact M1 carbine and the M2 fully automatic carbine paved the way for a new generation of small arms, gravitating more and more to a shorter barrel and a more compact length, as is conclusively shown in Claim 6C, Diagrams & Illustrations.

§§§4. The Silenced Firearm

The silenced firearm came into sustained use during World War Two

and thereafter. Various patents for silencers have been issued to private individuals and corporations. Clandestine operations mandated such an instrument for the success of various missions where stealth was required. Again the British Sten submachine Gun was adapted for such use where the lives of the Soldier and the success of a vital mission were dependent upon silent arms and daring individuals.

§§2. The Untenability of the Government's Gun Control Scheme, Problems in the Courts.

§§§**1.** The federal government's contentions, in *U. S. v. Miller*, are unqualified, untenable, fraudulent, criminal, and totally without grounds for obedience or enforcement.

The federal government now finds itself in the peculiar and uncomfortable position of having several U.S. Supreme Court decisions ruling applicable against the National Firearms Act. In *United States V. Bass*, 404 U.S. 336 {1997}, the court held that a convict, unlawfully possessing a handgun, could not be prosecuted by the federal government under the commerce clause, without showing a connection to interstate commerce. **The State had jurisdiction and could prosecute, but the federal government could not.**

§§§**2. Further**, the court decided unanimously, in *Haynes v. U.S.*, 88 S. Ct. 722, 19 L. Ed. 2nd 923 {1968}. that even a criminal cannot be held liable for having an unregistered "firearm" under the National Firearms Act, because it would be a violation of the Fifth Amendment right of the accused against self incrimination. This ruling destroys the National Firearms Act.

However, in United States v. Freed ET AL., the contention of self incrimination was side-stepped by the Court, as by this time the law had been amended to keep the registration information **secret** from all other government and law enforcement agencies, thus giving the criminal protection against self-incrimination in order to hold the **upright citizen** liable to a taxation scheme previously ruled unconstitutional. This preferential treatment of the criminal in order to perpetrate a taxation scheme on the upright citizen is morally repugnant as well as an outright injustice!

Since the The National Firearms Act of 1934 does nothing whatsoever to keep guns out of the hands of criminals, which was its purported original purpose, it therefore is nothing more than an unjust taxation scheme repugnant to the Second Amendment.

§§§**3. Further**, in 1934 the legislature declared their justification for the N.F.A., wherein they allowed the N.F.A. was constitutional

because that they were not proposing a total ban on all "firearms". In 1986 the legislators departed from that specious justification and prohibited the manufacture of all machine guns for civilian purposes after that date, thus voiding their own, earlier justification.

§§§**4. Further**, another justification of the N.F.A. found in *Miller*, was that N. F. A. Arms are not suitable for military use. The fact that state and federal governments use our tax dollars to purchase these Arms is judicially "noticeable" in the Federal Courts.

§§§**5. Further**, in *Printz v. United States*, 521 U.S. 98 {1997}, the court held that the federal government could not commandeer or appropriate a state officer for its own use. We claim that the federal government violated that concept by "commandeering" the Militia of the several states by taxing and limiting their "Firearms", thus breaching State jurisdiction and impeding the Militia from fulfilling its Constitutional duty by impairing its use of appropriate Arms that are common military equipment. The National Firearms Act of 1934 is thus detrimental to the training, equipping, arming, prestige, honor, standing with the community, and effectiveness of the Militia, while having no appreciable effect on the criminal enterprise or element.

§§§**6. And further**, Justice Thomas inferred that the entire gun control regulatory scheme, under the commerce clause, was probably void.(*See* Claim 16C, Subsection 1)

§§§**7. Further**, in *United States v. Lopez,* 514 U.S. 549 {1995} USSC+, The Supreme Court held, "To uphold the Government's contention that 922 {q} is justified because firearms possession in a local school zone does indeed substantially affect interstate commerce would require this Court to pile inference upon inference in a manner that would bid fair to convert congressional Commerce Clause authority to a general police power of the sort held only by the States."

§§§**8. It is safe to say that almost ANY, including the most outlandish and farfetched, construction and interpolation of the Second Amendment by the courts can be found by a simple review of court rulings over the years. Contradiction upon contradiction, confusion upon confusion, a whole MOUNTAIN-HIGH STACK OF UNDECIPERABLE AND CONFLICTING LAWS AND RULINGS, have obscured the original purpose and intent of the Second Amendment, and left a wreckage of the right for the citizen to try and pick up some piece of, to try and hold onto, never sure where he stands under the massive volumes of so-called "gun-control laws" that even the best**

attorneys and highest courts cannot sort out, reconcile, or make sense of!

§§§**9. Unfortunately, the Supreme Court of the United States has failed to address the wreckage of the Second Amendment in any realistic fashion, and has not considered a 'gun-control' case which did not involve a felon, in over 50 years! While the Supreme Court has buried its head in the sand in terms of facing and addressing the constitutional issues posed by 'gun possession' cases not involving a felon, the circuit and other lower courts have continued to wreck, complicate, obstruct, confuse, obscure, and virtually destroy the right of individual law-abiding American citizens to "keep and bear arms." Worse yet, each and every year that passes brings forward additional 'gun-control' laws at both the state and federal levels, the product of the fear mongering gun-control lobby, and politicians who, by their open disdain and scorn for the Bill of Rights, show themselves to be more in line with the ideas and policies of Hitler, Stalin, Marx, and Mao rather than Jefferson, Henry, Madison, and Mason.**

§§§10. Such a mess is EXACTLY what the Bill of Rights was designed to PREVENT from happening, and is all the more evidence that the concerns and fears of our forefathers about government abuse of power, and the destruction of our unalienable rights, was indeed well founded.

History cannot be ignored. The facts speak for themselves. The following photos are undeniable evidence and proof of how 'gun-control' is used by the tyrant to destroy life, liberty, and property:

from: *"Nazi Repression of Firearms Owners"*, by Stephen P. Halbrook, PhD., J.D. http://www.xmission.com/~ranthon/hitler-and-guns.htm

(Translations appear in the right column.)

Waffenbesitz für Juden verboten

Anordnung des Reichsführers ff Himmler

München, 10. November.

Der Reichsführer ff und Chef der deutschen Polizei hat folgende Anordnung erlassen:

Personen, die nach den Nürnberger Gesetzen als Juden gelten, ist jeglicher Waffenbesitz verboten. Zuwiderhandelnde werden in Konzentrationslager übergeführt und auf die Dauer von 20 Jahren in Schutzhaft genommen.

Jews Forbidden to Possess Weapons
By Order of SS Reichsfuhrer Himmler

Munich, November 19 [1938]

"Night of the Broken Glass"

The SS Reichsfuhrer and German Police Chief has issued the following Order: Persons who, according to the Nuremberg law, are regarded as Jews, are forbidden to possess any weapon. Violators will be condemned to a concentration camp and imprisoned for a period of up to 20 years.

Verordnung

über Waffenbesitz im besetzten Gebiet.

1 Sämtliche Schußwaffen und Munition, Handgranaten, Sprengmittel und sonstiges Kriegsgerät sind abzuliefern.

Die Ablieferung hat binnen 24 Stunden bei der nächsten deutschen Feld- oder Ortskommandantur zu erfolgen, sofern örtlich nicht Abweichendes bestimmt wird. Die Bürgermeister (Gemeindevorsteher) werden für die genaue Durchführung voll verantwortlich gemacht. Die Truppenführer sind befugt, Ausnahmen zu bewilligen.

Verordening,

betreffende het bezit van wapens in het bezette

1. Alle schietwapens en munitie, handgranaten, explosieven en ieder andere oorlogsgerief moeten afgeleverd worden.

De aflevering moet binnen 24 uur op de naaste Duitse plaatselijke kommandanteur gebeuren, tot zoo verre niets anderes bepaald is. De burgemeesters (hoofden) verantwoordelijk gesteld voor de stipte uitvoering van liggend bevel. De bevelhebbers der Duitsche troepen recht, uitzonderingen toe te laten.

Holland Poster.
Regulations on Arms Possession
in the Occupied Zone

1. All firearms and ammunition, hand grenades, explosive devices and other war materiel are to be surrendered.

The delivery must take place within 24 hours at the nearest German military administrative headquarters or garrison, provided that other special arrangements have not been made. The mayors (heads of the district councils) must accept full responsibility for complete implementation. Commanding officers are authorized to approve exceptions

ORDONNANCE

CONCERNANT

la détention d'armes et de radio-émetteurs dans les territoires occupés

1). Toutes les armes à feu et toutes sortes de munitions, des grenades à main, explosifs et autre matériel de guerre, devront être livrés sur le champ.

La remise devra avoir lieu dans un délai de 24 heures, au poste allemand le plus proche, c'est-à-dire à la " Kommandantur ", à moins que d'autres dispositions locales n'aient été prises. Les Maires seront strictement responsables de l'exécution de cet ordre. Les commandants des troupes ont le pouvoir de permettre des exceptions.

2). Celui qui sera trouvé en possession d'armes à feu, de munitions de tous genres, de grenades à main ou d'autre matériel de guerre, sera passible de la peine de mort ou de la peine des travaux forcés, dans des cas moins graves, d'une peine de prison.

3). Toute personne, en possession d'un radio-émetteur pour sans-filistes-amateurs, est tenue sévèrement à livrer cet appareil, l'installation d'adduction d'électricité y comprise, à l'office des autorités militaires allemandes qui est le plus rapproché de son domicile.

4). Tous ceux qui contreviennent à cet ordre ou qui dans les territoires occupés se laisseront entraîner à des actes de violence contre l'armée allemande ou contre des membres de cette armée, seront punis de la peine de mort.

Le Commandant en Chef d'Armée.

Paris Poster.
Ordinance Concerning the Possession of Arms and Radio Transmitters in the Occupied Territories

1) All firearms and all sorts of munitions, hand grenades, explosives and other war materials must be surrendered immediately.
Delivery must take place within 24 hours to the closest Kommandantur [German commander's office] unless other arrangements have been made. Mayors will be held strictly responsible for the execution of this order. The [German] troop commanders may allow exceptions.
2) Anyone found in possession of firearms, munitions, hand grenades or other war materials will be sentenced to death or forced labor or in lesser cases prison.
3) Anyone in possession of a radio or a radio transmitter must surrender it to the closest German military authority.
4) All those who would disobey this order or would commit any act of violence in the occupied lands against the German army or against any of its troops will be condemned to death.

The Commander in Chief of the Army

After invading, Nazis used pre-war lists of gun owners to confiscate firearms and many gun owners simply disappeared. Following confiscation, the Nazis were free to wreak their evil on the disarmed populace, such as on these helpless Jews from the Warsaw Ghetto

The following quotations, in stark contrast to the above gun-control schemes of *"Der Feurher"*, are from our Founding Fathers:

"That the people have a Right to mass and to bear arms; that a well regulated militia composed of the Body of the people, trained to arms, is the proper natural and safe defense of a free State..." – George Mason

"When the resolution of enslaving America was formed in Great Britain, the British Parliament was advised by an artful man, who was governor of Pennsylvania, to disarm the people; that it was the best and most effectual way to enslave them; but that they should not do it openly, but weaken them, and let them sink gradually...I ask, who are the militia? They consist now of the whole people, except a few public officers. But I cannot say who will be the militia of the future day. If that paper on the table gets no alteration, the militia of the future day may not consist of all classes, high and low, and rich and poor..." - George Mason, Virginia Constitution Convention, speaking in defense of the militia.

"No free man shall ever be debarred the use of arms. The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government." – Thomas Jefferson, Proposal for a Virginia Constitution, June 1776. 1 T. Jefferson Papers, 334 (C.J. Boyd, Ed. 1950)

"The great object is that every man be armed. Everyone who is able may have a gun." -Patrick Henry, in the Virginia Convention on the ratification of the Constitution...Debates and other Proceedings of the Convention of Virginia, ...taken in shorthand by David Robertson of Petersburg, at 271, 275 (2d ed. Richmond, 1805). Also 3 Elliot, Debates at 386.

"Are we at last brought to such humiliating and debasing degradation that we cannot be trusted with arms for our defense? Where is the difference between having our arms in possession and under our direction, and having them under the management of Congress? If our defense be the real object of having those arms, in whose hands can they be trusted with more propriety, or equal safety to us, as in our own hands?" -Patrick Henry, 3 J. Elliot, Debates in the Several State Conventions 45, 2d Ed. Philadelphia, 1836.

"Americans have the right and advantage of being armed - unlike the citizens of other countries whose governments are afraid to trust the people with arms." -James Madison, The Federalist Papers No. 46 at 243-244.

§§§**11. It Is Time To Choose.**

It is time for all Americans to make a choice. It is time for the highest courts of this land to finally uphold the Bill of Rights according to the full scope of its Precise Language and as originally intended by Our Founding Fathers.

"This obliviousness has been encouraged by the Supreme Court's apparent indifference to the Second Amendment. The Court has not considered a gun-control case, other than those involving felons, in more than 50 years. Meanwhile, circuit courts have whittled away at the right to keep and bear arms, lending credence to those who say it no longer exists, if it ever did."

From : Abuses of the BATF - Gun-Shy Judges. By Jacob Sullum. *Reason Magazine*, May, 1991 Issue. Complete article on the web at: http://www.elfie.org/~croaker/gunshy.html - TOP

One cannot claim ignorance of the Founding Fathers' intentions. Their words, writings, and documents are there for all to read and understand. They spoke plainly and with exact intent and meaning. They chose their words carefully and precisely, and meant for them to have effect. To claim otherwise is to make a mockery of all that this nation is founded upon and all Law. The choice is simple, but the fate of our nation and our posterity hang upon the outcome:

The Way of Gun Control: Hitler, Stalin, Marx, and Mao.

OR

The Way of Liberty: Jefferson, Madison, Henry, and Mason.

"…choose you this day whom ye will serve… but as for me and my house, we will follow the Lord." – Joshua 24:15

"I have chosen the way of truth: thy judgements have I laid before me." - Psalm 119:30

§§**3 Declared Purpose of the Bill of Rights.**

What Is the benefit to the citizen of having a Constitution, if they find themselves under siege daily by a government which routinely ignores the rights guaranteed therein, thus underscoring the very same abuses which gave rise to its drafting over 200 years ago?

The declared purpose of the Bill of Rights is to prevent misconstruction and abuse of power by the placing of restrictions on government to guard against infringement of the rights of the people:

The Preamble of The Bill of Rights,
effective December 15, 1791, declares:

"The conventions of a number of the States having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added. And as extending the ground of public confidence in the Government, will best insure the beneficent ends of its institution."

Thus, the Constitutionally enumerated powers of taxation, commerce, or any other power, cannot be used to justify "infringing" the Rights which We The People specifically enumerated and protected against infringement in the Bill of Rights.

We now see these Constitutionally granted powers brazenly abused and our Articles misconstrued, thereby denying justice and upsetting the domestic tranquillity.

§§**4. Gun Control Is Repugnant To The Entire Bill of Rights, And Specifically Prohibited by The Second Amendment, The Supreme Law Of The Land.**

§§§**1.** The abuse of the American Citizens' right to keep and bear Arms was fully anticipated, and hence prohibited by the creators of America's political doctrine. As any form of government becomes decadent and corrupt, it follows an age-old pattern of excess. The more government misappropriates the people's wealth and betrays the public trust, the more it fears the people.

As government decays, the criminal element becomes more powerful and bold, and the police become disrespectful of the rights of the people. The Citizens now begin to take their right to arms seriously. This leads to a gradual move by government to disarm the now feared citizenry. Such were the conditions that led to the founding of this new "Nation Under God", conceived in liberty and dedicated to the proposition that 'all men are created equal'.

As it was then, so it is now. Politicians rant endlessly about the problems of an armed citizenry, and the Utopia that will appear as soon as all but those under their command are disarmed.

§§§**2.** However, one absolute barrier stands in the way of the total disarmament coalition: **The Invincible Second Amendment to the Constitution for The United States of America.** The American Colonists who had suffered centuries of tyrannical abuse, and bought with their blood the right to ordain and establish our new Constitution, anticipated this current abuse and misconstruction of Constitutional powers. They forever nullified, voided, and prohibited by law all legislative acts contrary to the Constitution.

Like it or not, the prohibition against infringement declared by the Second Amendment cannot be defeated by any legislative act, nor amended by any judicial act. The prohibition against infringement is absolute and the same, nation-wide. **Every city, town, municipality, county, and state in this Union is equally bound thereby.** All state and federal governments are powerless to lawfully touch a Citizen in the proper exercise of that right. All legislative power must be directed at the criminal elements that operate outside the scope of the Second Amendment's protection.

§§§**3.** The defect is that prior legislative acts are vague, varied, contradictory, arbitrary, capricious, over-broad, and are repugnant to the Constitution. These acts are so varied, from jurisdiction to jurisdiction, as well as vague and contradictory, that they are totally incapable of the same, uniform function, and are therefore, by reason of their inherent defects and vagueness, unfit to be given the status of law.

These gun control acts leave out vital information that would largely free the law-abiding Citizen from harassment or imprisonment by law enforcement. These acts vary from municipality to municipality, county to county and from state to state. The Bill of Rights has exactly the same value in every state in this Union. These unconscionable acts, from their conception, run afoul of, and are repugnant to, the written Constitution for the several States, and their servant agent, the federal government, both of whom owe their existence and upkeep to We The People.

§§§**4.** We The People of the several states are basically one people. We travel across state boundaries at will, and very often, daily. Our rights are inherent, and unalienable. They cannot be switched on and off at borders. The Bill of Rights follows the individual citizen, wherever he goes within the United States. The entire Bill of Rights must be honored by all state and federal parties to the Constitution.

To a Citizen traveling far from home, certain rights become more relevant than others,
particularly the right to be armed for security from the criminal element, and freedom from unwarranted or frivolous arrest by the arbitrary police powers of the state. Unlawful gun-control acts make "without effect" the protections of the First, Second, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, Thirteenth and Fourteenth Amendments to the Constitution for the United States of America.

§§§**5.** We The People anticipated the abuse or misconstruction of Constitutional powers, and, We, as one People, refused to ratify the Constitution for the United States of America without a guarantee of a Bill of Rights, to be uniform throughout the Union. The Second Amendment is an absolute bar against police interference in an honorable Citizen's right to be defensively Armed.

Section 8. Claim of Right and Property.

We reserved to ourselves, individually, among other indispensable rights, "the right of the people to keep and bear Arms". That right is guarded by a direct prohibition that all government shall not infringe, meaning, "to break into," etc., " the scope of that right".

We The People are the exclusive owners of the "right" to "keep and bear" the specified "property" "arms." Government has no such right. Instead, government is charged with the "duty" of bearing arms for OUR safety, security, and benefit. It is We The People who have ordained and established the offices and officers of government to be our agents and servants. Government derives its authority by delegation from We The People. Should government fail in its assigned duties and tasks, that it must perform within the bounds of the restrictions and enumerated powers specified in the Constitution, then We The People may recall to ourselves, and reclaim, all or part of such delegated authority and power as may be deemed fit in order to secure our safety, security, and benefit.
Should all ordinary means of correction be closed off or unavailable, then the People have recourse, as a final resort, to that militia of citizen soldiers keeping and bearing their own arms,

as a means of securing their Liberty, Safety, and Benefit. This is the exact and specified purpose of the people retaining their right to keep and bear arms which are their own exclusive property, arms of a common and useful military kind in our own day and age, or any others of their choosing as they may deem appropriate or available.

Today, We The People find ourselves in the position of servant and slave, rather than master, with the very government which we have established becoming our master, and claiming our own property as belonging to itself. Government now purports and claims the authority to "license" (for a fee, and under its own conditions and terms) OUR OWN RIGHT TO KEEP AND BEAR ARMS, AND THE PROPERTY ITSELF, back to We The People, a right and property which we already own and have exclusive control over! This is no less than a FRAUDULENT AND CRIMINAL CONVERSION OF PRIVATE AND PUBLIC PROPERTY TO A GOVERNMENT MONOPOLY, a monopoly which has no rightful claim of ownership or use, save that which We The People assign under OUR terms and conditions.

All who are elected to hold any office of state or federal government are bound by oath, contract, wage, and an inescapable moral duty to support the Constitution.

- end Part 1. -

Part 2. Your Freedoms On The Front Line!

Section 1. Quotations of the Founders of American Political Philosophy and Government.

"No free man shall be debarred the use of arms" *Thomas Jefferson*

"A free people ought... to be armed." *George Washington*

"Their swords, and every other terrible implement of the soldier, are the birthright of an American". *Tench Cox*

"Disarm the people--that is the best and most effective way to enslave them." *George Mason*

"The very atmosphere of firearms everywhere restrains evil interference- they deserve a place of honor with all that is good." *George Washington*

"I believe there are more instances of the abridgement of the freedom of the people by gradual and silent encroachments of those in power than by violent and sudden usurpations." *James Madison*

"Firearms stand next in importance to the Constitution itself. They are the American people's liberty, teeth and keystone under independence.... From the hour the Pilgrims landed to the present day, events, occurrences and tendencies prove that to insure peace, security and happiness, the rifle and pistol are equally indispensable." *George Washington*.

The Second Amendment to the Constitution for the United States of America, is the authority and power reserved by We the People, that voids without remedy, all acts of government contrary thereto, and puts in the hands of the private Citizen a Bill that, when invoked, instantly stops the process of law, for without the probable cause of a crime being committed by a Citizen keeping or bearing Arms, there is no " process of law due". It is now clear that the National Firearm Act and its enforcement are absolutely prohibited by the Oath of Office , the Preamble, and various aforesaid Articles of the Bill of Rights, for it is impossible to violate just one Article of the aforesaid Constitution.

Section 2. Words of Treason

"If you wish the sympathy of the broad masses, you must tell them the crudest and most stupid things." -Adolph Hitler

"It might be 50 years before the United States gets to where Britain is today. Passing a law like the assault weapon ban is a symbolic_ purely symbolic_ move in that direction. Its only real justification is not to reduce crime but to desensitize the public to the regulation of weapons in preparation for their ultimate confiscation". Charles Krauthammer, Washington Post, April 5, 1996.

" If I could have gotten 51 votes in the Senate of the United States for an out-right ban, picking up every one of them, Mr. And Mrs. America, turn them all in, I would have done it."
Senator Dianne Feinstein, on CBS; " 60 Minutes."

"The most foolish mistake we could possibly make would be to allow the subjected people to carry arms; history shows that all conquerors who have allowed their subjected peoples to carry arms have prepared their own fall." -Adolph Hitler, Edict of March 18, 1938

"Germans who wish to use firearms should join the SS or the SA - ordinary citizens don't need guns, as their having guns doesn't serve the state." -Heinrich Himmler.

"All military type firearms are to be handed in immediately...The SS, SA and Stahlhelm give every responsible opportunity of campaigning with them. Therefore anyone who does not belong to one of the above-named organizations and who unjustifiably nevertheless keeps his weapon...must be regarded as an enemy of the national government."-SA Oberfuhrer of Bad Tolz, March, 1933.

"Political power grows out of the barrel of a gun." -Mao Zedong, Problems of War and Strategy, speech of 6 Nov. 1938 (published in Selected Works, vol. 2, 1961).

"The people of the various provinces are forbidden to have in their possession any swords, bows, spears, firearms, or other types of arms. The possession of these elements makes difficult the collection of taxes and dues, and tends to permit uprising. Therefore, the heads of provinces, official agents and deputies are

ordered to collect all the weapons mentioned above and turn them over to the government." -Toyotomi Hideyoshit, Shogun, August 29, 1558, Japan.

Section 3. The Fox in the Henhouse!

"The Real Goal" - by Sarah Brady

"Our task of creating a socialist America can only succeed when those who would resist us have been totally disarmed." Sarah Brady, chairman of Handgun Control to Senator Howard Metzanbaum, The National Educator, January 1994, page 3. Taken from the book, Descent into Tyranny, by Alex Jones.

It can now be absolutely concluded that The Bureau of Alcohol Tobacco And Firearms has acted with malice aforethought and negligence in failing to disclose and withholding from the People, police, judiciary, and the Legislative body vital evidence of the change in status of the prohibited Arms of the NFA from "gangster weapons" to "Arms in common use". These battle-proven Arms are now commonly used by all *except* the descendants of those who gave their lives to win the "right to keep and bear Arms" for themselves and their posterity.

These Arms have now been in common use by the police, military, and Militia for decades. This annuls the state and federal government's claims against the Arms' military, police, or Militia utility, thereby forever voiding the very basis on which the aforesaid "Act" now stands.

Without probable cause of criminal activity, there is no lawful mechanism that will allow a citizen, peacefully operating within the scope of the "right to keep and bear Arms", to be approached, arrested, fined, or imprisoned by our servants within any branch of state or federal government.

All peoples who have lost their right to Arms have witnessed the rise of criminal power, which is soon matched by the government's police and military power; and when equilibrium between the two is reached, the people are then plundered by both.

Section 4. Betrayal of the American People.

In 1942-43 the German Gestapo was waging war and arresting, murdering or imprisoning those who resisted their authority and were making sub-machine guns.

In 2004 the American Bureau of Alcohol Tobacco and Firearms is

waging war and arresting, murdering or imprisoning those who resist their authority and are making sub-machine guns.

The United States government now buys with American tax dollars the U.S. Army pistol, the M9, from the Italian owned, former enemy, Beretta Corporation.

The United States government now buys with American tax dollars, one of the U.S. Military's sub-machine guns, the Heckler & Koch MP5N, as well as the U.S. Mk 23 model O suppressed pistol from our former enemy, Heckler & Koch of Germany.

The United States allows foreign nations access to our Patent Office, specifically patent #2381521, etc. for the British Sten submachine gun, etc. They then jail American Citizens for bearing "Firearms" of the same kind.

The United States government, unless a 200 hundred dollar tax is paid, will shoot dead an American Veteran or Citizen for keeping or bearing the same kind of "firearms" that are standard police and military issue. Remember Waco, Texas, where upwards of one hundred men ,women and children died?

If the declared purpose of the National Firearms Act is to raise revenue, then why does the federal government cut up and destroy Thompson machine-guns, instead of selling them for revenue to collectors? A standard grade Thompson machine-gun goes for about 3,000 dollars, with some going for 20-30,000 dollars. **If the aforesaid Act is about stopping crime, then why does it apply to the law abiding Citizen, whose chances of becoming a victim are greatly increased when said Citizen is denied a choice of Arms for protection?**

The Supreme Court in the Miller case declared "Arms" in "common use" by military were protected by the Second Amendment. It would appear that the standard United States Army service rifle, the M16A2/ M16A4, and the carbine, the M4/ M4A1, etc., would meet the Supreme Court's "common use" test and be unconditionally within the scope of the "Arms" our servants and hirelings allow the Citizens of the "land of the free and the home of the brave", to keep and bear.

Yet, according to the federal government's claims raised in *United States v. Miller*, these standard, military issue Arms have no militia utility! Even the federal government with its unlimited power cannot escape the timeless maxim that ***Sooner or later the lie must surface and the Truth must always prevail.***

The present political cartel has worked ceaselessly to turn this great "Nation Under God" and the Land of the free and the home of the brave into the **land of the fee and the home of the slave.**

This betrayal of the American People is the real threat to America's liberty and continued well being.

The Second Amendment to the Constitution for The United States of America is not about guns, but about the security of a free State and people. It is about a newly liberated People, who determined to never again have a king or to allow a standing army to harass the people, to eat out their substance or abuse their fellow countrymen. We are a People who, at great cost, took up our arms and vanquished a tyrant, and gained our sovereignty thereby.

Our forefathers entered into a binding, solemn, contractual agreement that they would ratify the aforesaid Constitution if a Bill of Rights would be incorporated into it, prohibiting by law the misconstruction or abuse of the powers granted by the Constitution.

"Gun control" is the religion of the tyrant and of those who oppose the American citizen's **Right to Arms**. The strategy of our enemies within State and federal government is not to use force to disarm the People, an act which would be thrown off as an act of war, but to bring about the political conditions by which they can so harass, blind, confuse, and intimidate the people that they will not use the Second Amendment's plain wording as a defense against infringement. America's enemies hope that in spite of their treasonous attacks, the People, and especially the children, will grow weary and will willingly relinquish that "right". "Death by a thousand cuts" is the strategy of America's enemies, whether within or without, for our disarmament and plunder.

Section 5. Cesar Beccaria On Crimes and Punishments 145 {1819}, Originally Published in 1764.

False is the idea of utility that sacrifices a thousand real advantages for one imaginary or trifling inconvenience; that would take fire from men because it burns, and water because one may drown in it; that has no remedy for evils, except destruction. The laws that forbid the carrying of arms are of such nature. They disarm those only who are neither inclined nor determined to commit crimes. Can it be supposed that those who have the courage to violate the most sacred laws of humanity, the most important of the code, will respect the less important and arbitrary ones, which can be violated with ease and impunity, and which, if strictly obeyed, would put an end to personal liberty- so dear to men, so dear to the enlightened

legislator- and subject innocent persons to all the vexations that the guilty alone ought to suffer? Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man. They ought to be designated as laws not preventative but fearful of crimes, produced by the tumultuous impression of a few isolated facts, and not by thoughtful consideration of the inconveniences and advantages of a universal decree.

Section 6. Sixteenth American Jurisprudence, Second Edition, section 256, Declares:

"The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The written Constitution for the United States of America is the supreme law of the land, and any statue to be valid, must be in agreement. It is impossible for both the written Constitution for the United States of America and a law violating it to be valid; one must prevail. This is succinctly stated as follows: The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date so branding it. An unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed.

"Since an unconstitutional law is void, the general principals follow that it imposes no duties, confers no rights, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it...
A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law,. Indeed, insofar as a statue runs counter to the fundamental law of the land, it is superseded thereby."

No one is bound to obey an unconstitutional law and no courts are bound to enforce it.

- End Part 2 -

Part 3. Presentation of Claims, Authority And Mandate Of We The People.

Section 1. Divine Mandate.

Under the inescapable Mandate imposed upon Mankind by Almighty God to govern ourselves according to His immutable Laws, and bound by that duty, We the People, Authorized by His Divine Authority, have ordained, and established the Written Constitution for the United States of America, 1789, and the Written Constitution of The State of Arkansas, October, 1874, and in support of the aforesaid Constitutions, We must declare and protect our rights and provide a remedy for a long train of abuses of the aforesaid Constitution's powers.

Section 2. Be It Known:

To all the Peoples of the Earth who look to the American People to keep the Light of Liberty shining, that they might by our perseverance, some day, also know the Almighty God, and have the right to live free.

And Further,

"IN the beginning, God created the heaven and the earth."
- Genesis 1:1

Almighty God is the Supreme Legislator for all His Creation.

WHEREAS, We The People, in quest of Liberty, vanquished a tyrant, and won the Right to choose our own form of government, under Almighty God,

AND WHEREAS, We, The People of the State of Arkansas, in order to preserve that Divine Liberty, have retained our Swords, and keeping always before our minds that Sacred Duty, imposed by the Moral Conscience,

"And from Jesus Christ, who is the faithful witness, and the first begotten of the dead, and the prince of the kings of the Earth. Unto him that loved us, and washed us from our sins in his own blood, And hath made us kings and priests unto God and his Father; to him be glory and dominion for ever and ever. Amen." – Revelation 1:5-6.

We Do Now Irrevocably Submit These Claims As Enumerated Within These Presents.

And Further,

We, The Militia Of Washington County, Arkansas, Do Also Proclaim Before All Men That The Arms We Keep And Bear Are Borne In Defense Of Life, Liberty, And Property, Nothing More, And Nothing Less…

***"And for the support of this Declaration, with a firm Reliance on the Protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor."* – Declaration of Independence.**

Section 3. Submission of Evidence. Conclusive, but Not Limited By This Document. Retention of All Rights by the Militia and We The People.

The submission of evidence within this documented rebuttal is more than enough to compel any reasonable member of the citizenry or any member of government to support the following claims of this document. This document, although conclusive, contains only a small fraction of the evidence available to the People, or to a jury of our peers, or that which is within notice of law enforcement or the judicial or legislative body. It shall not be construed as a limit of evidence, or a limit to the domain of We The People, nor a limit to the scope of a well regulated Militia, or a limitation on the scope of the "right of the people to keep and bear Arms", nor shall any error or omission within this Rebuttal be grounds to relieve the moral and lawful duty imposed upon all public servants to uphold and support the aforesaid State and Federal Constitutions.

Section 4. Severability Clause.

Severability Clause: Under the "Severability doctrine", any part of this document, or any of its clauses, arguments, or claims, which are held to be invalid, shall be of no effect on the remaining clauses, arguments, and claims, which shall be severable and self-sustaining and capable of separate enforcement without regard to the stricken portion.

Section 5. A Long Chain of Abuses…

Recorded history, more than anything else, is the story of the mankind's struggle for freedom. There is, within the soul of man, implanted there by Almighty God, a desire to live in peace, and free from the tyrant's chains. It is the institution of government that has always posed the greatest danger to Life, Liberty, and the pursuit of Happiness. There have been, throughout history, many great men, our Founding Fathers among them, who have warned about the dangers posed by the great powers of government, and the certainty of their abuse, unless held in check by a written Constitution, a constant vigilance, and the security of the force of arms borne by the people.

Among these historical and ongoing abuses by government are unjust wars waged for the sake of power, money, and empire. History shows that evil men within governments have more often used their offices and powers to suppress and enslave the domestic populace than foreign enemies. They have created famine and starvation in lands of plenty, murders, false imprisonments, rape, plunder, degradation and destruction of lives, the wanton depletion of the national treasuries of nations, debilitating, unjust and unequal taxation schemes, favoritism, monopolies, unlawful confiscations of properties, destruction of churches, disarming of the populace, impairing the right of conscience, kidnappings, encouraging immoral lifestyles, promoting gambling, prostitution, homosexuality, the destruction of the traditional family, and promoting the murder of the innocent by abortion. These are but a few of the documented abuses by governments down through the ages that compel us to choose Almighty God as our Sovereign and Lord.

Therefore, *We the People, when choosing our own form of government, rejected once and forever, all earthly kings, setting in place a Government under the Almighty God as our Sovereign, and The Lord Jesus Christ, His only begotten Son, as our Lord: "For unto us a child is born, unto us a son is given: and the government shall be upon his shoulder: and his name shall be called Wonderful, Counselor, the mighty God, the everlasting Father, the Prince of Peace, Of the increase of his government and peace there shall be no end."* Isaiah, Chapter Nine, verse 6,7, of the Holy Bible, printed by the act of King James of Great Britain, in the year of our Lord Jesus Christ, 1611 A.D., carrying out the will of the Almighty God.

Section 6. Therefore, We, the People of the State of Arkansas Claim, for Our Protection, Security, and Benefit the Following:

§§**1. The Preamble to the Written Constitution of the State of Arkansas.**

"We, the people of the State of Arkansas, grateful to Almighty God for the privilege of choosing our own form of government, for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and posterity, do ordain and establish this Constitution. Adoption Proclaimed October 30, 1874.

§§**2. The Declaration of Independence and the Written Constitution for the United States of America.**

"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." **- Declaration of Independence, July 4th, 1776.**

In Amendment One of the Constitution for the United States of America, We The People declared to the Congress of the United States:

"Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the Government for a redress of grievances."

§§§**1. Further,** We The People hereby charge the Congress with violating that direct order. We declared in Amendment One that Congress shall make no Law respecting an establishment of religion, or prohibiting the free exercise thereof; We Claim Amendment One has been infringed by making unjust laws that deny We The People the freedom to practice our Christian Faith, by denying them the right to provide for their common defense, and thereby endangering the protections of a republican form of government. Also, by denying,

restricting, and taxing the peoples' individual right to keep and bear arms of a kind in common military and police (who are OUR SERVANTS) use for defense of persons and property, protection against tyranny, invasions, civil disorders, crimes, and other threats to peace and security.

§§§**2. Further,** the "right to keep and bear Arms" permeates every thread of our society. From our most deeply held religious beliefs

to our ability to make war, and our personal and common defense, State defense, our police powers, hunting, shooting, collecting, our manufacturing industry, scientific research, standing and respect by foreign nations, our history, our future, our past, and our birthright are irrevocably connected to the American Citizen’s "right to Arms".

- end Part 3 -

Part 4. Claims based on the Authority of The Constitution of the State of Arkansas, as ordained by We The People:

Claim 1A. We claim the boundaries of the state as declared in Article 1 of the Constitution of the State of Arkansas.

§§**1. Further,** that said boundaries have been violated and breached by the unlawful and unconstitutional extension of Federal jurisdiction into the State of Arkansas under the provisions of The National Firearms Act of 1934, by placing the Militia of the State of Arkansas under the control of the Treasury Department of the United States by the unlawful application of the taxation and commerce powers to the Militia, thereby altering the status of the Militia from a constitutionally ordained and protected body to that of a commercial and taxable entity.

§§**2. Further,** the placing of a tax upon the arms of the citizen soldier is a misuse of the commerce and taxation powers of Congress, and represents an oppressive and hostile impediment to the mission of the Militia as specified and ordained in the Second Amendment of the Constitution for the United States, and the Constitution of the State of Arkansas, Article Two, Section Five, and Article Eleven in its entirety.

§§**3. Further,** the aforesaid Act violates Article Two, Section Five of the Constitution of the State of Arkansas:

"**Right to bear arms.-** The citizens of this State shall have the right to keep and bear arms for their common defense."

The aforesaid Act prohibits whole categories of Arms that would aid in the "common defense" of the people and State of Arkansas.

§§**4. Further, we cite:**

"(i) Expressio Unius, Exclusio Alterius. Another maxim of statutory interpretation sometimes used in construing criminal statutes (as well as other types of statutes and documents of private parties) is that the exclusion of one thing is the exclusion of another (in Latin, *expressio unius, exclusio alterius*)." – p.85, Criminal Law, Second Edition, 1972-1986, LaFave & Scott, Jr., Hornbook Series, West Publishing Co.

Since no exceptions to the **kinds** of "Arms" that may be kept and borne are specified in Article Two, Section Five, none can be implied. Had exceptions been intended, they would have been specifically stated. The National Firearms Act of 1934 therefore violates this fundamental principle of criminal law by unlawfully applying and enforcing (establishing criminal penalties for non-compliance), in the form of prohibiting and taxing certain kinds of Arms specified in the Act, what amounts to a gross misconstruction of the Constitution of the State of Arkansas, Article Two, Section Five (as well as the Second Amendment of the Constitution for the United States of America, to which the principle also applies) and therefore violating a fundamental right of the citizens of Arkansas.

§§**5. Further**, The National Firearms Act of 1934 violates Article Eleven of the Constitution of the State of Arkansas. This abuse of the commerce and taxation powers under the provisions of the aforesaid Act thus breaches the Constitution of the State of Arkansas, the jurisdiction of the State and of We The People of Arkansas, by an oppressive impediment to the mission of the militia.

§§**6. Further**, we cite the following:

> "**It has been uniformly held that the States are separate sovereigns with respect to the Federal Government** because each State's power to prosecute derives from its inherent sovereignty, preserved to it by the Tenth Amendment, and not from the Federal Government. Given the distinct sources of their powers to try a defendant, **the States are no less sovereign with respect to each other than they are with respect to the Federal Government.**" [emphasis added]
>
> U.S. Supreme Court in:
> [Heath v. Alabama, 474 U.S. 82, 89-90 (1985)]

Article Two, Section One of the Constitution of the State of Arkansas places the militia under the authority of the supreme sovereigns of Arkansas: WE THE PEOPLE. Article Eleven of the aforesaid Constitution places the militia under the authority of the delegated agents of We The People: the Governor and General Assembly of the State of Arkansas. The National Firearms Act of 1934 is a usurpation of that Constitutional Authority and jurisdiction, and therefore violates said State Constitution as well as the Ninth and Tenth Amendments of the Constitution for the United States of America.

§§**7. Further,**

> "Save only as they are subject to the prohibitions of the Constitution, or as their action in some measure conflicts with the powers delegated to the national government or with congressional legislation enacted in the exercise of those powers, **the governments of the states are sovereign within their territorial limits and have exclusive jurisdiction over persons and property located therein.**" [emphasis added]

[72 American Jurisprudence 2d, Section 4]
See, American Jurisprudence 2d

§§**8. Further,** there has been no cession of sovereignty, jurisdiction, powers, rights, constitutional protections enshrined in the Constitution of the State of Arkansas, or property of her Citizens, by the State of Arkansas to the federal government that gives it any authority whatsoever to legislate, infringe, or enforce, in matters involving, or in contradiction to , any of the above fundamental possessions and unalienable rights within the power of the sovereignty of the State of Arkansas and We The People of Arkansas. The National Firearms Act of 1934 strikes at the very heart of the Tenth Amendment of the Constitution for the United States of America, and totally overturns and reverses its intent and plainly stated purpose. The Act is totally outside the enumerated powers granted to the federal government by We The People through the Constitution for the United States of America, and is therefore beyond any possible federal jurisdiction or concern. Further, unalienable rights have their origin in Almighty God, and are conferred on We The People as individuals precious in His Sight. Such ultimate sovereign power is delegated to government in the form of enumerated powers as from a Master to his servant and agent.

James Madison, known as the "Father of our Constitution," clarified the authority of the federal government in the Federalist Papers, #45:

"The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

Claim 2A. We Claim the full protection, safety, security, and immunities provided by Article 2, sections 1 through 29, of the Constitution of the State of Arkansas, and invoke the prohibitions and protections imposed thereby.

Claim 3A. We claim Article 2, Section 1: "All political power is inherent in the people and government is instituted for their protection, security and benefit; and they have the right to alter, reform or abolish the same in such manor as they may think proper."

§§**1. We claim** that the National Firearms Act of 1934 takes away a fundamental right and property of We, The People of Arkansas, namely, the right to keep and bear arms of a kind we deem necessary to our safety, security, and benefit, and places that right and property under the effective "ownership" and control of our servant government. This completely reverses the Master/Servant relationship set forth in Article 2, Section 1, which declares We The People to be the Master, and government to be the servant of the We The People.

Claim 4A. We claim Article 2, section 2: "All men are created equally free and independent, and have certain inherent and inalienable rights, amongst which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

§§**1. We claim** the National Firearms Act of 1934 deprives We The People of the proper kind of Arms necessary, in this day and age, to effectively defend our life, liberty, property, and pursuit of happiness. Further, it is not up to government to determine how we defend ourselves, as We The People are the exclusive owners of the right and property in the first place, and government is charged with defending US according to OUR instructions, not vice-versa. As stated in the above Article 2, Section 2, government derives its just powers from the consent of the governed, and We The People have not consented to surrender our basic rights to government for any reason.

§§**2. Further**, to surrender our rights and property would be unconscionable and unjust to our posterity, and We must answer before the Almighty God for the rights and duties He has bestowed upon us. It is a violation of our most deeply held religious beliefs, as set forth in the Holy Bible, to relinquish our right and duty of self defense, and our republican form of government, to any

government or earthly king.

§§**3. Further, We The People, of the State of Arkansas, in preserving our Republic,** do not need the permission or approval of any of our servants in government, either State or federal, to keep and bear any Arms which we deem necessary and proper to exercise our duty, ordained by Almighty God, of self defense (of person, family, community, and State), such duty being before, higher, and transcending all governmental authority.

§§**4. Further,** The National Firearms Act of 1934 is an unconstitutional act of the federal government in that it sets aside the moral laws and duties that Almighty God has set in order, and that We the People have established, ordained, and ratified through the written Constitution for the United States of America and the Constitution of the State of Arkansas.

§§**5. Further,** the aforesaid Act abuses our delegated powers and violates our most deeply held religious convictions by offending our sense of equality and justice, by the morally repugnant, unconscionable, and unjust act of compelling a citizen to defend another country with our tax bought, government approved Arms, and then fining, imprisoning, confiscating and destroying the property of, or even murdering that same citizen, for keeping and bearing the same Arms for the defense of his own family or State.

§§**6. Further,** we cite the following:

> Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while **sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts.** And **the law is the definition and limitation of power.** It is indeed, quite true, that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration the responsibility is purely political, no appeal except to the ultimate tribunal of the public judgement, exercised either in the pressure of opinion or by means of the suffrage. But **the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws,** so that, in the famous language of the Massachusetts Bill of Rights, the government of the commonwealth "may be a government of laws and not of men." For, the very idea that

> one man may be compelled to hold his **life**, **or the means of living**, **or any material right essential to the enjoyment of life**, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself. (emphasis added)
>
> [*Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886)]

§§**7.** **Further**, for impairing our most deeply held religious convictions of the Divine Mandate to treat all men equally, by cunningly usurping the Office of Grand or Petit Jury by inferring that they must convict because of the law, instead of acquitting an innocent citizen when no crime was committed. This usurpation thereby denies our heartfelt duty to provide and guarantee the just remedy of law to all of our Citizens, for it was the mandate of Almighty God upon our hearts and conscience that called for a moral, just, and equal "due process of Law".

§§**8.** **Further**, for suppressing the right of the people to keep and bear Arms, to defend life, to protect our loved ones and the weak and elderly from the criminal element, to defend them from an invading Army, to suppress insurrections and uphold the laws of this State and the Union.

§§**9.** **Further**, the aforesaid Act is a de-facto grant of immunity and presumption of innocence to our government servants to possess the said prohibited "Firearms", and thereby elevates the servant above his Masters, We the People, making themselves more noble and of higher honor than the Citizen, and unjustly sets one man above another.

§§**10.** **Further**, the aforesaid Act, by unlawfully creating a monopoly, wars against, stifles and impairs, mankind's nature, to freely exercise his God-given creative and artistic genius and ability, in the pursuit of happiness, to design, invent, and create in the field of "Firearms", and then to produce and bring forth these "Firearms" for their common defense, lawful personal ends, and financial gain.

§§**11.** **Further**, for imposing upon our children in our schools a convoluted and alien vision and version of our nation's heritage and history, distorting and altering the original intent of the Constitution for the United States of America, specifically in regards to the Second Amendment, concerning the use of "Firearms" and our Militia history, for the ultimate purpose of imposing perpetual slavery and plunder upon the people of this nation.

§§**12.** **Further**, the aforesaid Act is seditious and morally repugnant

for attempting to turn our police and military against We the People, and has led to an incessant cry for their disarmament by means of other unjust and unconstitutional legislative "gun-control" Acts, thereby attempting to make the military and police agents of oppression and tyranny instead of being SERVANTS of We the People.

Claim 5A. We claim for the people of the State of Arkansas, by the authority of the Constitution for the United States of America, Article IV, the guarantee of a Republican form of government.

§§**1. Further**, This Article of the U.S. Constitution guarantees the Sovereignty of the State of Arkansas, its State Constitution, and its Republican form of government.

§§**2. Further**, **We claim** that the National Firearms Act of 1934 violates the aforesaid Article by infringing the borders and ordained laws of the body politic of the People and the State of Arkansas, guaranteed by Article IV of the Constitution for the United States of America.

Claim 6A. We claim "The Great Seal of The State of Arkansas," *REGNAT POPULUS*, "The People Rule", with all of its power, prestige, honor, blessings, protections and security for and upon the People of the State of Arkansas:

§§1. "The State Seal of Arkansas. The state seal was adopted in 1907. It shows a bald eagle, the official U.S. emblem, holding in its beak a banner that carries the state motto, *Regnat Populus* ("The People Rule"). The sheaf of arrows and the olive branch in the eagle's talons symbolize war and peace. The eagle is flanked by the Angel of Mercy and the Sword of Justice. The figure of Liberty, above the eagle, carries a victory wreath in her right hand. In her left hand is a liberty pole surmounted by a liberty cap, which is a famous symbol of liberty and freedom. On the shield in front of the eagle are depicted a riverboat, a plow, a beehive, and a wheat sheaf, chosen as symbols of the state's productivity." Collier's Encyclopedia, Vol. 2, Copyright 1989 by MacMillan Educational Company. "Arkansas"

Whereas, without the citizen's of this State having the right to keep and bear arms for their common defense, there can be no "Justice", no "Victory", no "Productivity", no "Liberty", no "Mercy", nor can "The People Rule". We claim the National Firearms Act of 1934 undermines and is repugnant to the Great Seal of the State of Arkansas, and therefore to be null and void.

§§**2. Further**, **We claim** "The Honey Bee Code." From The General Acts of Arkansas, 1975:

Act 49. An Act to Designate the Honeybee as the State Insect of the State of Arkansas.

"Whereas, the honeybee is a diligent and willing worker and in this respect typifies the outstanding citizens of the State of Arkansas; and… Whereas, honeybees are outstanding keepers of their homes and are willing to defend their homes against all intruders…"

Whereas, Act 49 likens the outstanding citizens of the State of Arkansas to the Honeybee, as being diligent and willing workers and willing to defend their homes against all intruders, We, the citizens of Arkansas, cherish the right to keep and bear arms to defend our homes against all enemies, foreign and domestic.

Therefore, We claim the National Firearms Act of 1934, is repugnant to the principles of industry and self-defense enshrined in Act 49, commonly know as "The Honey Bee Code."

Claim 7A. We, The Militia of Washington County, Arkansas, in fulfilling our Constitutionally ordained duty "to execute the laws, repel invasion, repress insurrection and preserve the public peace", claim, by the Authority of the Sovereignty State of Arkansas, and the Authority of the written Constitution of The State of Arkansas, and on behalf of We The People of the State of Arkansas, the ultimate Sovereigns and rulers of this State:

Article 2, Section 5: "The citizens of this State shall have the right to keep and bear arms for their common defense."

§§**1. Further, We claim** the National Firearms Act of 1934 infringes, impairs, and impedes the aforesaid Constitutional duty imposed upon the militia and the people, in the aforesaid Article 2, Section 5, by unlawfully taxing, registering, and prohibiting "Firearms" **in "common military use" that would aid in the "common defense."**

§§**2. Further, We claim** the said Supreme Court's decision in *Miller* fully supports the Second Amendment and is sufficient to void any act of State or federal government brought against a Citizen for keeping or bearing the **"kind"** of military arms the National Firearms Act taxes, regulates, or prohibits.

§§**3. Further, We claim** that the Supreme Court's broad decision in *U.S. v. Miller*, Justice McReynolds speaking for the majority opinion, settles the "right of the people to keep and bear Arms" issue and brings closure to that controversy. The Supreme Court formally declared:

"The signification attributed to the term Militia appears from the debates in the Convention, the history and legislation of the Colonies and States, and the writings of approved commentators. These show plainly enough that the Militia comprised all males physically capable of acting in concert for the common defense, 'A body of citizens enrolled for military discipline'. And further, that ordinarily when called for service these men were expected to appear bearing arms supplied by themselves and of a kind in common use at the time".

§§**4. Further**, the Supreme Court, in hearing the Miller case, supported and upheld the original, **individual** "right of the people to keep and bear Arms", and rejected the federal government's fraudulent 'collective State's rights theory' in the aforesaid clear and unambiguous language.

§§**5. Further, We claim** the Supreme Court's aforesaid declaration contains sufficient information to uphold it's finding of the "individual" right to keep and bear arms, and is absolutely binding on all agencies of State and federal government and all inferior courts, .

§§**6. Further**, the intent of this document is bring about a return to just and true law and the upholding of the U. S. Constitution and Bill of Rights, as well as the Constitution of the State of Arkansas. Either we are a nation of laws, and not of men, or we are not. The *Miller* case definitively upholds the right to keep and bear arms as an individual right. The only real issue was the lack of evidence presented regarding the military or militia utility of the Arms in question under the NFA. The exculpatory and material evidence was there, it was simply suppressed and not presented by the government's attorneys, and so an unconstitutional Act was allowed to stand, and We have had to live with the consequences ever since. This is such a gross miscarriage of justice that any rational and moral person can readily determine the wrong perpetuated. The NFA was allowed to stand because the peculiar circumstances (Miller being dead, and the other defendant reaching a plea bargain) in the case left the government's **interpolations**, **false contentions**, **misrepresentations**, and **rebuttable presumptions** unchallenged. This ruling established an extremely dangerous precedent, and has resulted in untold damages to citizens, their property, and essential rights over the years since. The government's claims and presumptions were totally and obviously false, and to let this wrong stand simply because material, relevant, rebuttal evidence was not presented to the contrary, especially when such evidence was common knowledge, and the **duty of**

even the prosecution to present (since it was material, exculpatory, and relevant. *See*, **Material evidence**. Black's Law Dictionary, 6th Ed.; i.e.: "To establish Brady violation…"), is a gross miscarriage of justice. We call, in accordance with the following established principle of law, for the immediate **correction of this wrong**, and a return to just law and the Constitution:

"Maleficia non debent remanere impunita; et impunitas continuum affectum tribuit delinquenti." Evil deeds ought not to remain unpunished, and impunity affords continual incitement to the delinquent. (*see*, Black's Law Dictionary, 6th Edition; *also*, Appendix I)

§§**7. Further**, We cite the following:

See Claim 4-A:[*Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886)]

§§**8. Further**, We again cite the following:

> **"It has been uniformly held that the States are separate sovereigns with respect to the Federal Government** because each State's power to prosecute derives from its inherent sovereignty, preserved to it by the Tenth Amendment, and not from the Federal Government. Given the distinct sources of their powers to try a defendant, **the States are no less sovereign with respect to each other than they are with respect to the Federal Government**." [emphasis added]

U.S. Supreme Court in:
[*Heath v. Alabama*, 474 U.S. 82, 89-90 (1985)]

§§9. Further,

> "Save only as they are subject to the prohibitions of the Constitution, or as their action in some measure conflicts with the powers delegated to the national government or with congressional legislation enacted in the exercise of those powers, the governments of the states are **sovereign** within their territorial limits and have **exclusive jurisdiction** over persons and property located therein." [emphasis added]

[72 American Jurisprudence 2d, Section 4]
See, American Jurisprudence 2d

Claim 8A. We claim Article 2, Section 12, of the Constitution of the State of Arkansas is violated. This Article states:

"No power of suspending or setting aside the law or laws of the

State shall ever be exercised except by the General Assembly."

(**Further**, We cite Article Two, Section 29.)

§§**1.** **Further**, the National Firearms Act of 1934 violates the above Article 2, Section 12, by making without effect, and infringing upon, the right of We The People of Arkansas to "keep and bear arms" that is guaranteed and protected by the written Constitution of the State of Arkansas.

§§**2.** **Further**, the Act is a de-facto placing of the Militia of Arkansas under the authority of the Treasury Department of the United States instead of the authority of We The People, the Governor, and the Legislature of Arkansas, as ordained by the Constitution of the State of Arkansas, by trying to limit, tax, and control, through the commerce and taxation powers of the U.S. Congress, the Arms of the Militia and We The People of Arkansas. This is a direct violation of the Tenth Amendment of the Constitution for the United States of America.

§§**3.** **Further**, again we cite the following:

> Save only as they are subject to the prohibitions of the Constitution, or as their action in some measure conflicts with the powers delegated to the national government or with congressional legislation enacted in the exercise of those powers, the governments of the states are **sovereign** within their territorial limits and have **exclusive jurisdiction** over persons and property located therein. [emphasis added]
>
> [72 American Jurisprudence 2d, Section 4]
> *See,* American Jurisprudence 2d

§§**4.** **Further**, **political subdivisions** of a State are **EXEMPT** from the National Firearms Act of 1934. We cite:

§§§**1.** Public Law 99-308 [S. 49]; May 19, 1986. Firearms Owner's Protection Act.
Sec.102: Paragraph 9
(0)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machine gun.
(2)This subsection does not apply with respect to— (A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or (B) any lawful transfer or lawful possession of a machine gun that was lawfully possessed before the date this subsection takes effect."

§§§**2.** A **political subdivision** is defined as:

"A division of the state made by proper authorities thereof, acting within their constitutional powers, for purpose of carrying out a portion of those functions of state which by long usage and inherent necessities of government have always been regarded as public. *State ex re. Maisano v. Mitchell,* 155 Conn. 256, 231, A.2d 539, 542." Black's Law Dictionary, 6th Edition.

§§§**3.** The militia is **ordained** in the Constitution of the State of Arkansas, and has **its own entire Article**, being **Article Eleven!** Further, it is specifically stated in Article Eleven that "the Governor shall, when the General Assembly is not in session, have power to call out the volunteers or militia, or both, to execute the laws, repel invasions, repress insurrection and preserve the public peace in such manner as authorized by law. " Notice that the Article specifically mentions **"or both"**, i.e. the **"volunteers"** and the **"militia"**, and that it further specifies **"as authorized by law."** Notice also the purpose of the volunteers and the militia, namely, the items listed, all refer to the upholding of laws and the security of a free state(i.e. both law enforcement and military functions). How clearer could it be that the "volunteers" as well as the "militia" are a political subdivision "of state which by long usage and inherent necessities of government have always been regarded as public." What is more of an 'inherent necessity' to the People and State of Arkansas than that "militia" and "volunteers" of Article Eleven which We The People have instituted through our State Constitution to protect and defend our laws, our security, and provide for our common defense? The people of Arkansas are the ultimate sovereigns and rulers of Arkansas (*Regnat Populus*: "The People Rule," State Motto. *See also*, Constitution of the State of Arkansas, Article 2, Sec.1. Source of Power.), and through their Constitution, have set, through their delegation, "proper authorities" to administer their State government, and established the militia to be called out under such "proper authorities." Since the militia has its own Article Eleven in the Constitution of Arkansas, devoted entirely to it, it is obvious that the militia is "made by proper authorities thereof, acting within their constitutional powers." The State is charged by We The People to properly administer its delegated authority, and should it fail in that duty, the people themselves, as the true rulers of Arkansas, can recall such delegated authority to themselves, and through the militia ensure their security, safety, and Liberty:
"All political power is inherent in the people and government is instituted for their protection, security, and benefit; and they have the right to alter, reform, or abolish the same in such manner

as they may think proper." Article 2, Section 1. Source of Power. Constitution of the State of Arkansas.

§§§**4. Further**, if either the unorganized, the volunteer, or the organized militia were denied Arms of a proper, common, and current military "kind," they could not, when called into service, possibly fulfill their constitutionally ordained mission. Further, the "volunteer" and unorganized militia especially are not customarily provided arms by the State, and must provide their own Arms and equipment (although the State could certainly do so) as has always been the usual custom throughout the history of the volunteer citizen militia, i.e. they were expected to appear at muster bearing their "own" Arms of a "kind" in common military and militia use at the time.

§§§**5.** We can also now see the direct connection between Article Eleven and Article Two, Section Five: "The citizens of this State shall have the right to keep and bear arms for their common defense." Notice that the word "their" is used, i.e. the purpose of the Arms are for the citizens of the State to provide for "their common defense." In other words, it is the Citizens of Arkansas, it is WE, THE PEOPLE of Arkansas, who ARE the State of Arkansas, and that is why WE instituted government and the militia for **OUR** protection. The Preamble to the Constitution of the State of Arkansas states:

"We, the people of the State of Arkansas, grateful to Almighty God for the privilege of choosing our own form of government, for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to our selves and posterity, do ordain and establish this Constitution."

§§§**6.** So, it is WE, THE PEOPLE OF ARKANSAS, who, as ultimate "authorities," established the State Constitution, and through that instrument, did establish the various offices and officers of our State government to be our servants. We also established, through that same State Constitution, the militia, both organized and unorganized volunteer, to provide for the defense of our selves, our families, our communities, and our State. The right of the people to keep and bear arms is reserved to the sovereign people themselves, as expressed in, and protected by, their Constitution, to provide for their defense, and the security and safety of their State. We, The People of Arkansas, as the ultimate sovereigns and authorities, created the Constitution of Arkansas, and created the offices and officers of government, and chose to place the militia and the right to keep and bear arms, specifically within and under the protection of that Constitution and sovereign government, intending thereby that no other power on earth should usurp our

sovereign intentions and authority. The federal government, through the National Firearms Act of 1934, violates the Sovereignty of the State of Arkansas, the Sovereignty of We The People of the State of Arkansas, and the Tenth Amendment of the Constitution for the United States of America, and has no right whatsoever, to violate, usurp, and break into, the sovereignty of We The People of Arkansas, as exercised through our written Constitution of the State of Arkansas, by placing our constitutional militia under the 'commerce and taxation powers' of the Congress of the United States, the jurisdiction of federal courts, and thus placing burdens, taxes, restrictions, even fines and imprisonments, on that militia which We The People instituted in Article Eleven of our State Constitution for our very safety and protection.

The militia is an essential function of that Sovereign State government which We The People, through our written State Constitution, have set to be our agent and servant, and is therefore an essential, constitutional, and valid **political subdivision** of the State of Arkansas and thereby exempt from any and all provisions of the National Firearms Act of 1934.

§§§**7. Further**, The Governor and General Assembly derive **their** authority from **WE THE PEOPLE**, as stated in both the Preamble and Article Two, Section One, of the Constitution of the State of Arkansas. There is also mention of the Militia in Article Three, Section 10, where it refers to the Militia as being **"persons in the militia service of the State." The militia, and the right to keep and bear arms which is inherent in its very essence, mission, and power, is, therefore, ultimately, a power of, a political subdivision of, the lawful property of, the unalienable right of, and in the service of , the ultimate sovereign WE THE PEOPLE of the State of Arkansas, and the Sovereign State of Arkansas which We The People have created. We The People and State of Arkansas have ceded this sovereignty, power, subdivision, property, agency (law and military),and right, to NO ONE!**

§§**8.** The National Firearms Act of 1934 violates the "separate sovereignties" of the several States and the federal government, and, thus, their separate jurisdictions and prosecutions, as established by the Tenth Amendment of the Constitution for the United States of America and long standing traditions of legal principle and Constitutional (both State and federal) construction and definition upheld in numerous Supreme Court rulings, and this would be entirely sufficient alone to overturn the Act, especially when the matters of jurisdictional concern affected by the Act, ie. the "right to keep and bear arms" and the "militia," are specifically mentioned and protected against infringement in both the Constitution of the State of Arkansas and the Constitution for

the United States of America. The federal government cannot cross into the jurisdiction of the State of Arkansas in pursuance and enforcement of the NFA, and in effect and fact, place and enforce federal regulations, restrictions, taxes, and fines , or arrest, imprison, and even murder, otherwise law abiding citizens and the members of the constitutional militia of said State, thereby impeding it in its constitutional mission, and depriving it of the proper and common kinds of Arms necessary for the carrying out of that mission, without violating the Ninth and Tenth Amendments, as well as various other Articles and Amendments of the Constitution for the United States of America, and the sovereignty of We The People and State of Arkansas and various other Articles of the Constitution of the State of Arkansas.

Claim 9A. We claim Article 2, Section 19, of the The Constitution of the State of Arkansas:

"Perpetuities and monopolies are contrary to the genius of a republic, and shall not be allowed; nor shall any hereditary emoluments, privileges or honors ever be granted or conferred in this State."

§§**1. Further, We claim** the National Firearms Act of 1934 violates the aforesaid Article by denying the natural right of private citizens of the State of Arkansas to keep and bear Firearms, and instead grants perpetuities and monopolies to certain 'approved' foreign and domestic arms manufacturing corporations and agencies of the Federal government.

Claim 10A. We claim Article 2, Section 29, of the Constitution of the State of Arkansas:

"This enumeration of rights shall not be construed to deny or disparage others retained by the people and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government, and shall forever remain inviolate, and that all laws contrary thereto, or to the other provisions herein contained, shall be void."

§§**1. Further**, The National Firearms Act of 1934 violates the aforesaid Article 2, Sections 1-29, by breaking into and legislating in matters pertaining thereto, in direct opposition to The Constitution of the State of Arkansas, which specifically states: "…everything in this article is excepted out of the general powers of the government, and shall forever remain inviolate, and that all laws contrary thereto, or to the other provisions herein contained,

shall be void."

§§§**1.** The General Assembly of the State of Arkansas, is forbidden under Article 2, Section 29, from passing ANY laws that break into or infringe the rights protected in Article Two of the Constitution of the State of Arkansas. They are forbidden to legislate in this area, PERIOD! Therefore, all State legislation, codes, rules, and 'laws' in support of the National Firearms Act of 1934, including Title 5, Chapter 73 of The Arkansas Code, are also null and void.

§§§**2.** Therefore, EVERYTHING within **Arkansas Code, Title 5, Criminal Offenses, Chapter 73, Weapons**, that restricts, infringes, burdens, impedes, or in any way obstructs the right of law abiding citizens of the State of Arkansas from possessing, transporting, manufacturing, selling, delivering, repairing, modifying, or in any other way infringes upon the "right to keep and bear Arms,' within the full meaning and scope of those words, is null and void. Murder is already a crime, and so committing murder by a gun or a garden hoe is already illegal. You cannot outlaw guns and garden hoes, or automobiles, or anything else, in and of themselves simply because they **could** possibly be used in a crime. If that were the case, we would have to outlaw virtually EVERYTHING in the world! Nor can you make an outlaw out of a law abiding citizen for the mere possession, manufacture, transport, etc., etc., of a gun, garden hoe, or automobile, and committing no other crime thereby! To PRESUME aggressive or criminal intent for mere possession, transport, etc. amounts to finding someone guilty before a crime has even, in fact, been committed. It is to hold someone as "guilty until proven innocent." "Intent," in the absence of any overt act or statement, past or present, is impossible to prove. This is a denial of all due process of law. One might just as well argue the false presumption that the steak knives in someone's home are murder weapons, and then raid the home and arrest the homeowner for "possession of a murder weapon" and "conspiracy" and "intent" to commit murder, when all the knives have ever been used for are to cut steak! ANY gun or object is perfectly legal in and of itself, and may have numerous lawful and good uses, purposes, and utility. If a crime is committed, then punish the **criminal** for the **crime!** To attempt to ban the use of the object by otherwise law abiding citizens who have committed no crime is ludicrous. To deny a certain object to otherwise law abiding citizens because some bad person committed a crime with that type of object is totally absurd! Remember, women have been tied up, raped, and strangled with their own silk stockings, so for government to prohibit, tax, and call for the registration of all women's silk stockings is senseless. Further, to make criminals out of law abiding citizens based on such false and absurd presumptions is a travesty of justice and a denial of all equality, fairness, and due process before the law, and

therefore violates the First, Second, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, Thirteenth, and Fourteenth Amendments of the Constitution for the United States of America.

§§§**3. Further**, **Arkansas Code, Title 5, Criminal Offenses, Chapter 73, Weapons, Subchapter 2, Uniform Machine Gun Act**, is derived from the 'model' Act for the States based upon the National Firearms Act of 1934 and other pursuant federal legislation, rules, and codes. Again, this violates the Constitution for the United States of America and the Constitution of the State of Arkansas for all and the exact same reasons enumerated within this document with respect to the National Firearms Act of 1934, especially the First, Second, Ninth, and Tenth Amendments of the U.S. Constitution, and Articles Eleven and Two of the Arkansas Constitution.

§§§**4. Further, We charge** the General Assembly of the State of Arkansas with violating a direct order of We The People as stated in Article Two, Section Twenty Nine of the Constitution of the State of Arkansas, by legislating in a forbidden area, and we cite the evidence of Title 5, Chapter 73, Weapons, of The Arkansas Code. It is not permissible to legislate in the field of Arms, period. Arms in the hands of law abiding citizens cannot be a crime, and to make it so is to place the law abiding citizen in the same category as the criminal, such being a violation of Justice, Equality, and due process of Law.

§§§**5. FURTHER, THE "PRESUMPTION OF OFFENSIVE AND AGGRESSIVE PURPOSE" IN SUBCHAPTER TWO, 5-73-205, OF Chapter 73, Title 5, OF THE ARKANSAS CODE, AMOUNTS, IN FACT, TO FINDING SOMEONE "GUILTY UNTIL PROVEN INNOCENT" AS WELL AS "GUILTY" OF A CRIME NOT YET COMMITTED, AND THIS IS A VIOLATION OF ALL PRINCIPLES UPON WHICH THE JUSTICE SYSTEM AND LAWS OF THIS NATION AND STATE OF ARKANSAS ARE BASED. SUCH AN OFFENSE AGAINST JUSTICE IS THUS ALSO A VIOLATION OF OUR DEEPLY HELD RELIGIOUS CONVICTIONS AND PRINCIPLES, AND IS THUS AN OBSTRUCTION TO THE FREE EXERCISE OF RELIGION PROTECTED BY BOTH THE U.S. CONSTITUTION AND THE CONSTITUTION OF THE STATE OF ARKANSAS.**

§§§**6. Further**, The National Firearms Act of 1934 and pursuant federal Acts, legislation, laws, rules, and codes, as well as State legislation, especially The Arkansas Code, Title 5 Criminal Offenses, Chapter 73 Weapons, et. al., etc., in support of, pursuant to, and similar to, are violations of the First, Second, Ninth, and Tenth Amendments of the Constitution for the United States of America, and in addition violate Article One, and Article Two, Sections One, Two, Three, Five, Eight, Nine, Twelve, Thirteen, Fourteen, Fifteen, Eighteen, Nineteen, Twenty One, Twenty Four, Twenty Five, Twenty Seven, and Twenty Nine, of the Constitution of the State of Arkansas.

§§§**7. Further**, all cooperation by State, County, City, and any other agencies, agents, officers, etc. in support of federal authorities and the National Firearms Act of 1934, as well as the aforesaid Chapter 73 and any similar and pursuant State, county, or local 'laws' and codes, is illegal, unlawful, and unconstitutional, and subjects any and all such agencies, agents, and officers to both civil damages and criminal arrest and prosecution under numerous federal and State laws and codes.

§§**2. Further**, We cite the following:

> Save only as they are subject to the prohibitions of the Constitution, or as their action in some measure conflicts with the powers delegated to the national government or with congressional legislation enacted in the exercise of those powers, **the governments of the states are sovereign within their territorial limits and have exclusive jurisdiction over persons and property located therein.**
>
> [72 American Jurisprudence 2d, Section 4]
> [emphasis added]

There is no "prohibition of the Constitution," no "powers delegated to the national government," no "congressional legislation enacted in the exercise of those powers," on which the breach of the sovereignty and jurisdiction of the State of Arkansas under the provisions of The National Firearms Act of 1934 may be lawfully based.

Claim 11A. We, The Militia of Washington County Arkansas, in fulfilling our constitutionally ordained duty "to execute the Laws of the Union, suppress insurrections and repel invasions", claim, by the authority of the written Constitution for The United States of America, and on behalf of the American People, the Second Amendment to be the Supreme Law of the land: "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."

§§**1. Further**, **We claim** the National Firearms Act of 1934 infringes, impairs, and impedes the aforesaid duty imposed upon the Militia by the Oath of Office in the Constitution of the State of Arkansas, Article 19, Section 20, which requires us to uphold the Constitution and Laws of the State of Arkansas, among which is the "the right of the people to keep and bear arms for their common defense."
This Oath states:
"Senators and Representatives and all judicial and executive, State

and county officers, and all other officers, both civil and military, before entering on the duties of their respective offices shall take and subscribe to the following oath of affirmation: "I, ____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Arkansas, and that I will faithfully discharge the duties of the office of _____, upon which I am now about to enter." - Article 19, Section 20, Constitution of the State of Arkansas.

You will note that the Oath makes direct reference to "…officers, both civil and **military**…" Also, you will note that Article 11 of the Arkansas Constitution, Section 1, is entitled "Person liable to **military** duty." (emphasis added) It is therefore clear that the militia is, in fact, a **military** force of the State of Arkansas. In addition, Article 6, Section 6, of the Arkansas Constitution States that the "Governor shall be commander-in-chief of the military and naval forces of this State, except when they shall be called into the actual service of the United States." It is therefore obvious that the militia is subject to being called into service, as a military armed force, in the service of the State or the United States. In addition, Article 19, Section 26, states that, "Militia officers, officers of the public schools and notaries may be elected to fill any executive or judicial office." It is clear from all of the above, that "Militia officers" are both lawful and constitutionally created and valid officers of the State of Arkansas, and therefore subject to the Oath of Office. It is also clear that the Militia is a valid "armed force" and "military force" of the State of Arkansas.

Claim 12A. We claim the full power, protection, and benefit of Article Eleven of The Constitution of the State of Arkansas, to be protected and guaranteed by the Tenth Amendment to the Constitution for the United States of America,

Article Eleven Declares:

Section 1. Persons liable to military duty Militia
The militia shall consist of all able bodied male persons, residents of the State, between the ages of eighteen and forty five years, except such as be exempted by the laws of the United States or of this State, and shall be organized, officered, armed and equipped and trained in such manner as may be provided by law.

Section 2. Volunteer companies.
Volunteer companies of infantry, cavalry, or artillery may be formed in such manner and with such restrictions as may be provided by law.

Section 3. Privilege of members from arrest.

The volunteer and militia forces shall in all cases {except treason, felony and breach of the peace} be privileged from arrest during their attendance at muster and the election of officers, and in going to and returning from the same.

Section 4. Authority to call out volunteers or militia.
The Governor shall, when the general assembly is not in session, have power to call out the volunteers or militia, or both, to execute the laws, repel invasion, repress insurrection and preserve the public peace in such manner as may be authorized by law.

§§**1. Further**, The National Firearms Act of 1934 unlawfully invades State jurisdiction by placing the Militia of the State of Arkansas under the U.S. Treasury Department, by imposing unlawful taxes upon the Arms in common military and police use, thus impairing the lawful mission of the Militia and thus destroying "domestic tranquillity".

§§**2. Further, The Arkansas Code, Title 5, Criminal Offenses, Chapter 73, Weapons**, by its own language, is intended to apply only to **criminal** use of the prohibited weapons listed in the aforesaid Title 5.

Section 5-73-104, **Criminal use of prohibited weapons**, states the following:

(a) "A person commits the offense of criminal use of prohibited weapons if, except as authorized by law, he uses, possesses, makes, repairs, sells, or otherwise deals in any bomb, machine gun, sawed-off shotgun or rifle, firearm specially made or specially adapted for silent discharge, metal knuckles, or other implement for the infliction of serious physical injury or death which **serves no common lawful purpose.**"

(b) "It is a defense to prosecution under this section that:

1. The person was a **law enforcement officer**, prison guard, or **member of the armed forces acting in the course and scope of his duty** at the time he used or possessed the prohibited weapon; or
2. The defendant used, possessed, made, repaired, sold, or otherwise dealt in any of the above enumerated articles **under circumstances negating any likelihood that the weapon could be used unlawfully.**" (emphasis added)

Section 5-73-105, **Legitimate manufacture, repair, and transportation of prohibited weapons,** states the following:

"Section 5-73-104 shall not be construed to prohibit the manufacture, repair, transportation, or sale of the weapons enumerated therein to or for authorized representatives of the armed forces or to or for the authorized representatives of any law enforcement agency."
Section 5-73-207, **Manufacture for military, nonagressive, or non-offensive use, states the following:**

"Nothing contained in this subchapter shall prohibit or interfere with:

(1) The manufacture for and sale of machine guns to the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose;
(2) The possession of a machine-gun for scientific purpose, or the possession of a machine-gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake.
(3) The possession of a machine-gun other than one adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber, for a purpose manifestly not aggressive or offensive."

The arms of the militia do not fall under this code (Arkansas Code, Title 5) as they are not held for any unlawful or criminal purpose. The purpose of the Arms of the militia is stated in the Constitution of the State of Arkansas. Article 11, Section 4, states that:

"The Governor shall, when the general assembly is not in session, have power to call out the volunteers or militia, or both, **to execute the laws, repel invasion, repress insurrection and preserve the public peace in such manner as may be authorized by law.**" (emphasis added)

§§**3. Further**, the Second Amendment of the Constitution for the United States of America states that:

"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."

§§**4. Further**, Article One, Section Eight, of the Constitution for the United States of America states that:

"Sect.8. The Congress shall have power …

"To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;
"To provide for organizing, arming, and disciplining, the militia,

and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress."

§§**5. The language in the above sections and subsections demonstrates conclusively that the militia is itself both a "law enforcement agency," as well as part of the "armed forces" and "military" of the State of Arkansas, as ordained by We The People through our State Constitution (*See also,* Claim 11A). The militia is, therefore, a valid "political subdivision" of the State of Arkansas (*See also,* Claim 8A). Since the militia is a valid Constitutional (both State and federal) agent, with a stated purpose in aforementioned Constitutions, the Arms of the militia cannot be said to be held for any other purpose than that which is stated. This removes, protects, and exempts them from all criminal codes, commerce and taxation codes, and places them under the scope and protection of the Second Amendment of the Constitution for the United States of America, the Ninth and Tenth Amendments of same, as well as the aforementioned Article Two, Section Five of the Constitution of the States of Arkansas, such list and enumeration not being exhaustive or in any way excluding the protections offered under various other Articles and Amendments of the aforementioned State and federal Constitutions or Laws of Almighty God. The above stated mission, functions, and obligations of the militia are no different from that which the police, regular and reserve military, and National Guard are charged with. The militia is, in fact, the final and ultimate law enforcement agency and armed force of We The People and the State of Arkansas. The citizen soldier is liberty's last line of defense against crime, terror and tyranny.**

§§**6. Further,** in light of the above, We again hereby notice all prosecutors of the obligation and duty imposed on them by ***Brady v. Maryland,* 373 U.S. 83 (1963), to present ALL the facts and evidence.**

§§**7. Further, We cite and claim the full benefits and protections of the following:**

<u>Geneva Convention relative to the Treatment of Prisoners of War</u>
Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of
International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August, 1949
entry into force *21 October 1950*

§§§**1.** Under the provisions Part One, Article 4, of The Geneva Convention, the Militia of Washington County, Arkansas, constitutes a legitimate "armed Force", "militia", and "volunteer corps", and meets all the requirements and definitions of said terms as set forth therein.

§§§**2.** **Further**, the Militia of Washington County, Arkansas is duly constituted under the Constitution for the United States of America and the Constitution of the State of Arkansas.

§§§**3.** **Further**, The United States is a lawful signatory to this Convention and is one of the "High Contracting Parties" thereunder.

§§§**4.** **Accordingly**, any attacks upon the Militia of Washington County, Arkansas, with the intent to arrest or to disarm same under the provisions of the National Firearms Act of 1934 or laws pursuant thereto, said Militia of Washington County, Arkansas, being a lawful defense force of the United States and the State of Arkansas, under the provisions and definitions of the Geneva Convention, The Constitution for the United States of America, and the Constitution of the State of Arkansas, shall be considered an "act of war" and "levy of war" against the lawful sovereigns We The People of United States and the State of Arkansas, and the lawful Constitutions thereof.

§§§**5.** **Any person or persons** participating, however remotely, in such conspiracy to overthrow the lawful constitutions, governments, and lawful armed forces and militia of the United States and the State of Arkansas, do thereby become guilty of treason, levy of war, conspiracy and attempting to overthrow the lawful governments and constitutions of the United States and the State of Arkansas, and enemies of We The People of the United States and the State of Arkansas.

§§§**6.** **Accordingly**, the Militia of Washington County, Arkansas is within its rights and duties to oppose, by whatever means appropriate, such attempt to overthrow a lawful body of these United States of America and the State of Arkansas.

Claim 13A. We claim Article 2, Section 18, of the Constitution of the State of Arkansas:

"The General Assembly shall not grant to any citizen or class of citizens privileges or immunities which upon the same terms shall not equally belong to all citizens."

§§**1.** **Therefore**, WE, THE CITIZENS OF ARKANSAS, as constituting the Militia, a valid law enforcement and military armed force of the

State of Arkansas, claim the same privileges and immunities, in regard to the kind of arms afforded the organized State Militia and National Guard.

§§**2.** Therefore, among the following kinds of Arms, which have been in common use by the militia and military forces of the various nations of the world for centuries, We claim, without limitation, the right to keep and bear the following kinds of arms:

For the Infantry: Any rifle, pistol, or shotgun, by any name known, whether automatic or semi-automatic, of past, present, or future design, regardless of size, caliber, barrel length, or magazine capacity.

For the Cavalry: Including, but not limited to light or heavy armored vehicles, self-powered mobile artillery, and any fixed or rotary winged aircraft.

For the Artillery: Any cannon, all types of rocketry, anti-tank weapons, mortars, recoilless rifles, or any other such weaponry used for bombardment.

§§**3.** Note: The above claim, regarding the kinds of arms to be kept and borne by the people and the militia of the Sovereign State of Arkansas for their common defense, was formally submitted to the Governor of the State of Arkansas, the Honorable Mike Huckabee, in a document titled and styled "Notice to the Governor of Arkansas", by registered mail, on August 30, 2002, which the Governor let stand without objection. (Filed for Record August 27, 2002, Misc. Personal Book 3, Pages 623-625, Washington County Circuit Clerk Office, Washington County, Arkansas.)

Claim 14A. We claim Article Four, Sections One and Two, of the Constitution of the State of Arkansas:

"**Section One.** The powers of the government of the State of Arkansas shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another.

"**Section Two.** No person, or collections of persons, being one of these departments, shall exercise any power belonging to either of the others, except in the instances hereinafter expressly directed or permitted."

§§**1. Further, We claim** that interference in the carrying out of the functions of the aforesaid Constitutional powers by State or federal

agencies shall be probable cause for arrest for attempting to "overthrow the government of the State of Arkansas".

§§**2. Further, We claim** that Articles Four and Eleven of the Constitution of the State of Arkansas are, in fact, violated by enforcement of The National Firearms Act of 1934 which causes a usurpation and infringement of the aforesaid distinct powers of government.

Claim 15A. We claim Article Six, Section Six, of the written Constitution of The State of Arkansas, which declares, "The Governor shall be commander in chief of the military and naval forces of this State, except when they shall be called into the actual service of the United States", to be a prohibition and defense against all interference and prosecutions of the militia under the provisions of the National Firearms Act of 1934, and Title 5, Chapter 73, of the Arkansas Code, by State and federal agencies.

§§**1. Further, We claim** that interference in the carrying out of the functions of the aforesaid Constitutional powers by State or federal agencies shall be probable cause for arrest for attempting to overthrow the government of the State of Arkansas, obstructing government operations, Treason, and Levy of War against the State of Arkansas. Interference with the lawful mission of the militia and its officers, or any attempt to seize the Arms or property of the militia, shall be grounds for arrest and prosecution under the following provisions of the Arkansas Code:

The Arkansas Code, Title 5, Chapter 51, Subchapter 2: 5-51-201, 5-51-202, 5-51-203, 5-51-204, 5-51-205, 5-51-206; Subchapter 3: 5-51-303, and 5-51-305 (Also, take note of 5-51-308); Chapter 54: 5-54-102, 5-54-106, 5-54-107, 5-54-122.

§§**2. Further, We claim that the National Firearms Act of 1934, as well as The Arkansas Code, Title 5, Chapter 73, cannot be lawfully applied to law abiding citizens and members of the constitutional militia, and to attempt to do so violates all of the above Chapters and Sections of the Arkansas Code, and constitutes Treason against, Levy of War against, obstruction of, and attempted overthrow of, the lawful government of We The People and State of Arkansas.**

Claim 16A. We claim the Preamble of the written Constitution of The State of Arkansas, Article 1, and Article Two, Sections 1 through 29, and Article Eleven thereof, to be a prohibition of, and defense against, all unlawful prosecutions of militia personnel by State or federal government under the provisions of the National Firearms Act of 1934, and Title 5, Chapter 73, of The Arkansas Code.

We claim the NFA and Arkansas Code, Title 5, Chapter 73, do not apply to the militia, or the Arms of the militia.

Claim 17A. We Claim that the National Firearms Act of 1934 is repugnant to Article Four, and void thereby, for denying the State of Arkansas a Republican form of government, by legislating within its borders, and invalidating a proper Arkansas Supreme Court Decision, *Wilson v. State*, 33 Ark. 557, at 560, 34 Am. Rep. 52 {1878}, which declares **"To prohibit a citizen from wearing or carrying a war arm...is an unwarranted restriction upon the constitutional right to keep and bear arms. If cowardly and dishonorable men sometimes shoot unarmed men with army pistols or guns, the evil must b e prevented by the penitentiary and gallows, and not by a general deprivation of constitutional privilege." - WILSON V. STATE, 33 ARK 557, AT 560, 34 AM. REP.. 52, AT 54. (1878).**

Claim 18A. We, the Militia of Washington County, Arkansas, in fulfilling our Constitutional duty to uphold and support the laws of the free State of Arkansas, do formally claim and declare by the authority of the aforesaid Constitutions, on behalf of the People of the State of Arkansas, that the **National Firearms Act of 1934 states no claim for which relief can be granted.**

§§**1. Further**, "an unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed". *Norton vs. Shelby County* 118 US 425 p.442

§§**2. Further, We claim** the aforesaid Sixteenth American Jurisprudence, Second Edition, section 256.

Claim 19A. We claim, by the authority of Article Two, section 14, of the Constitution of the State of Arkansas, that anyone who owes allegiance to, or is bound by the Constitution of The State of Arkansas, and shall have aided and abetted the enemies of the people thereof by attempting their further disarmament, shall have committed an act of treason, levy of war, and other high crimes and misdemeanors, and shall be subject to Citizen's Arrest for a felony,

§§**3. Further, Treason:** Arkansas code annotated 5-5-201.

(a) Treason against the state shall consist only in levying war against the state or adhering to its enemies, giving them aid and comfort.

(b) No person shall be convicted of treason unless on the testimony of two (2) witnesses to the same overt act or his own confession in open court.

(c) Treason is punishable by death or life imprisonment without parole pursuant to 5-4-601--5-4-605, 5-4-607, and 5-4-608.

§§**4. Further**, Definition of "Levy of War", Black's Law Dictionary, Sixth Edition, 1990:
"In criminal law, the assembling of a body of men for the purpose of effecting by force a treasonable object; and all who perform any part, however minute, or however remote from the scene of action, and who are leagued in the general conspiracy, are considered as engaged in levying war, within the meaning of the constitution. Art. III, U.S. Constitution. *See also* insurrection.
"The words include forcible opposition, as the result of a combination of individuals, to the execution of any public law of the United States; and to constitute treason within the federal Constitution, there must be a combination of individuals united for the common purpose of forcibly preventing the execution of some public law and the actual or threatened use of force by the combination to prevent its execution. *Kegerreis v. Van Zile*, 180 App, Div. 414, 167 N.Y.S. 874, 876."

§§**5. Further:**
1. The Militia of Washington County Arkansas is under the jurisdiction and protection of the Constitution, the Legislature, and the Governor of the State of Arkansas. Thus constituted, and while operating as a lawful body and agent of the People and State of Arkansas, the Militia of Washington County, Arkansas, both individually and collectively, by Constitutional definition, cannot in any way be construed as a "criminal" or "terrorist" entity or organization under the "Patriot Act" or any other body or code of law. It is not possible for Citizens, exercising their God-given, unalienable rights, to become thereby, "criminals" or "enemies of the state", as the state has no power over these rights whatsoever, to either grant, restrict, impede, or deny, nor does ANY other body or agency, as they come from Almighty God. This truth is the very foundation of our Constitutional Republican form of government, and is the primary evidence and fact cited in the Declaration of Independence. The Constitution for the United States of America, and the first Ten Amendments formally known as "The Bill of Rights", specifically charge government with the DUTY of PROTECTING these unalienable rights, and all agencies and agents of government, as SERVANTS of WE THE PEOPLE, are bound by oath to carry out this duty. When a government fails to carry out its duty to protect these rights, when in fact it impairs, infringes, impedes, restricts, and "criminalizes" the very exercise of these rights, then that government has become the very definition of TYRANNY!
2. The Militia of Washington County Arkansas is NOT a commercial or

taxable entity, but a lawful Constitutional representative and agent of the People and State of Arkansas. It is, in fact, nothing less than WE THE PEOPLE defending our liberty and God-given, unalienable rights. The Second Amendment of The Constitution for the United States of America is a specific charge and warning to GOVERNMENT not to INFRINGE upon the right of WE THE PEOPLE to "keep and bear arms" as our FUNDAMENTAL PROTECTION against tyranny and conquest. The Constitution of the State of Arkansas, Article Two, Sections Five and Twenty Nine, guarantees the exact same right to "keep and bear arms", and secures this right against government infringement FOREVER.

3. Therefore, the Militia of Washington County Arkansas does not fall under the jurisdiction of the federal government, or any agency thereof, unless called into LAWFUL federal service by the Congress of the United States of America. See: U.S. Constitution, Article I, Section VIII.
4. Therefore, ANY attempt by agents of the federal government to breach the jurisdiction of the State of Arkansas and attempt to disarm the Militia of Washington County Arkansas, individually or mustered, or to deprive or impair its use of those arms of common military utility necessary to the carrying out of its Constitutionally ordained duty and mission, shall constitute a LEVY OF WAR upon the People, the Flag, and the State of Arkansas.

5. **Therefore, any federal judge, federal prosecutor, or federal agents involved in an attempt to disarm the Militia of Washington County Arkansas, by the issuing of warrants, or the execution of any orders for the aforesaid purpose, shall be guilty of conspiracy to levy war against the People, the Flag, and the State of Arkansas, and shall be subject to arrest on a charge of treason against same.**

- end Part 4 -

Part 5. Claims based on the Authority of The Articles of The Constitution for the United States of America

The Preamble to the Constitution for the United States of America

"We the People of the United States of America in Order to form a more perfect Union, establish Justice, insure domestic tranquillity, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America".

Claim. 1B We claim for the people of State of Arkansas, by the authority of the Constitution for the United States of America, Article IV, the guarantee of a republican form of government.

§§**1. Further**, **We claim** that the National Firearms Act of 1934 is repugnant to Article IV of the Constitution for The United States of America and void thereby, for denying to the people their republican form of government by usurping the lawful powers of the State and the people, by impairing and diminishing the State's means of security by unlawful federal legislation that infringes and restricts the people's "right to keep and bear Arms."

§§**2. Further**, for unlawfully fining and imprisoning the citizenry and denying them their independence, rights, and property, thereby disarming the State and reducing the people to conquered subject status.

§§3. Further, for falsely criminalizing, restricting, redefining, and taxing, through unconstitutional executive, legislative, and judicial activism, orders, rulings, codes, and acts, the right to "keep and bear Arms," an unalienable right guaranteed by Almighty God to We The People, and, through the agency of the Lawful Representatives of We The People, further secured against violation and infringement by the ratification of the Bill of Rights, especially the Second and Tenth Amendments, the Constitution for the United States of America, and the Constitution of the State of Arkansas, thus denying, subverting, and corrupting our Republican form of government.

Claim. 2B. We claim that anyone who has sworn allegiance to, and is bound by the Constitution for the United States of America, and shall have aided and abetted the enemies of the people thereof by

attempting their further disarmament, shall have committed an act of treason and other high crimes and misdemeanors against the United States of America, Article III, Section 3, of the aforesaid Constitution, and shall be subject to arrest for treason.

Claim. 3B. We claim Article Five of the written Constitution for the United States of America: "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or on the application of the legislature of two thirds of the several States, shall call a convention for proposing amendments which, in either case, shall be valid for all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress..."

Claim 4B. We claim by the authority of Article VI, paragraph Two, that "This Constitution, and the laws of The United States which shall be made in pursuance thereof: and all treaties made or which shall be made under the Authority of the United States, shall be the Supreme Law of the land and the judges in every State shall be bound thereby, anything in the laws of any State to the contrary notwithstanding".

Claim.5B. We claim that the national Firearms Act of 1934 is repugnant to Article I, Section Eight of the Constitution for the United States of America, which We established and ordained to promote the useful arts and sciences, by interfering with a citizen's right to honestly toil and create in the lucrative field of "firearms" inventing without fear or threat of punishment by the federal government.

Claim. 6B. We claim that this document provides ample and sufficient evidence of the unconstitutionality of the National Firearms Act of 1934, and that such Act is therefore repugnant to Article II of the Constitution for the United States of America, and thereby makes the oath of Constitutional support without effect.

Claim. 7B. We claim that "no article of the Constitution is to be with out effect", as declared by the Supreme Court, *Marbury V. Madison.*

§§**1. Further**, all inferior courts are bound thereby.

Claim. 8B. We claim that "an act repugnant to the Constitution for the United States of America is null and void", as declared by the Supreme Court in *Marbury V. Madison*.

§§**1. Further**, all inferior courts are bound thereby.

Claim. 9B. We claim that no part of the Constitution for the United States of America, which is the Supreme Law of the Land, can lawfully be amended or infringed by the Supreme Court of the United States, the Supreme Court of any of the States, or any judicial branch of federal or state government.

Claim. 10B. We claim that without following the proper amendment and ratification process, as specified in Article V of the Constitution for the United States of America, no part of the Constitution for the United States of America, which is the Supreme Law of the Land, can be lawfully altered, infringed, violated, made without effect, or signed away by treaty or any spurious legislative act.

§§**1. Further**, **We claim** that the Bill of Rights is intended to be inviolate forever as is self-evident from the very language of the Preamble of the Bill of Rights.

Claim. 11B. We claim that no part of the Constitution for the United States of America, which is the Supreme Law of the Land, can lawfully be amended, impaired, violated, or infringed by the United Nations, World Court, or any other foreign or international entity.

- end of part 5 -

Part 6. Claims based on the Authority of The Bill Of Rights -
First Ten Amendments of the U.S. Constitution

The Preamble of The Bill of Rights,
Effective December 15, 1791

"The conventions of a number of the States having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added. And as extending the ground of public confidence in the Government, will best insure the beneficent ends of its institution."

Claim. 1C. We claim for the Bill of Rights all the same protections and validity as the Constitution for the United States of America to which it is amended, and that Claims 7B, 8B, 9B, 10B, AND 11B in the previous section apply especially to the Bill of Rights. The Bill of Rights is, therefore, the Supreme Law of the Land, and CANNOT, under ANY circumstances, be made without effect, and that all laws contrary thereto are null and void.

Claim 2C. We claim that Amendments One Through Ten, known as the "Bill of Rights" are an expression of our most deeply held moral, political and religious beliefs and convictions under Almighty God as set forth through the Holy Bible, and perfectly exemplified and expounded through the words and example of His Only Begotten Son, Our Lord and Savior, Jesus Christ. Accordingly, all of the violations of the Bill of Rights by the National Firearms Act of 1934, enumerated in Claims 1B through 11B, are a violation of our moral and religious convictions and the free exercise thereof, and thus a violation of the First Amendment of the Constitution for the United States of America.

We cite and Claim the following:

§§**1. The Preamble to the Written Constitution of the State of Arkansas:**

"We, the people of the State of Arkansas, grateful to Almighty God for the privilege of choosing our own form of government, for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and posterity, do ordain and establish this Constitution." Adoption Proclaimed October 30, 1874.

The Preamble of the Constitution of the State of Arkansas, therefore, clearly and unequivocally states that our form of government and our unalienable rights are established in gratitude to, and under the Providence and Power of, Almighty God, and are therefore an expression of our most deeply held religious convictions.

§§**2. The First Amendment of the Constitution for the United States of America:**

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

We claim, therefore, that the Congress of the United States, in passing the National Firearms Act of 1934, violated our most deeply held religious convictions by infringing upon the free exercise of our Christian religion through attempting to deny and impede the constitutionally protected right to the Arms that WE THE PEOPLE deem necessary to our defense and the defense of our republican form of government, defense of our religious liberty, defense of property, and other rights, both unalienable and those others retained by We The People.

§§**3. Article Two, Section 24, of the Constitution of the State of Arkansas:**

"All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can, of right, be compelled to attend, erect or support any place of worship; or to maintain any ministry against his consent. No human authority can, in any case or manner whatsoever, control or interfere with the right of conscience; and no preference shall ever be given, by law, to any religious establishment, denomination or mode of worship above any other."

We claim, that the Congress of the United States, in passing the National Firearms Act of 1934, has directly interfered with, and impeded, our "right of conscience" and "right to worship Almighty God according to the dictates of their own consciences"

§§**4. Article Two, Section 2, of the Constitution of the State of Arkansas:**

"All men are created equally free and independent, and having certain inherent and inalienable rights, amongst which are those of

enjoying and defending life and liberty; of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

§§§**1. We claim**, that the Congress of the United States, in passing the National Firearms Act of 1934, has directly interfered with, and impeded the rights of We The People to 'enjoy and DEFEND life, liberty, and property, and the retention and acquisition thereof', and has therefore violated our most deeply held religious convictions, right of conscience, our freedom of religion, as well as those unalienable rights and other rights retained by We The People. (See all other Claims and statements in this document enumerating said violations.)

§§§**2. Further**, we claim the theft of our property "Arms" by the government of the United States acting under the provisions of, and in pursuance of, the National Firearms Act of 1934, as well as other "gun-control" schemes designed to deprive We The People of their lawful property "Arms", and to deprive, infringe, and impede the unalienable right of We The People "to keep and bear arms", such also being a violation of our moral conscience and most deeply held religious convictions and freedom of religion.

The Challenge to Follow the Colors.

"Since the dawn of civilization, warfare has played a major role in the affairs of mankind (Gen 4:22). The Bible testifies to this fact, not only by prophecy (Gen. 3:15; Matt. 24:6-8; Rev. 6:24), but also by historic commentary. A great number of the inspired writers of the Canon utilized martial idioms and metaphors to express doctrinal truths. It is significant, therefore, that the pursuit of the epitome of spiritual maturity should be described in the Scriptures in terms of military vernacular." – Follow The Colors, R.B. Thieme, Jr. R.B. Thieme, Jr. Bible Ministries, Houston, Texas. (Robert B. Thieme, Jr. is pastor of Berach Church, Houston, Texas. His distinguished academic background includes the University of Arizona Phi Beta Kappa) and Dallas Theological Seminary (Summa Cum Laude). His graduate studies were interrupted by World War II military service during which he rose to the rank of lieutenant colonel in the Army Air Corps.)

We cite the following passages from The Holy Bible, 1611 KJV, as source Scripture (but by no means an exhaustive enumeration), for our Christian Convictions:

§§**1.** "In the beginning God created the heaven and the earth." – Genesis 1:1. Here, The Word of God declares that God is Creator of

all that has been, all that is, and all that ever will be.

§§**2.** "I am Alpha and Omega, the beginning and the end, the first and the last. Blessed are they that do his commandments, that they may have right to the tree of life, and may enter in through the gates of the city." – Revelation 22:13,14. Here, The Word of God declares that God is the Lord of all time, the Supreme Lawgiver, and the Judge who determines who shall "have right to the tree of life, and may enter in through the gates of the city."

§§**3.** "I, even I, am the Lord; and beside me there is no saviour." – Isaiah 43:11. "Yea, before the day was I am he; and there is none that can deliver out of my hand: I will work, and who shall let it?" – Isaiah 43:13. "Thus sayeth the Lord the King of Israel , and his redeemer the Lord of hosts; I am the first, and I am the last; and beside me there is no God." – Isaiah 44:6. Here, The Word of God declares that there is no other God beside Him, none can deliver out of His hand, and there is none that can thwart His work and will.

§§**4.** "So God created man in his own image, in the image of God created he him; male and female created he them. And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth, and subdue it: and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth." – Genesis 1:27,28. Here, The Word of God declares that man is precious in His sight, made in His own image, and is to be industrious, social, civilized, and an owner of property.

§§**5.** "And the Lord said unto Cain, Where is Abel thy brother? And he said, I know not: Am I my brother's keeper?. And He said, What hast thou done? the voice of thy brother's blood crieth unto me from the ground. And now art thou cursed from the earth, which hath opened her mouth to receive thy brother's blood from thy hand;" – Genesis 4:9-11. Here, Word of God declares that we ARE our brother's keeper, and that God will hold us guilty if his blood be on our hands.

§§6. "Thou shalt not kill." **-** Exodus 20:13. (The Hebrew word translated as "kill" in the KJV is "ratsach," meaning "murder." Strong's #7523) Here, The Word of God declares that we are forbidden to take a human life without just cause. Murder is the "unlawful" and "unjustified" taking of a human life. In this One Great Commandment of the Almighty God, we find the Primary Law of all Human Interaction and Society. The Right and the Duty to Protect and Defend Life thus comes DIRECTLY to EACH AND EVERY MAN from Almighty God, and we CANNOT surrender this Unalienable Right and Duty to ANNYONE, as we shall have to give account PERSONALLY and

INDIVIDUALLY before His Judgement Seat.

§§**7.** "Thou shalt not steal." – Exodus 20:15. Here, The Word of God declares that we may not take from another (by stealth, deception, unlawful means, threat, or force) property that is not rightfully ours.

§§**8.** "And ye shall cry out in that day because of your king which ye shall have chosen you; and the Lord will not hear you in that day." – 1 Samuel 8:18. In 1 Samuel, Chapter 8, The Word of God teaches us the danger of earthly kings.

§§**9.** "Now there was no smith found throughout all the land of Israel: for the Philistines said, Lest the Hebrews make them swords or spears:" – 1 Samuel 13:19. Here, The Word of God tells how the Hebrews were without Arms to defend against the Philistines, who ruled over and plundered them at will.

§§**10.** "And it came to pass from that time forth, that the half of my servants wrought in the work, and the other half of them held both the spears and the bows, and the habergeons; and the rulers were behind all the house of Judah. They which builded on the wall, and they that bare burdens, with those that laded, every one with one of his hands wrought in the work, and with the other hand held a weapon. For the builders, every one had his sword girded by his side, and so builded. And he that sounded the trumpet was by me." - Nehemiah 4:16-18. Here, The Word of God tells the story of the rebuilding of the walls for the defense of Jerusalem. The men worked with their weapons by their side, and watchmen stood on the walls to sound the alarm.

§§**11.** "I must work the works of him that sent me, while it is still day: the night cometh, when no man can work. As long as I am in the world, I am the light of the world." – John 9:4,5. Words of Jesus Christ, the only begotten Son of the Father. Here, Jesus warns of the darkness that will come into the world after he is no longer with his disciples. They are to be prepared for warfare, both physical and spiritual.

§§**12.** "Think not that I am come to send peace on earth: I came not to send peace, but a sword." – Matthew 10:34. Words of Jesus Christ, the only begotten Son of the Father. Here, Jesus warns us that we are at war with the forces of evil.
§§**13.** "For we wrestle not against flesh and blood, but against principalities, against powers, against rulers of the darkness of this world, against spiritual wickedness in high places." – Ephesians 6:12. Here, the real enemy is named.

§§**14.** "And they worshipped the dragon which gave power unto the beast: and they worshipped the beast, saying, Who is like unto the beast? who is able to make war with him?" – Revelation 13:4. Here, the Word of God tells us in no uncertain terms that Satan will use war to destroy God's people.

§§**15.** "And it was given unto him to make war with the saints, and to overcome them: and power was given him over all kindreds, and tongues, and nations. And all that dwell upon the earth shall worship him, whose names are not written in the book of life of the Lamb slain from the foundation of the world. If any man have an ear, let him hear. He that leadeth into captivity shall go into captivity: he that killeth with the sword must be killed with the sword. Here is the patience of the saints." Revelation 13:7-10. Here, in the Book of Revelation of St. John the Divine, the Word of God describes the age-old war between Satan and his followers, and Jesus Christ and His followers.

§§**16.** "The Earth is the Lord's, and the fullness thereof; the world, and they that dwell therein." Here, the Word of God declares the Absolute Sovereignty of Almighty God over the world and all that dwell therein. God's Laws, and the unalienable rights and duties that are set in place by God, cannot be overturned by ANY device of man or any human institution.

§§**17.** From the above passages of the Holy Bible, the basic principles of our Christian Faith are readily deduced and apparent. These same principles form the basis for the following statements:

§§§**1.** "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, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness." – from the Declaration of Independence, July 4, 1776.

§§§**2.** "We, the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." – Preamble of the Constitution for the United States of America.

§§§**3.** "We, the people of the State of Arkansas, grateful to Almighty God for the privilege of choosing our own form of government, for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to our selves and posterity, do ordain and establish this Constitution." – Preamble of the Constitution of the State of Arkansas.

§§§**4.** "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." - Second Amendment, U.S. Constitution.

§§§**5.** "The citizens of this State shall have the right to keep and bear Arms for their common defense." – Article Two, Section Five, Arkansas Constitution.

§§§**6.** Regarding Article Two of the Arkansas Constitution, known as the "Declaration of Rights," Section Twenty Nine of the Article states:

"This enumeration of rights shall not be construed to deny or disparage others retained by the people and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government, and shall forever remain inviolate; and that all laws contrary thereto, or to the other provisions herein contained, shall be void." – Article Two, Section Twenty Nine, Arkansas Constitution.

§§**18. Without Arms, we could not multiply, as We would be unable to defend our families against both beast and other men.**

Without Arms, We could not have dominion over the earth and every living thing that moveth upon it.

Without Arms, We could not subdue the earth, conquer the wilderness, build our cities, protect our industry and civilizations, or rise above the level of the beast.

Without Arms, We could not defend against the murderer and the thief.

Without Arms, We could not defend against war and invasion, against plunder, rape, and slaughter.

Without Arms, We could not defend against the outlaw, the warlord, the tyrant, or the unjust king.

Without Arms, We could not secure Liberty, Justice, Peace, or Domestic Tranquility.

Without Arms, We could not defend our form of Government which we have chosen.

Without Arms, We could not defend our religious liberty.

Without Arms, We could not defend and uphold the Laws of God.

Without Arms, We could not defend the moral against the immoral.

Without Arms, We could not defend and uphold the Laws of Society.

Without Arms, We could secure nothing for our selves or our posterity.

§§**19. The "right to keep and bear Arms," and the "property," "Arms," are the "unalienable" right, duty, and lawful property of We The People, such right and property coming to every man individually from Almighty God. Thus, We are not permitted by the Laws of God as set forth in His Word, The Holy Bible, or the moral conscience which He has implanted within every man to instruct and secure his Salvation, to surrender this right, duty, and property to ANYONE, as we shall have to answer before His Judgement Seat for all that is given into our care and charge for the purpose of carrying out His will on earth.**

§§**20. Further,** it is not government, but We The People that mine the ore to run the foundries. We build the bridges to span the mighty rivers. We lay the rails that cross the American continent. We design and build ths ships that travel the high seas. We build the planes that circle the earth. We plant the fields of grain. We build the cities. We patent the inventions that harnesss the powers that Almighty God has set in order. We build the factories that produce the goods for our well being. It is We The People that meet and defeat our godless adversaries on their own ground. We build the ships, planes, tanks, and guns for our Armed Forces, which We Ourselves man. We first put a man on the moon and We built the ship that carried him there. We rid Ourselves of a tyrant and We instituted a new form of government under Almighty God, with the Lord Jesus Christ as Our Lawgiver and Savior. We wrote the Articles that limit the scope of government's conditionally delegated administrative power, and We have the plenary right to alter or abolish the same. It is We The People that declared in no uncertain terms that "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." It is We The People that require an Oath or affirmation of Constitutional support as a condition to take office. It is We The People that have given fair warning not to misconstrue or abuse the power of any office, to levy war against us. It is We The People acting in Our plenary power that do hereby declare a self evident infringement of that unalienable right and do publically reclain that sacred "right to keep and bear Arms" back to its rightful original owners, We The People. We declare that for the ten mile square District of Columbia, having little more than five hundred elected subjects, to rebel and threaten war and disarmament against the several American States and take up Arms against a continent of proven warriors is an act that would be legally admissible grounds for forcible admittance to an institution for the criminally insane.

Federal Government, you are hereby noticed!

§§**21. Therefore, We The People have, in no uncertain terms, PROHIBITED the Congress of the United States of America, as well as the General Assembly of the State of Arkansas, from legislating in this field reserved to Almighty God alone, The Supreme Lawgiver of All Creation.**

§§**21. Further, We claim that the legislature of the United States government, by the passage of the National Firearms Act of 1934, has violated the First Amendment through its attack upon the Second Amendment and our "right to keep and bear Arms." To submit to such an Act would require us to deny and abandon our Christian Beliefs and Duty, and this we CANNOT even consider.**

Whereas Almighty God is eternal, and government is temporal and itself subject to Almighty God, offering no remedy from His Judgement, We must obey God rather than man.

Claim 3C. We claim the Second Amendment to the Constitution for the United States of America to be properly ratified by lawful "Constitutional Convention", and the scope thereof to be undiminished, and in full force, in pursuance of the aforesaid Article V and Article VI of the Constitution for the United States of America.

"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". – Second Amendment.

§§**1. Established Principles of Law.**

"On every question of construction (of the Constitution) let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed." THOMAS JEFFERSON, letter to William Johnson, June 12, 1823, The Complete Jefferson, p322

§§§**1. Further**, we cite the following well established legal principles:

"***Verba aliquid operari debent, verba cum effectu sunt accipienda.*** Words are to be taken so as to have an effect." Black's Law Dictionary, Sixth Edition.

"***Verba debent intelligi cum effectu ut res magis valeat quam pereat.*** Words ought to be understood with effect, that a thing may rather be preserved than destroyed." Black's Law Dictionary, Sixth Edition.

"***Verba intentioni, non e contra, debent inservire.*** 8 Coke, 94. Words ought to be made subservient to the intent, not the intent to the words. Bailey v. Abington, 201 Ark. 1072, 148 S.W.2d, 176,179." Black's Law Dictionary, Sixth Edition.

§§**2. The Language of the Second Amendment**

The definition of the words used in the Second Amendment as taken from The Oxford Universal Dictionary on Historical Principals, Third Addition with Addenda,and from the Constitution of the State of Arkansas.

"**A**"	" Kind, manner, sort".
"**Well**"	"In accordance with good or high standard of conduct or morality; in a way which is morally good; 1, Satisfactorily in respect of conduct or action. 2. In such a manner as to constitute good treatment or confer a benefit; considerately; in a kind and friendly manner; with favor or welcome. With equanimity or good nature; without resentment. With courage and spirit; gallantly, bravely".
"**Regulated**"	(as modified by "well") "To control, govern, or direct by rule or regulations; to subject to guidance or restrictions; to be subject to guidance or restrictions; ...To bring or reduce { a person

or body of persons} to order".

"Militia" "A citizen army as distinguished from a body of professional soldiers. U.S. The whole body of men legally amenable to military service 1777.

{The Constitution of The State of Arkansas, definition}

Article 11, Section 1. The Militia shall consist of all able bodied male persons, residents of the State, between the ages of eighteen and forty five years, except such as may be exempted by the laws of the United States or this state, and shall be organized, officered, armed and equipped and trained in such manner as may be provided by law.}

Section 2.Volunteer companies of infantry, cavalry or artillery may be formed in such manner and with such restrictions as may be provided by law.

Section 3.The volunteer and militia forces shall in all cases (except treason, felony and breach of the peace} be privileged from arrest during their attendance at muster and the election of officers, and in going to and returning from the same.

Section 4. The Governor shall, when the General Assembly is not in session, have power to call out the volunteers or militia, or both, to execute the laws, repel invasions, repress insurrection and preserve the public peace in such manner as may be authorized by law.

"Being" "Existing, present."

"Necessary" "Indispensable, requisite, needful; that cannot be done without. 2. Inevitably determined or fixed by predestination or natural law; happening or existing by an inherent necessity. Inevitably resulting from the constitution of things or of the mind itself. Inevitability produced by a previous condition of things. Determined by force or nature of things. Enforced by another; compulsory. Of agents Impelled by the action of circumstances of the will; having no independent violation."

"To" " Expressing motion directed towards and reacting.

A state or condition attained."

"The" "Referring to an individual object. Marking an object as before mentioned or already known, or contextually particularized".

"Security" "The condition of being secure. The condition of being protected from or not exposed to danger; safety. Freedom from doubt. 2. A means of being secure. Something which makes safe; a protection, guard, defense. Grounds for regarding something as secure, safe, or certain; an assurance, guarantee."

"Of" "In the sense Belonging or pertaining to expressing possession and its converse."

"A" "Kind, manner, sort."

"Free" "Not subject as a slave is to his master; enjoying personal rights and liberty of action. 2. Of a state, its citizens, institutions, etc. Enjoying civil liberty; existing under a government which is not arbitrary or despotic, and does not encroach upon individual rights. Also not subject to foreign dominion".

"State" "a body of people occupying a defined territory and organized under a sovereign government".

"The" "Referring to an individual object. Making an object as before mentioned or already known, or contextually particularized".

"Right" "That which is consonant with equity or the light of nature; that which is morally just or due. Justifiable claim, on legal or moral grounds, to have or obtain something, or to act a certain way. A legal, equitable, or moral title or claim to the possession of property or authority. the enjoyment of privileges or immunities, etc. The title or claim to something possessed by one or more persons".

"Of" "In the sense Belonging or pertaining to expressing possessing and its converse.

"The" "Referring to an individual object. Making an object as before mentioned or already known, or

contextually particularized".

"**People**"	"The whole body of enfranchised or qualified citizens, considered as the source of power".
"**To**"	"Expressing a motion directed towards and reaching. A state or condition attained".
"**Keep**"	"Actively to hold in possession; to continue to have, hold, or possess".
"**And**"	"Side by side with, in addition to".
"**Bear**"	"To carry about with or upon one, to wear; to have. To bring forth, produce".
"**Arms**"	"Anything that a man, in his anger, takes into his hand to cast at or strike another".
"**Shall**"	"a command".
"**Not**"	"a negation or negative".
"**Be**"	"To have a place in the realm of fact, to exist; 2. To come into existence, come about, happen, take place".
"**Infringed**"	"To break, shatter, to crush; to defeat, frustrate; to invalidate. 2. To violate or break {an oath, pledge, treaty etc.}; to contravene. 3. To refute; to contradict. 4. To weaken, impair; to mitigate. 5. To break in or encroach on or upon".

§§**3. Established Principles of Construction.**

§§§**1. Further**, we cite the following well established principles and rules of judicial, statutory, legal, and constitutional construction and interpretation:

"*Exceptio firmat egulam in casibus non exceptus.* An exception affirms the rule in cases not excepted." Black's Law Dictionary, Sixth Edition.

"*Expressio unius personae est exclusio alterius.* The mention of one person is the exclusion of another." Black's Law Dictionary, Sixth Edition.

"*Expressio unius est exclusio alterius.* A maxim of statutory

interpretation meaning that the expression of one thing is the exclusion of another. *Burgin v. Forbes*, 293 Ky. 456, 169 S.W.2d 321, 325; *Newblock v. Bowles*, 170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded." Black's Law Dictionary, Sixth Edition.

"*Expressum facit cessare tacitum.* That which is expressed makes that which is implied to cease [that is, supersedes it, or controls its effect]. Thus, an implied covenant in a deed is in all cases controlled by an express covenant. Where a law sets down plainly its whole meaning the court is prevented from making it mean what the court pleases." *Munro v. City of Albuquerque*, 48 N.M. 306, 150 P.2d 733, 743.

§§§**2.** In light of the above established principles, and taking the precise words of the Second Amendment, as stated and defined above, it is immediately obvious that the "person," "persons," or "things" specified and mentioned in the operative and positive language of the Amendment, are the **"militia,"** the **"security of a free state,"** the **"right of the people to keep and bear Arms,"** and **"shall not be infringed."** The **"right"** to **"keep and bear Arms"** is specifically stated as belonging to, and the property of **"the People."** Thus, the exclusive mention of this one specific owner of the "right," in accordance with the above principles, intends the exclusion of others not mentioned. Neither the State, nor the federal government, has any "right" to "keep and bear arms." The State and federal governments are, instead, charged with the **"duty"** of bearing arms (police, military, etc.) **delegated** by We The People (through State and federal Constitutions), but they have no inherent "right" to arms protected by either the various State or U.S. Constitutions. Further, the specific stated purpose of the **"right of the people to keep and bear arms"** is to ensure, through the **"militia,"** the **"security of a free State."** The people, therefore, are to provide the "citizen soldiers" of the militia (traditionally, all able bodied adult males reporting for muster bearing their "own" arms, but may also accept women and other "volunteers.") **No other person, persons, or things, are named as comprising the "militia" other than the "people," and thus, no others are intended** by the **exclusive** language of the Second Amendment. The language is clear and unambiguous in naming the **"people"** as the **EXCLUSIVE OWNER** of the "right" to "keep and bear arms." It is the language of an **express covenant**, and all **interpretations** to the contrary which anyone,

including a court, may **imply**, are "**superceded" by the express language of the covenant, and must thereby "cease" and be of no effect.**

§§**4. Further**, there is no exception in the language of the Second Amendment excluding **ANY** kind, configuration, or class of arms, from the protection of the Amendment. **Since no exclusion or exception to the rule is given, none is intended or can be implied. Since "An exception affirms the rule in cases not excepted.", if NO cases are specifically excepted from the rule, none can, or even be implied, to exist.** The words "machine gun," "short-barreled shotgun," "short-barreled rifle," and "silenced arms" are not to be found in the Amendment anywhere, and can thus, by no legal principle of construction or interpretation, be excluded from either the definition of "arms" or the protections afforded by the Second Amendment to same.

§§**5. Further**, the positive and exclusive statement "**shall not be infringed**" (the Amendment thereby "…assumes to specify the effects of a certain provision, other exceptions or effects are excluded.") **is final and conclusive**, ending any controversy. **No exceptions are given, none can therefore be implied or intended, period. That which is not said, that which is not stated, cannot be construed or implied to be an exception to the positive rule or statement. IF SUCH WERE THE CASE, ALL LAW WOULD BE MEANINGLESS. If you say "this law cannot be broken," and you give NO exceptions, to imply from that the very opposite ("this law CAN be broken in such and such a case") is true, would be absurd! If exceptions were intended, they would have been stated.**

Now, what part of the Second Amendment do you not understand ?

§§**6. The National Firearms Act of 1934 removes certain kinds and classes of arms from the express and exclusive protections of the Second Amendment**, and **unlawfully places them within the scope of the taxation and commerce powers of Congress and under the regulatory and law enforcement powers of various federal agencies.** This is in direct opposition to the express and exclusive positive statement and language of the Second Amendment, which **lists no such exceptions, mentions no class or kind of arms to be exempt from its scope of protection against infringement**, and grants **no exceptions** or **authority** to **ANY** agency of government to **ignore** the general "rule." **Since no exceptions to the rule are given, none can be intended or implied, period!** To do so is to make the Amendment without effect and meaningless, and that is something that We The

People cannot allow, as such is the very definition of **tyranny. Further, if one Amendment can be made without effect, then ALL Articles and Amendments of the Constitution are likewise in danger!** §§**7. Further**, politicians who will deceive, distort, and lie to you about the inviolability of the Second Amendment will also lie to you about other important Constitutional and Legal matters, making all other Rights subject to abuse and infringement.

Infringers Beware!

By Competent definition and established principles of Law, The Second Amendment is hereby Proven Inviolate, Indefeasible, Invincible, and the Enforceable Supreme Law of the Land.

Claim. 4C. We claim the National Firearms Act of 1934 violates and is repugnant to the Second Amendment, and void thereby, for breaking into the scope of our right and prohibiting Arms which We have kept and borne for decades prior thereto. (*See* Bibliography and Diagrams)

§§**1. Further**, for tending to render the citizenry impotent in their military power, by the incessant assault on our own right to keep, bear, design, produce and bring forth modern Arms of the same kind in common military use at this time.

§§**2. Further**, by falsely claiming non-Militia utility of the said prohibited "firearms", and then, by criminal conversion, monopolizing and expropriating the same said "firearms" for their own benefit, financial gain, and political ends.

§§**3. Further**, for making the aforesaid Amendment to be without effect.

Claim. 5C. We claim that the Second Amendment is the law of the land as declared by Article Six of the Constitution for the United States of America, and its prohibition against infringement is to be applied uniformly and equally throughout the several states," and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding".

§§**1. Further**, all inferior courts are bound thereby

Claim. 6C. We claim The National Firearms Act of 1934 is repugnant to the Second Amendment of the Constitution for the United States of America and void thereby, for violating a direct order of the people by infringing the scope thereof, and removing certain property,

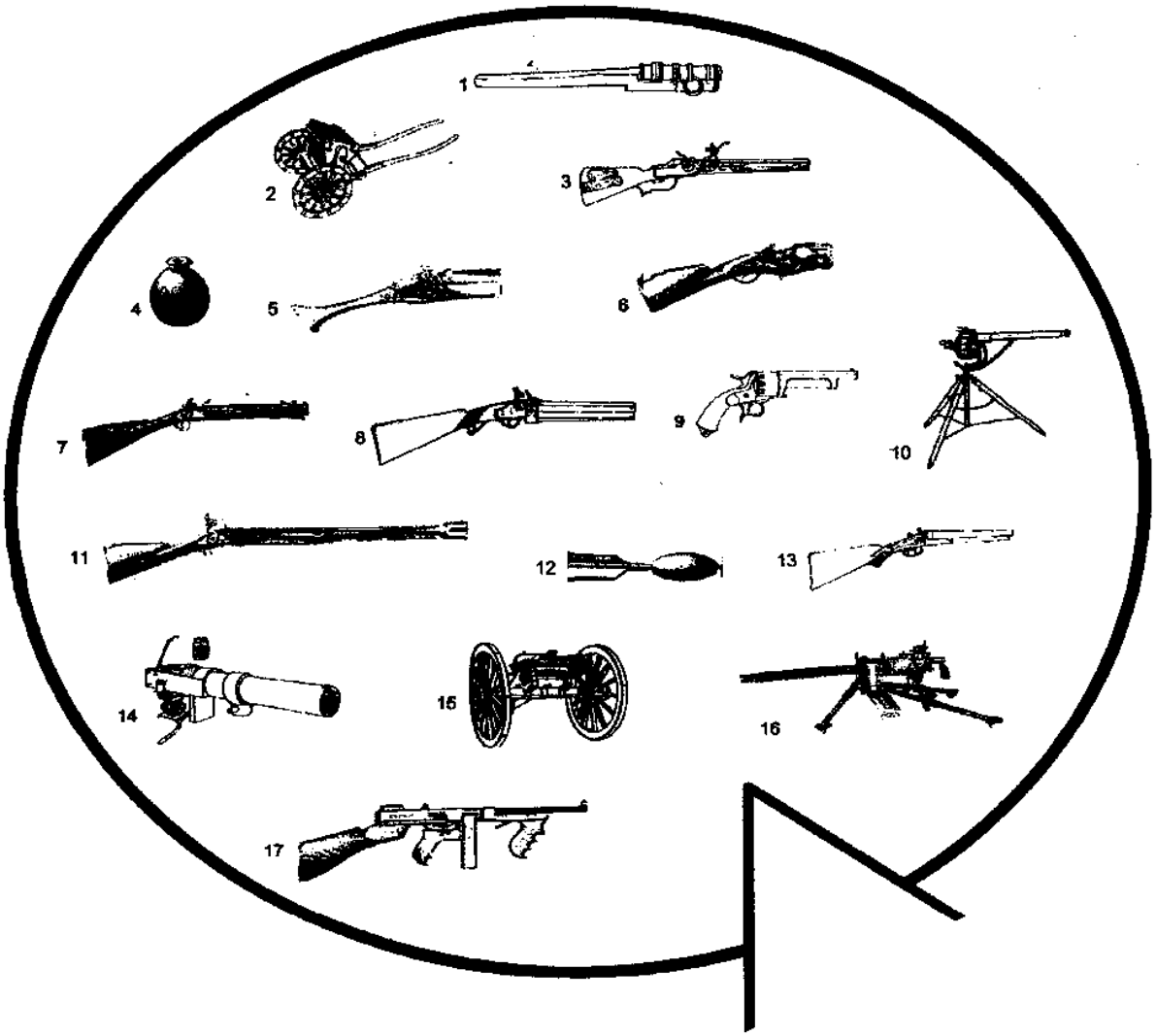
namely, the short barreled shotgun, the short barreled rifle, the machine gun and silenced arms from the scope of the aforesaid Amendment.

§§1. Graphics Showing Kinds of Military Armaments – Historical Through Present Day

The following quotations, figures, pictures, and illustrations will further rebut the erroneous claims of those who would present false and unsubstantiated evidence to all parties involved. Further this new evidence will conclusively, now and forever, void the government’s presumptions as to what are Militia "Arms", by reflecting a level of insight and sophistication in the kinds of Arms kept and borne by the authors of the Second Amendment that few would have expected.

Diagram 1.

A Representation of the Scope of the 2nd Amendment prior to the National Firearms Act of 1934.



The above kinds of Arms <u>anticipated</u> the <u>kinds</u> of Arms removed by the National Firearms Act of 1934, arms which were previously protected by the patented scope of the 2nd Amendment.

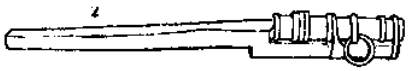
Footnotes for the Scope of the Second Amendment illustration.

1. Early hand-cannon c. 1450.
2. Organ, or volley gun c. 1670. Guns based on this principle were used up to the mid 19th century.
3. German wheellock carbine c. 1675.
4. Iron hand grenade found in Fort Ticonderoga. Typical of 18th century time-fused grenades.
5. Grenade pistol, German, late 16th century.
6. Flintlock grenade gun, European, early 18th century.
7. Blunderbuss, late 18th century, popular for defending property, ships, coaches.
8. Flintlock revolving carbine, patented in 1818 by Artemus Wheeler.
9. LeMat percussion revolver, included a small shotgun underneath the barrel, mid 19th century.
10. Puckle's gun, c. 1718 once fired 63 shots in 7 minutes.
11. Grenade launcher attached to a British flintlock carbine of 1747.
12. Ketchum's grenade, a percussion-fused type, used extensively in seige warfare during the Civil War.
13. Double barreled stage-coach guards 12 gauge shotgun, it had shortened barrels, late 19th century.
14. Montigny Mitrailleuse 1870 French had 37 barrels, fired in volleys.
15. Gatling gun 1862, hand cranked, some models had a rate of fire up to 120 rounds per minute.
16. M1919A4 caliber .30-06 used extensively by the U.S. up to the 1960's.
17. M1928 Thompson submachine gun, caliber .45 ACP used by the U.S. through WWII and into Vietnam.

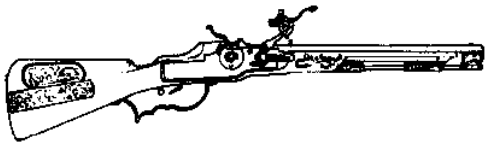
The original scope of the 2nd amendment, therefore, anticipated the same kinds of arms that were later prohibited by the National Firearms Act of 1934, and these kinds of arms were, in fact, in common use by individuals until prohibited, taxed, and restricted by the NFA on June 26th, 1934. This is an infringement to the original scope of the 2nd Amendment in its clearest form.

Illustration number 1. Shows a kind of NFA Arms borne before the time of the Revolution.

Early iron hand cannon c 1400

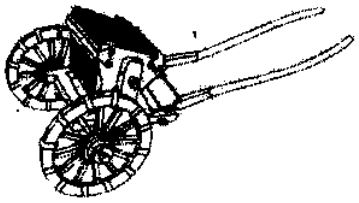


Early hand-cannon c.1450



German wheellock carbine c.1675

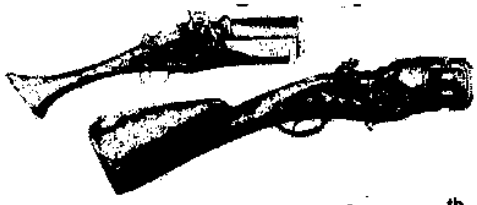
Puckle's gun, c.1718 once fired 63 shots in 7 minutes



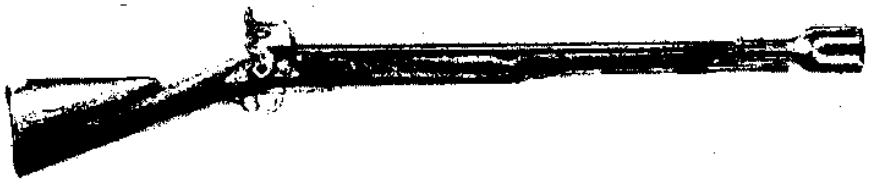
Organ, or volley gun c.1670. Guns based on this principle where used up to the mid 19th century.

Illustration number 2. Shows a kind of NFA arms from around the time of the Revlution.

Blunderbuss, late 18th century, popular for defending property, ships, and coaches

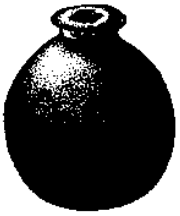


Early grenade launchers from 16th and 18th centuries



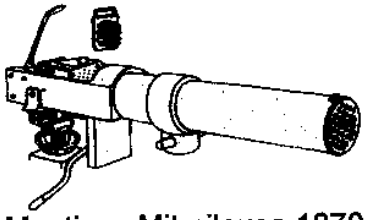
Grenade launcher attached to a British flintlock carbine of 1747

Flintlock revolving carbine, patented in1818 by Artemus Wheeler

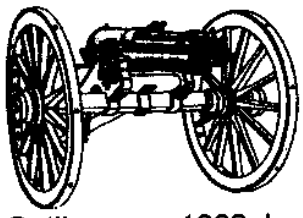


Iron hand grenade found in Fort Ticonderoga. Typical of 18th century time-fused grenades.

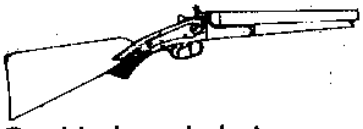
Illustration number 3. Shows development of NFA kind of Arms around the Civil War.



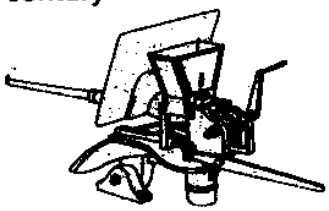
Montigny Mitraileuse 1870, French, had 37 barrels, fired in volleys



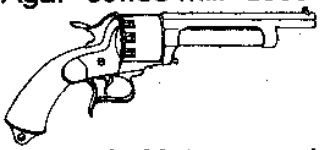
Gatling gun, 1862, hand cranked, some models had a rate of fire up to 120 rounds per minute



Double barreled stage-coach guard's 12 gauge shotgun, it had shorten barrels, late 19th century



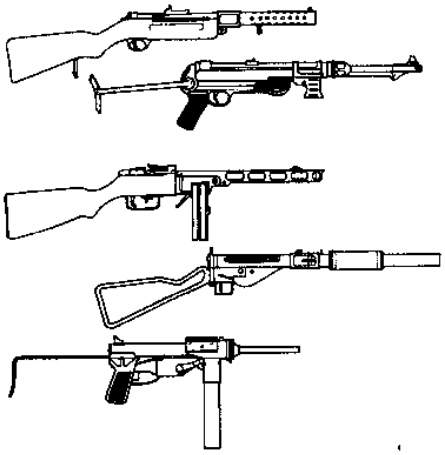
Agar "coffee mill" used steel cartridges, mid 19th century



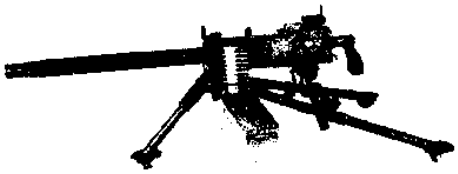
French LeMat percussion revolver, included a small shotgun underneath the barrel, mid 19th century

Ketchum's Grenade, a percussion-fused type, used extensively in siege warfare during the Civil War

Illustration number 4. Shows the kind of NFA Arms around the time of Miller.



Several various early submachine guns



M1919A4 caliber .30-06 used extensively by the US up to the 1960's

Degtyarev DTM, Soviet, caliber 7.62x54R

M1928 Thomphson submachine gun, caliber .45 ACP used by the US up to the end of WWII

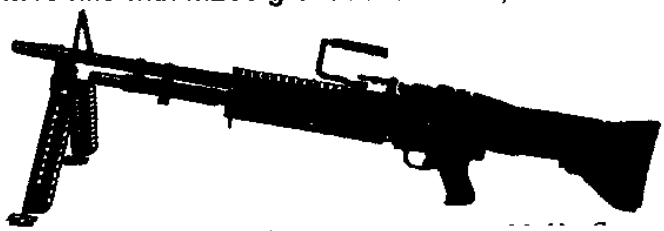
Illustration number 5. Shows the kind of NFA Arms at present.

AK47 Russian, countless variants have been made and over 3 million produced

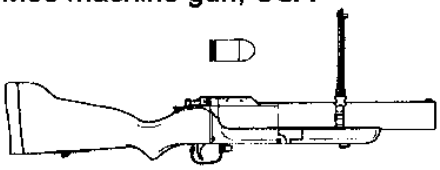
Uzi submachine gun, Israel, caliber 9mm

MP5 submachine gun, German, used by many country's police and military forces

M16 rifle with M203 grenade launcher, USA



M60 machine gun, USA



M79 Grenade launcher, USA

§§**2. Further**, **We claim** that the aforesaid arms are today in common military and police use, thereby constituting the "missing" evidence in *United States V. Miller*, evidence that makes void the claims of "non-utility" the federal government's attorneys argued in defense of the National Firearms Act of 1934 in the Miller case.

Claim. 7C. We claim legislators have knowingly abused their conditionally delegated and limited powers, which are restricted in use by the federal government; for neither the power to tax, nor the power of interstate commerce can be lawfully used to infringe the scope of the "right to keep and bear Arms" protected by the Second Amendment.

Claim. 8C. We claim that the definition of the Second Amendment, as presented in Claim 3C, to be a minimum acceptable description of the scope of the aforesaid Amendment, and shall in no way be a limitation on the scope thereof.

Claim. 9C. We claim that the purpose of the Second Amendment is to declare an absolute limit to State and federal government's legitimate power, by placing the "right of the people to keep and bear Arms", and the scope thereof, out of lawful reach of all branches of State and federal government.

§§**1. Further**, the National Firearms Act of 1934 therefore exceeds the legitimate bounds of government's legislative authority by legislating and infringing the said absolute inviolability of the right and the scope thereof.

Claim. 10C. The Fifth Amendment of the Constitution for the United States of America:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

We claim the National Firearms act of 1934 is repugnant to the Fifth Amendment of the Constitution for The United States of America and is void thereby, for unlawfully and without due process converting the Militia from its Constitutionally protected status to an unprotected "tax" and "commerce" status, and then falsely

criminalizing the Militia for keeping or bearing unregistered, untaxed **"Firearms"** of the same kind "in common use" at the time by the organized militia, police of the several states, and our armed forces of the United States of America.

§§**1. Further**, for voiding the priceless protection of the presumption of innocence afforded to all American Citizens, for "making without effect" the aforesaid Amendment's power, by making the upright Citizen indistinguishable from the criminal in the eyes of the law, thus voiding all the principles of "due process of law", perverting justice and upsetting the "domestic tranquillity".

§§**2. Further**, Also see Haynes, etc., at *Haynes v. United States*, 88 S. Ct. 722. 19 L. ED. 2 d 923 {1968}. The Supreme Court of The United States of America unanimously held that gun "registration" under the National Firearms Act of 1934 violates the Fifth Amendment's prohibition against self incrimination, when properly invoked.

§§**3. Further**, the aforesaid Court inferred that the said Fifth Amendment's prohibition would be applicable against the several States.

§§**4. Further**, for the taking and monopolizing of the people's private property, both intellectual and tangible, the priceless and unalienable right to "keep and bear" Firearms, without just compensation. (*see* definitions of "keep" and "bear" in Claim 1C, also Appendix I)

§§**5. Further**, by limiting supply, thus making "Firearms" available only to wealthy Citizens and unaffordable for a large part of the citizenry, "equal protection" and "due process of Law" are thereby effectively denied the People.

§§6. Further, we claim violation of the Fifth Amendment based on the evidence cited in Claim 10A.

§§**7. Further**, the presumption of criminal intent and purpose for the mere possession of the firearms and devices covered under the National Firearms Act of 1934, as well as other federal and state "gun-control" legislation, Acts, codes, regulations, etc., by an otherwise law-abiding citizen, is a violation of due process, the "innocent until proven guilty" tradition of American jurisprudence and Law and the Fifth Amendment, and makes a criminal out of a law-abiding citizen for possessing property that is his own by unalienable right and protected by the Second Amendment. Further, the accepted and traditional principle at Law is *"Malum non praesumitur" (Wickedness is not presumed.).* Further, mere

possession of any object, with no overt criminal act committed therewith, cannot be an act *"malum in se"*, but falls under the category *"malum prohibitum".* The Consitutionally protected God-given "unalienable rights", by definition, cannot be *"malun is se"* or *"malum prohibitum".* Further, the object, "Arms", is specifically protected as the right (keep and bear) and property (Arms) of We The People in the Second, Ninth, and Tenth Amendments of the Constitution for the United States of America.

Claim. 11C. Eighth Amendment. ***"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."***

We claim that the National Firearms Act of 1934 is repugnant to the Eighth Amendment of the Constitution for the United States of America, and is void thereby, for imposing excessive fines and penalties.

§§**1. Further**, for making that said amendment without effect.

Claim. 12C. Ninth Amendment. ***"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."***

We claim the National Firearms Act of 1934 is repugnant to the Ninth Amendment of the Constitution for the United States of America and is void thereby, for making without effect the power of the said Amendment to preserve the rights of a whole people to the unencumbered pursuit of their own happiness, in the field of the arts and sciences, of engaging in the shooting sports, the hobby of collecting, the designing, owning, keeping, bearing, producing, and bringing forth the "Firearms" unlawfully prohibited by the aforesaid Act.

§§**1. Further**, for impairing the natural progress of the useful arts and sciences in the field of producing or bearing "Firearms" that would unfold for ourselves and our posterity were it not for impairing the genius of the people by fraudulent, monopolistic limitations and prohibitions imposed thereon by, and pursuant to, the aforesaid Firearms Act.

Claim. 13C. Tenth Amendment. ***"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."***

We claim the National Firearms Act of 1934 is repugnant to the Tenth Amendment of the Constitution for the United States of America and

is void thereby, for cunningly dividing the People and the State, in an attempt to transfer to the State the peoples' right to keep and bear Arms as a State power, thus depriving We The People of our right to keep and bear Arms, thus disarming the people, and thereby elevating our agent, the State, above the principal, We The People.

§§**1. Further**, we cite the following:

> "**It has been uniformly held that the States are separate sovereigns with respect to the Federal Government** because each State's power to prosecute derives from its inherent sovereignty, preserved to it by the Tenth Amendment, and not from the Federal Government. Given the distinct sources of their powers to try a defendant, **the States are no less sovereign with respect to each other than they are with respect to the Federal Government.**" [emphasis added]

U.S. Supreme Court in:
[Heath v. Alabama, 474 U.S. 82, 89-90 (1985)]

§§2. Further,

> "Save only as they are subject to the prohibitions of the Constitution, or as their action in some measure conflicts with the powers delegated to the national government or with congressional legislation enacted in the exercise of those powers, **the governments of the states are sovereign within their territorial limits and have exclusive jurisdiction over persons and property located therein.**" [emphasis added]

[72 American Jurisprudence 2d, Section 4]
See, American Jurisprudence 2d

§§3. Further, for attempting to divide the State from the people so that the State might be disarmed and conquered, for if We The People are disarmed, the State has no security.

§§**4. Further**, we cite and claim the following:

Supreme Court of the United States
Nos 95-1478 and 95-1503
Jay Printz, Sheriff/Coroner, Ravalli County, Montana, Petitioner 95-1478 v. United States Richard Mack, Petitioner 95-1503
on writs of certiorari to the united states court of appeals for the ninth circuit
[June 27, 1997]

Justice Thomas, concurring.

"The Court today properly holds that the Brady Act violates the Tenth Amendment in that it compels state law enforcement officers to "administer or enforce a federal regulatory program." See *ante*, at 25. Although I join the Court's opinion in full, I write separately to emphasize that the Tenth Amendment affirms the undeniable notion that under our Constitution, the Federal Government is one of enumerated, hence limited, powers" See, e.g., *McCulloch v. Maryland*, 4 Wheat. 316, 405 (1819) ("This government is acknowledged by all to be one of enumerated powers"). "That those limits may not be mistaken, or forgotten, the constitution is written." *Marbury v. Madison*, 1 Cranch 137, 176 (1803). Accordingly, the Federal Government may act only where the Constitution authorizes it to do so. Cf. New York v. United States, 505 U.S. 144 (1992)." (*see*: http://supct.law.cornell.edu/supct/html/95-1478.ZC1.html)

Claim. 14C. We claim that the National Firearms Act of 1934 is repugnant to the Thirteenth Amendment to the Constitution for the United States of America and is void thereby, for re-instituting one of the hated principles of slavery by requiring a license to exercise the "right to keep and bear Arms", thus returning to that time when a slave needed permission from his master to exercise his right to Arms.

Claim. 15C. We claim the National Firearms Act of 1934 is repugnant to the Fourteenth Amendment of the Constitution for the United States of America:

In *Grosjean v. American Press Co.*, 1936, citing the findings from *Powell v. Alabama*, the court wrote, "We conclude that certain fundamental rights, safeguarded by the first eight amendments against federal action, were also safeguarded against state action by the due process of law clause of the Fourteenth Amendment.

§§**1. Further**, in *Gideon v. Wainwright*, 1963, the Supreme Court found that Amendments that are "fundamental safeguards of liberty" are immune from both federal and state "abridgment" under the "Due Process Clause of the Fourteenth Amendment." *Grosjean v. American Press Co.* and *Powell. v State of Alabama* are also both cited.

§§**2. Further**, in *Moore v. East Cleveland*, 1977, the court quoted from *Poe v. Ullman* on how the right to keep and bear arms and other rights are to have "freedom from all substantial arbitrary impositions and purposeless restraints" under the Fourteenth Amendment.

Claim. 16C. We claim the National Firearms Act of 1934 is repugnant to the Twenty Fourth Amendment of the Constitution for the United States of America and is void thereby, for violating the broad principal enshrined therein: attaching a tax to a Constitutionally enumerated right reserved to We the People in the Second Amendment.

§§**1. Further**, we cite and claim the following:

Supreme Court of the United States
Nos 95-1478 and 95-1503
Jay Printz, Sheriff/Coroner, Ravalli County, Montana, Petitioner 95-1478 v. United States Richard Mack, Petitioner 95-1503
on writs of certiorari to the united states court of appeals for the ninth circuit
[June 27, 1997]

Justice Thomas, concurring.

In my "revisionist" view, see *post*, at 3,

"…the Federal Government's authority under the Commerce Clause, which merely allocates to Congress the power "to regulate Commerce . . . among the several states," does not extend to the regulation of wholly *intra*state, point of sale transactions. See *United States* v. *Lopez*, 514 U.S. 549, 584 (1995) (concurring opinion). Absent the underlying authority to regulate the intrastate transfer of firearms, Congress surely lacks the corollary power to impress state law enforcement officers into administering and enforcing such regulations. Although this Court has long interpreted the Constitution as ceding Congress extensive authority to regulate commerce (interstate or otherwise), I continue to believe that we must "temper our Commerce Clause jurisprudence" and return to an interpretation better rooted in the Clause's original understanding. *Id.*, at 601; (concurring opinion); see also *Camps Newfound/Owatonna, Inc.* v. *Town of Harrison*, 520 U. S. ___, (1997) (Thomas, J., dissenting). Even if we construe Congress' authority to regulate interstate commerce to encompass those intrastate transactions that "substantially affect" interstate commerce, I question whether Congress can regulate the particular transactions at issue here. The Constitution, in addition to delegating certain enumerated powers to Congress, places whole areas outside the reach of Congress' regulatory authority. The First Amendment, for example, is fittingly celebrated for preventing Congress from "prohibiting the free exercise" of religion or "abridging the freedom of speech." The Second Amendment similarly appears to contain an express limitation on the government's authority. That Amendment provides: "[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." This Court has not had recent occasion to consider the nature of the substantive right safeguarded by the Second Amendment.

[n.1] If, however, the Second Amendment is read to confer a *personal* right to "keep and bear arms," a colorable argument exists that the Federal Government's regulatory scheme, at least as it pertains to the purely intrastate sale or possession of firearms, runs afoul of that Amendment's protections. [n.2] As the parties did not raise this argument, however, we need not consider it here. Perhaps, at some future date, this Court will have the opportunity to determine whether Justice Story was correct when he wrote that the right to bear arms "has justly been considered, as the palladium of the liberties of a republic." 3 J. Story, Commentaries §1890, p. 746 (1833). In the meantime, I join the Court's opinion striking down the challenged provisions of the Brady Act as inconsistent with the Tenth Amendment." (*see*: http://supct.law.cornell.edu/supct/html/95-1478.ZC1.html)

§§**2. Further, We claim** that, in fact, not only the National Firearms Act of 1934, but also, in its entirety, the "…Federal Government's regulatory scheme, at least as it pertains to the purely intrastate sale or possession of firearms, runs afoul of that Amendment's protections."

The numerous gun control laws, acts, codes, and regulations, passed in pursuance of, and since, in addition to the NFA, such as the "Brady Act," the "Assault Weapons Ban," the "1968 Gun Control Act," are all equally repugnant to the Second Amendment, as well as numerous other written Articles and Amendments of the Constitution for the United States of America, and are therefore also just as null and void as the National Firearms Act of 1934 which laid their foundation. If the foundation is null and void, then the entire structure built thereon is built on a lie and a fraud.

Claim.17C. We claim the Preamble of the Constitution for the United States: *"We The People of the United States of America in Order to form a more perfect Union, establish Justice, insure domestic tranquillity, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America".*

§§**1. Further**, Since the National Firearms Act of 1934 invades and violates a large number of various Articles of the aforesaid Constitution, it thereby constitutes a threat to the whole Instrument, as well as our American, republican form of government.

§§**2. Further**, these invasions and violations are, therefore, a disturbance of the "domestic tranquillity", a denial and mockery of "Justice" and "Liberty", and an impairment of the "common defense" and "general welfare.".

Claim. 18C. We claim that the federal government does not have jurisdiction over the Militia, individually or mustered, unless formally called into service by the United States Congress, and an attempt by armed federal agents, et al, to interfere with the Militia's duty to provide security to the free State of Arkansas shall be considered a **"levy of war"** and, probable cause for arrest of said agents, et al, for conspiracy, treason, and other high crimes and misdemeanors.

§§**1. Definition of Levying War – Black's Law Dictionary**

"Levying War. In criminal law, the assembling of a body of men for the purpose of effecting by force a treasonable object; and all who perform any part, however minute, or however remote from the scene of action, and who are leagued in the general conspiracy, are considered as engaged in levying war, within the meaning of the constitution. Art. III, Section 3, U.S. Constitution. *See also* Insurrection.
"The words include forcible opposition, as the result of a combination of individuals, to the execution of any public law of the United States, and to constitute treason within the Federal Constitution, there must be a combination of individuals united for the common purpose of forcibly preventing its execution. *Kegerreis v. Van Zile*, 180 App. Div. 414, 167 N.Y.S. 874,876."

Black's Law Dictionary by Henry Campbell Black, M.A.; Sixth Edition, West Publishing Co., St. Paul, Minn, 1990.

Claim. 19C. We claim that the Supreme Court's broad decision in *U.S. v. Miller*, Justice McReynolds speaking for the majority opinion, settles the "right of the people to keep and bear Arms" issue and brings closure to that **controversy**. The Supreme Court formally declared, "The signification attributed to the term Militia appears from the debates in the Convention, the history and legislation of the Colonies and States, and the writings of approved commentators. These show plainly enough that the Militia comprised all males physically capable of acting in concert for the common defense, "A body of citizens enrolled for military discipline." And further, that ordinarily when called for service these men were expected to appear bearing arms supplied by themselves and of a kind in common use at the time".

§§**1. Further, We claim** the said Supreme Court's decision fully supports the Second Amendment and is sufficient to void any act of State or federal government brought against a Citizen for keeping or bearing the **"kind"** of military arms the National Firearms Act taxes, regulates, or prohibits.

§§**2. Further**, the Supreme Court, in hearing the Miller case, supported and upheld the original, **individual** "right of the people to keep and bear Arms", and rejected the federal government's fraudulent 'collective State's rights theory' in the aforesaid clear and unambiguous language.

§§**3. Further, We claim** the Supreme Court's aforesaid declaration contains sufficient information to uphold it's finding of the "individual" right to keep and bear arms, and is absolutely binding on all agencies of State and federal government and all inferior courts,

§§**4. Further, We claim** the following by Senator Orrin Hatch, Chairman, Subcommittee on the Constitution, Of The Committee On The Judiciary, United States Senate, Ninety Seventh Congress, second session, February 1982. Preface, "The Right to Keep and Bear Arms":

Senator Hatch declared:

"What the subcommittee on the Constitution uncovered was clear - and long lost - proof that the Second Amendment to our Constitution was intended as an individual right of the American citizen to keep and carry arms in a peaceful manner, for protection of himself, his family, and his freedoms."

§§**5. Further**, the intent of this document is bring about a return to just and true law and the upholding of the U. S. Constitution and Bill of Rights, as well as the Constitution of the State of Arkansas. Either we are a nation of laws, and not of men, or we are not. The *Miller* case definitively upholds the right to keep and bear arms as an individual right. The only real issue was the lack of evidence presented regarding the military or militia utility of the Arms in question under the NFA. The exculpatory and material evidence was there, it was simply suppressed and not presented by the government's attorneys, and so an unconstitutional Act was allowed to stand, and we have had to live with the consequences ever since. This is such a gross miscarriage of justice that any rational and moral person can readily determine the wrong perpetuated. The NFA was allowed to stand because the peculiar circumstances (Miller being dead, and the other defendant reaching a plea bargain) in the case left the government's **interpolations**, **false contentions**, **misrepresentations**, and **rebuttable presumptions** unchallenged. This establishes an extremely dangerous precedent, and has resulted in a ruling that would bring untold damages to citizens, their property, and essential rights over the years since. The government's claims and presumptions were totally and obviously false, and to let this wrong stand simply because material, relevant, rebuttal evidence was not presented to the contrary,

especially when such evidence was common knowledge, and the **duty of even the prosecution to present** (since it was material, exculpatory, and relevant. *See*, **Material evidence**. Black's Law Dictionary, 6th Ed.; ie.: "To establish Brady violation…"), is a gross miscarriage of justice. We call, **in accordance with the following established principle of law**, for the immediate **correction of this wrong**, and a return to just law and the Constitution: **"Maleficia non debent remanere impunita; et impunitas continuum affectum tribuit delinquenti."** (*see*, Black's Law Dictionary, 6th Edition; *also*, Apprendix I)

§§**6. Further**, we cite the following:

> Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while **sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts**. And **the law is the definition and limitation of power**. It is indeed, quite true, that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration the responsibility is purely political, no appeal except to the ultimate tribunal of the public judgement, exercised either in the pressure of opinion or by means of the suffrage. But **the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws**, so that, in the famous language of the Massachusetts Bill of Rights, the government of the commonwealth "may be a government of laws and not of men." For, the very idea that one man may be compelled to hold his **life, or the means of living, or any material right essential to the enjoyment of life**, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself. (emphasis added)
>
> [*Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886)]

Claim. 20C. We claim the National Firearms Act of 1934 is repugnant to the principle of the political doctrine of the separation of powers, prescribed throughout the aforesaid Constitution for the United States of America, and runs afoul of, and is repugnant to, that whole, aforesaid instrument, and is void thereby.

Claim, 21C. We claim it to be self evident that the "humane warfare" doctrine, presented as evidence in *United States v. Miller*, does not exist in fact, and is totally disproven by actual history.

- end Part 6. -

Part 7. Claim Based On The Authority Of Almighty God.

This document presents overwhelming evidence and numerous claims against the validity of the National Firearms Act of 1934. However, there is ONE claim that stands BEFORE and ABOVE ALL OTHERS:

"You have rights antecedent to all earthly governments; rights that cannot be repealed or restrained by human laws; rights derived from the Great Legislator of the Universe."

- John Adams, Second President of the United States

“So God created man in his own image, in the image of God created he him; male and female created he them. And God blessed them, and God said unto them, Be fruitful and multiply, and replenish the earth, and subdue it: and have dominion over the fowl of the air, and over every living thing that moveth upon the earth.” – Genesis 1:27, 28.

“And Cain talked with Abel his brother: and it came to pass, when they were in the field, that Cain rose up against Abel his brother, and slew him. And the Lord said unto Cain, Where is Abel thy brother? And he said, I know not: Am I my brother’s keeper? And he said, What hast thou done? the voice of thy brother’s blood crieth unto me from the ground.” – Genesis 4:8-10

“Thou shalt not kill.” – Exodus 20: 13

“Thou shalt not KILL.” The Hebrew word that is translated “kill” in the 1611 King James Version of the Bible is “ratsach.” Strong’s Exhaustive Concordance of the Bible lists “ratsach” as word number “7523” in the Hebrew and Chaldee Dictionary section of the Concordance. The entry is as follows:

7523. ratsach, *raw-tsakh’:* a prim. root: prop. To dash in pieces, ie. kill (a human being), espec. To murder: - put to death, kill (man-)slay(-er), murder (-er).

The primary meaning, therefore, of “ratsach” in Exodus 20:13 is “murder.” Biblical scholars and experts in the Hebrew language are in complete agreement that Exodus 20:13 is best translated as: “Thou shalt not MURDER.”

Webster’s Universities Dictionary of the English Language, Unabridged, by Noah Webster, LL.D., World Publishing Company, Library Guild, Inc., New York, Editions and Printings 1904 thru 1941, has the following entries for “murder”:

murder, n. 1. The unlawful, malicious, intentional killing of a human being by another human being of sound mind; malicious and premeditated homicide. 2. Slaughter; destruction. Murder in the first degree; murder committed premeditatedly and with malice. Murder in the second degree; murder committed without premeditation. Murder will out; the crime of murder, however well concealed, will ultimately reveal itself or will be revealed; figuratively, an evil deed concealed is sure to come to light.

murder, v.t. 1. To kill unlawfully, maliciously, and intentionally.

Definition of "murder" from Black's Law Dictionary, Sixth Edition:

Murder. The unlawful killing of a human being by another with malice aforethought, either express or implied. Com. V. Carroll, 194 A.2d 911, 914. The crime is defined by statute in most states (eg. Calif. Penal Code. §187). The Model Penal Code definition is as follows:

> Criminal homicide constitutes murder when: (a) it is committed purposely or knowingly; or (b) it is committed recklessly under circumstances manifesting extreme indifference to the value of human life. Such Recklessness and indifference are presumed if the actor is engaged or is an accomplice in the commission of, or an attempt to commit, or flight after committing or attempting to commit robbery, rape or deviate sexual intercourse by force or threat of force, arson, burglary, kidnapping or felonious escape. Model Penal Code, § 210.2.

The conclusion here is obvious and inescapable: Almighty God, as well as the Laws of all civilized nations and societies, prohibit the UNJUSTIFIED AND UNLAWFUL taking of a human life.

Inherent in the prohibition against murder is the right of self-defense. The law recognizes that force, up to and including deadly force, may be justifiably employed to prevent the commission of a felony, and/or if one is under imminent, unavoidable threat and danger of serious physical injury or death. The degree of force used to stop a crime, or in defense of self or others, must be appropriate to the seriousness (level), imminence, unavoidability, and level of the threat. In addition, the aggressor must have the means and ability to carry out the criminal act or threat of injury or death. These are general principles that apply to the term "self-defense" from a legal standpoint, and while the laws and statutes of different States, or Nations, may vary somewhat in their wording, interpretation, and construction, the basic principle of "the right of self defense" is universally upheld in law.

Likewise, the principle of self-defense is universally held to apply to groups, societies, states and nations, ie. the principle of "collective self-defense" is universally recognized. All societies, states, and nations have established governmental, societal, and cultural mechanisms, law enforcement agencies, militias, and armed forces for the protection of both individuals and the society as a whole. The right of individuals, as well as society as a whole, to self-defense against the criminal, tyrant, warlord or foreign invader, is recognized, well established, and upheld in and by all courts, treaties, alliances, and charters of International Law and agreements.

Further, the right of self-defense forms the basis of the "Just War Doctrine." Both the right of self-defense and the "Just War Doctrine" are recognized by all of the world's major religions, the court of world opinion, and established courts, treaties, alliances, and charters of International Law and agreements.

The universal recognition of the right of self-defense, both individual and collective, points us irrevocably to the fact that such knowledge and certainty are implanted in the natural and moral conscience, indeed the very soul of man, by none other than his Creator, Almighty God:

"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, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness." – Declaration of Independence, July 4, 1776.

It is therefore the unalienable right of all men, societies, and Nations, to defend themselves in order to secure the blessings of Liberty, safety, and happiness. It must be concluded, then, that men and nations also have a right to the Arms and Equipment necessary to accomplish such lawful defense. To argue otherwise would be to make a mockery of Almighty God, His Immutable Laws, the Natural Law, the Laws of Nations, and the rightly formed moral conscience of all good men.

The right to keep and bear Arms, without which the very concept of self-defense would be meaningless, must therefore stand forever bound to the First And Pre-eminent Law of All Human Interaction: "THOU SHALT NOT MURDER."

In conclusion, should ALL OTHER CLAIMS, ALL OTHER EVIDENCE, ALL OTHER PRESENTATIONS within this document showing the INVALIDITY of the National Firearms Act of 1934, FAIL TO CONVINCE, the UNALIENABLE RIGHT TO KEEP AND BEAR ARMS, Arms of a kind that WE THE PEOPLE deem necessary to ensure our SAFETY, SECURITY, AND BENEFIT, STILL STANDS!

To cowardly surrender this right TO ANYONE is to deny our very life and its worth before Almighty God. THIS WE CANNOT DO, NOR CAN ANY LAW OR DEVICE OF MAN ASK OR REQUIRE US TO SURRENDER THAT RIGHT, FOR TO DO SO WOULD BRING OUR OWN CONDEMNATION BEFORE THE JUDGEMENT SEAT OF THAT SAME ALMIGHTY GOD, TO WHOM ALL MEN MUST GIVE ACCOUNT:

"Be not afraid of them that kill the body, and after that, have no more that they can do. But I will forewarn you whom ye shall fear: Fear him which, after he hath killed, hath power to cast into hell; yea, I say unto you, fear him." - LUKE XII 4,5.

Further, the unlawful bearing of Arms for criminal purposes is severable from the lawful bearing of Arms by the law abiding citizen. The prohibition of Arms to criminal and law abiding citizen alike, is an injustice and violation of "due process of rights," and a reproach of civilized society.

- end Part 7. -

Part 8. Closing Statement

Section 1. General Orders.

The following General Orders must be memorized by all military personnel during basic training. These General Orders constitute primary military law. The duty of standing watch and guarding your post is the most basic military skill. The principles laid down in the General Orders are fundamental to the mission of the military. Failure to follow these General Orders can be grounds for Court Martial, and during wartime, the penalties can be most severe. Desertion of your post in wartime is betrayal of your country and fellow soldiers to the enemy.

General Order 1. To take charge of this post and all government property in view.

General Order 2. To walk my post in a military manner, keeping always on the alert and observing everything that takes place within sight or hearing.

General Order 3. To report all violations of orders I am instructed to enforce.

General Order 4. To repeat all calls from posts more distant from the guardhouse than my own.

General Order 5. To quit my post only when properly relieved.

General Order 6. To receive, obey and pass on to the sentry who relieves me all orders from the commanding officer, officer of the day, and officers and noncommissioned officers of the guard only.

General Order 7. To talk to no one except in the line of duty.

General Order 8. To give the alarm in case of fire or disorder.

General Order 9. To call the corporal of the guard in any case not covered by instructions.

General Order 10. To salute all officers and all colors and standards not cased.

General Order 11. To be especially watchful at night, and during the time for challenging, to challenge all persons on or near my post and to allow no one to pass without proper authority.

§§**1.** The principles of the General Orders are directly applicable to the militia. The militia is charged with the duty of upholding and executing the laws (the Constitution is the Supreme Law) of the State of Arkansas, and to "...repel invasion, repress insurrection, and preserve the public peace in such manner as may be authorized by law." This is our assigned POST, OUR DUTY, OUR ORDERS, OUR GUARD AND WATCH. We RECEIVE AND HOLD our authority from the ultimate rulers and sovereigns of the State of Arkansas, ALMIGHTY GOD and WE THE PEOPLE:

The Constitution of the State of Arkansas, Article 2, Sec.1.:

"All political power is inherent in the people and government is instituted for their protection, security and benefit; and they have the right to alter, reform or abolish the same in such manner as they may think proper."

§§**2.** Thus, it is We, The People of Arkansas, who have ordained and established the Constitution and the offices of government enumerated therein. This government is charged, through the delegation of power and authority from We The People, to secure our safety, security, and benefit. The government (and the offices and officers thereof), is our delegated agent and servant, and should it fail to carry out its charge, for whatever the cause or reason, We The People can recall and take back part, or all, of our delegated powers and authority. Further, should all ordinary and peaceful means of correction be exhausted or unavailable, We The People have final recourse, if necessary, to the militia established in Article Eleven as the means to ensure our safety, security, and benefit while reforming, altering, or even abolishing a government that failed to function properly or has even become repugnant to our Liberty, Safety, and Benefit.

§§**3.** Obviously, the militia or the government (in fact, all societies or groups) are only as good as the people themselves. The Governor, General Assembly, and the militia, are all ultimately servants of We The People, and they may all fall, as circumstances require, under the direct control of We, The People of the State of Arkansas.

"While the people are virtuous, they cannot be subdued: but when once they lose their virtue, they will be ready to surrender their liberties to the first external or internal invader." --Samuel Adams

'Liberty is the right to choose. Freedom is the result of making the right choices.' - anonymous.

§§**4.** There is, accordingly, a DIRECT relationship between We The People and the militia of Article Eleven of the Arkansas Constitution:

The Constitution of the State of Arkansas, Article 2, Sec.2:

"The citizens of this State shall have the right to keep and bear arms for their common defense."

§§**5.** The right to keep and bear arms belongs to the people alone, not to the government. Government agencies like the police and military are charged with the "duty" of bearing arms for the safety and benefit of the citizens. It is We The People who own the right and the property of Arms. It is We The People who grant, through DELEGATED and ENUMERATED powers, and under the RESTRICTIONS AND CONDITIONS, specified in the Constitution of the State of Arkansas, a 'license' to government to bear arms.

§§**6.** Amazingly, We The People now find ourselves in the position of 'slave' or servant, instead of master, where government now claims to own OUR right and property, and claims authority to grant or deny a license or permit (for a fee, of course!) 'allowing' the people to exercise their right, under government's terms and conditions, to keep and bear arms, a right and property they already own!

This amounts to nothing less than criminal conversion of the rights and property of We The People, who are the true masters, to government, which is OUR servant.

§§**7.** Thus, the Militia of Washington County, Arkansas stands at its assigned post and watch and has reclaimed the right of the people to keep and bear arms, arms of a kind necessary and proper to the safeguarding of Liberty, and giving public notice to all of who the property and right belong to, while alerting others of the dangers to their Liberty from the thieves in their midst.

§§**8.** This document, to which we put our hands below, contains overwhelming evidence of knowing and willful, innumerable and continuing, violations by government, at all levels, of the People's unalienable "right to keep and bear Arms." This Rebuttal provides ample justification, and gives final notice to any and all sworn agents of government, for our declaration that before Almighty God, SUCH TYRANNY WILL NOT STAND!

Section 2. On Guard Duty At Our Post.

As Citizen Soldiers of the Ultimate Sovereigns, Almighty God and We, The People of Arkansas, His Servants, The Militia of Washington

County, Arkansas, Stands at its Post, Keeping Guard over those Unalienable Rights it is Charged to Protect. We CANNOT surrender or desert our Post, Neither can We Sleep while on Watch. Should the tyrant come against Us, We SHALL NOT break our Lines, nor choose the cowards path of surrender. *Sic semper tyrannis!*

"The Lord is my light and my salvation; whom shall I fear? The Lord is the strength of my life; of whom shall I be afraid?

"When the wicked, even mine enemies and my foes, came upon me to eat up my flesh, they stumbled and fell.

"Though an host should encamp against me, my heart shall not fear; though war should rise against me, in this will I be confident."

– Psalm 27:1-3.

"Deliver Me from mine enemies, O my God; defend me from them that rise up against me.

"Deliver me from the workers of iniquity, and save me from bloody men.

"For, lo, they lie in wait for my soul: the mighty are gathered against me; not for my transgression, nor for my sin, O Lord.
"They run and prepare themselves without my fault: awake to help me, and behold."

- Psalm 59: 1-4.

"We humbly pray Thee, Almighty God, to forgive us our sins, and to protect and defend your servants and all who stand with us in defense of Liberty. Send shame and trouble upon the camp of Thine enemies, O God, against all those who oppose Thy will upon earth and in heaven, and We invoke Thy power against all tyranny and evil. Amen"

The Militia of Washington County, Arkansas

Done in remembrance of, and on behalf of, our Revolutionary Fellow Countrymen, who, by their incalculable sacrifice and loss, bequeathed to us, the American People, a new Nation under Almighty God, whose Will is revealed by His Son, our Lord Jesus Christ, and on behalf of those who now faithfully struggle against the tyranny of this present World, and on behalf of our posterity who have the right to know the Almighty God, and to live free from the yoke of the tyrant.

Done in The Year Two Thousand and Four, on this 23rd Day of The Month of June, in The Perpetual Reign of The Lord Jesus Christ in His Everlasting Kingdom, to whom "every knee shall bow".

Paul Glenn Smith

Paul Glenn Smith, Commander

Hollis Wayne Fincher

Hollis Wayne Fincher, Lt. Commander

Robert John Mabrito
Notary Public
Washington County, Arkansas
My Commission Expires: 5/4/2014

County of Washington

State of Arkansas

Acknowledged before me, this 23rd *day of* JUNE, 2004

Witness, Our Hand and Seal Robert John Mabrito

Notary Public

My commission expires: 5/4/2014

APPENDIX I – Key Definitions of Words Used Throughout This Document.

The precise meaning and definition of words is of utmost importance to understanding and applying the Law. When reading and studying historical documents, writings, laws, literature, newspaper articles, etc., reference to older dictionaries, as well as definitive statements by other people of the same period can shed substantial light on the correct meanings of words, statements, and principles as they were commonly understood at the time, and thus enable us to determine historical tradition, precedent, and original intent.

"On every question of construction, let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed." -Thomas Jefferson, letter to William Johnson, June 12, 1823, The Complete Jefferson, p. 322.

Definitions from Webster's Universities Dictionary

The following definitions are taken from Webster's Universities Dictionary of the English Language, Unabridged, Copyright 1941, The World Publishing Company, United States. The Library Guild, Inc., New York. (Previous Editions: 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1924, 1926, 1933, 1934, 1935, 1936, 1938) Being the Unabridged Dictionary of Noah Webster, LL.D.

bear. *v.t.;* bore (formerly, bare), *pt.;* bearing, *ppr;* borne, born, *pp.* {ME. b*eren;* AS., *beran;* O.H.G. *beran;* Ice. *bera;* Goth. *bairan,* to bear; L. *ferre;* Gr. *pherein;* Sans. *bhar,* to bear, carry.}

1. To support; to sustain; to keep afloat; to carry or convey by support; literally or figuratively, to endure by sustaining; to support the character of; to carry by proxy; as, to *bear* a weight or burden; they *bear* him upon the shoulder; the eagle *beareth* them on her wings; a man may *bear* stronger diet, or *bear* punishment.
2. To wear as a mark of authority or distinction; as, to *bear* a sword, a badge, a name; to *bear* a coat of arms.
3. Figuratively, to support in the mind and voluntarily to carry, as the trouble or the animus or consequence; as, to *bear* love for a friend or hate for an enemy; to *bear*

neglect.

4. To bring forth, reproduce, or give birth to; to yield; as, to *bear* children; the tree *bears* fruit; to *bear* interest.
5. To admit or be capable of; to suffer or sustain without violence, injury, or change; as, to give words the most favorable interpretation they will *bear*.
6. To possess and use, as power; to exercise; as, to *bear* sway.
7. To carry on, or maintain; to have; as, to **bear** part in a conversation.
8. To show or exhibit; to relate; as, to *bear* testimony or witness. *(see also*, definitions 9-16)

conversion, *n.*; …a turning or change from one state to another, transmutation, change in belief and life, change of views, appropriating to private use (trover and conversion), change from views held in the past…

convert, *v.t.*; …to turn, to move, to change into another substance, to change from one state to another, change of heart, change of belief, change of use or destination (as to *convert* liberty into an engine of oppression), to appropriate or apply to one's own use or personal benefit (immplying dishonesty or illegality: as to *convert* public property to one's own use)…

infringe. v. 1. To break; to violate; to transgress; to neglect to fulfill or obey; as, to *infringe* a law. 2. To destroy or hinder; as, to *infringe* efficacy.

infringe, *v.i.*; 1. To break or violate a law. 2. To trespass or encroach; followed by *on* or *upon*; as, to *infringe upon* one's rights. Syn. – Violate, transgress, encroach, infract, intrude, invade, trespass.

keep. *v.t.*; kept, *pt., pp.*; keeping, *ppr.* {ME. *kepen, kipen*; AS. *cepan*, to keep, observe, await.}

1. To hold; to retain in one's power or possession; not to lose or part with; as, to *keep* a house or a farm; to *keep* anything in the memory, mind, or heart.
2. To have in custody for security or preservation; as, to *keep* valuables in a

vault.

3. To preserve; to retain.
4. To hold or restrain from departure; to detain.
5. to tend; to feed; to pasture; as, to *keep* a flock of sheep or a herd of cattle in a yard or in a field.
6. To preserve in any tenor or state. *Keep* the constitution sound. –Addison.
7. To regard; to attend to; as, the stars in heaven he *keeps*.
8. To practise; to do or perform; to observe in practice; not to neglect or violate; as, to *keep* the laws of God.
9. To fulfill; to perform; as, to *keep* one's word, promise, or covenant.
10. To practise; to use habitually; as, to *keep* bad hours.
11. To observe or solemnize. Ye shall *keep* it a feast to the Lord. –Ex. Xii. 14.
12. To board; to maintain; to supply with necessaries of life; as, the men are *kept* at a moderate price per week.
13. To maintain; not to intermit; as, to *keep* watch or guard.
14. To hold in one's own bosom; to confine to one's own knowledge; not to disclose or communicate to others; not to betray; as, to *keep* a secret.
15. To have in pay; as, to *keep* a servant.
16. To make the necessary entries in; as, to *keep* the books of a firm.

militia, *n.* [L., military service, soldiery, from *miles* (-itis), a soldier.] 1. A body of citizens regularly enrolled and trained to military exercises, but not permanently organized in time of peace, or in general, liable to serve out of the country in time of war; the enrolled soldiers of a nation as distinguished from a standing army. 2. In the United States, the entire body of citizens liable to be called upon to do military duty.

ordain, *v.t.*; ordained, *pt., pp.*; ordaining, *ppr;* {ME. *ordeyne, ordeine*; OFr. *ordener*; Fr. *ordoner*, from L. *ordinare*, to order, from *ordo, ordinis*, order.}

1. To set in order; to arrange; to prepare.
2. To decree; to give order or directions for; to appoint; often used of the decrees of Providence or fate.
3. To establish; to institute; as, to *ordain* a feast or a holiday.
4. To set apart for an office; to appoint.
5. To invest with ministerial or sacerdotal functions; to introduce and establish or settle in the pastoral office with the customary forms and solemnities; as, to *ordain* a minister of the gospel. **Syn.**— Install, Institute, appoint, enact, decree.

Definitions from Black's Law Dictionary

The following definitions are taken from: Black's Law Dictionary by Henry Campbell Black, M.A.; Sixth Edition, West Publishing Co., St. Paul, Minn, 1990.

Agent. A person authorized by another principal) to act for or in place of him; one intrusted with another's business. *Humphries v. Going,* D.C.N.C., 59 F.R.D. 583, 587. One who represents and acts for another under contract or relation of agency *(q.v.)*

One authorized to transact all business of principal, or all of principal's business of some particular kind, or all business at some particular place. (For complete and extensive definition, *see* Black's Law Dictionary, Sixth Edition.)

Anticipation. In patent law, an invention is anticipated by prior art when the invention is not new or lacks novelty over that art.

Case. A general term for an action, cause, suit, or controversy, at law or in equity; a question contested before a court of justice; an aggregate of facts which furnishes occasion for the exercise of the jurisdiction of a court of justice. A judicial proceeding for the determination of a controversy between parties wherein right are enforced or protected, or wrongs are prevented or redressed; any proceeding judicial in its nature.

Cause. n. (Lat. causa.) Each separate antecedent of an event. Something that precedes and brings about an effect or a result. A reason for an action or condition. A ground of a legal action. An agent that brings something about. That which in some manner is accountable for condition that brings about an effect or that produces a cause for the resultant action or state. *State v. Fabritz*, 276 Md. 416, 348 A.2d 275, 280. A suit, or action. Any question, civil or criminal, litigated or contested before a court of justice. *See* Cause or action.

Cause of action. The fact or facts which give a person a right to judicial redress or relief against another. The legal effect of an occurrence in terms of redress to a party to the occurrence. A situation or state of facts which would entitle party to sustain action and give him right to seek a judicial remedy in his behalf. *Thompson v. Zurich Ins. Co.*, D.C. Minn., 309 F.Supp. 1178, 1181. Fact, or a state of facts, to which law sought to be enforced against a person or thing applies. Facts which give rise to one or more relation of right-duty between two or more persons. Failure to perform legal obligation to do, or refrain from performance of, some act. Matter for which action may be maintained. Unlawful violation or invasion of right. The right which a party has to institute a judicial proceeding. *See also* Case; Claim; Failure to state cause of action; Justiciable controversy; Right of action; Severance of actions; Splitting cause of action; Suit.

Cession. The act of ceding; a yielding or giving up; surrender; relinquishment of property or rights. The assignment, transfer, or yielding up of territory by one state or government to another. *Municipality of Ponce v. Church*, 210 U.S. 296, 28 S.Ct. 737, 52 L.Ed. 1068.

Claim. To demand as one's own or as one's right; to assert, to urge; to insist. A cause of action. Means by or through which a claimant obtains possession or enjoyment of privilege or thing. Demand for money or property as of right, *e.g.* insurance claim. *U.S. v Tieger*, D.C.N.J., 138 F.Supp 709, 710.

Claimant. One who claims or asserts a right, demand or claim. *See* Claim; Plaintiff.

Common, n. Belonging or shared equally by more that one…
Common right. A term applied to rights, privileges, and immunities appertaining to and enjoyed by all citizens equally and in common, and which have their foundation in the common law.

Conspiracy. A combination or confederacy between two or more person formed for the purpose of committing, by their joint efforts, some

unlawful or criminal act, or some act which is lawful in itself, but becomes unlawful when done by the concerted action of the conspirators, or for the purpose of using criminal or unlawful means to the commission of an act not in itself unlawful.
A person is guilty of conspiracy with another person or persons to commit a crime if with the purpose of promoting or facilitating its commission he; (a) agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or (b) agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime. Model Penal Code, Sec. 5.03.
Crime of conspiracy is distinct from the crime contemplated by the conspiracy (target crime), *Com. V. Dyer*, 243 Mass. 472, 509, 138 N.E. 296, 314, cdet. Denied, 262 U.S. 751, 43 S.Ct. 700, 67 L.Ed. 1214. Some jurisdictions do not require an overt act as an element of the crime, eg *Com. V. Harris*, 232 Mass. 588, 122 N.E. 749.

Construction. Interpretation of statute, regulation, court decision or other legal authority.

Constructive. That which is established by the mind of the law in its act of *construing* facts, conduct, circumstances, or instruments. That which has not the character assigned to it in its own essential nature, but acquires such character in consequence of the way in which it is regarded by a rule or policy of law; hence, inferred, implied, or made out by legal interpretation; the word "legal" being sometimes used here in lieu of "constructive."

Constructive fraud. Exists where conduct, though not actually fraudulent, has all actual consequences and all legal effects of actual fraud. *Agair Inc. v. Shaeffer*, 232 Cal.App.2d 513, 42 Cal.Rptr. 883, 886. Breach of legal or equitable duty which, irrespective of moral guilt, is declared by law to be fraudulent because of its tendency to deceive others or violate confidence. *Daves v. Lawyers Sur. Corp.*, Tex.Civ.App., 459 S.W.2d 655, 657. *See also* Fraud.

Constructive knowledge. If one by exercise of reasonable care would have known a fact, he is deemed to have had constructive knowledge of such fact; e.g. matters of public record. *Attoe v. State Farm Mutual Auto. Ins. Co.*, 36 Wis.2d 539, 153, N.W. 2d 575, 579, *See also* Constructive notice.

Constructive notice. Such notice as is implied or imputed by law, usually on the basis that the information is a part of a public record or file, as in the case of notice of documents which have been recorded in the appropriate registry of deeds or probate.

Notice with which a person is charged by reason of the notorious nature of the thing to be noticed, as contrasted with actual notice of such thing. That which the law regards as sufficient to give notice and is regarded as a substitute for actual notice. In *re Fahle's Estate*, 90 Ohio App. 195, 105 N.E.2d 429, 431.

Controversy. A litigated question; adversary proceeding in a court of law; a civil action or suit, either at law or in equity; a justiciable dispute. To be a "controversy" under federal constitutional provision limiting exercise of judicial power of United States to cases and controversies there must be a concrete case admitting of an immediate and definitive determination of legal right of parties in an adversary proceeding upon facts alleged, and claims based merely upon assumed potential invasions of rights are not enough to warrant judicial intervention. *Southern Ry. Co. v. Brotherhood of Locomotive Firemen and Enginemen*, D.C.Ga., 223 F.Supp. 296, 303. In the constitutional sense, it means more than disagreement and conflict; rather it means kind of controversy courts traditionally resolve. *U.S. v. Nixon*, U.S.Dist.Col., 418 U.S. 683, 94 S.Ct. 3090, 3102, 41 L.Ed.2d 1039. This term is important in that judicial power of the courts extends only to cases and "controversies." *See* Actual controversy; Case; Cause of action; Justiciable controversy.

Covenant. An agreement, convention, or promise of two or more parties, by deed in writing, signed, and delivered, by which either of the parties pledges himself to the other that something is either done, or shall be done, or shall not be done, or stipulates for the truth of certain facts. (*See,* Black's Law Dictionary, Sixth Edition, for extended definitions of covenant types.)

Conversion. An unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the alteration of their condition or the exclusion of the owner's rights. Any unauthorized act which deprives an owner of his property permanently or for an indefinite time. Unauthorized and wrongful exercise of dominion and control over another's personal property, to exclusion of or inconsistent with rights of owner. *Catania v. Garage De Le Paix, Inc.*, Tex.Civ.App., 542 S.W.2d 239, 241. *See also* Embezzlement; Equitable conversion; Fraudulent conversion; Involuntary conversion.

Criminal, adj. That which pertains to or is connected with the law of crimes, or the administration of penal justice, or which relates to or has the character of crime. Of the nature of or involving a crime.

Criminal act. Commission of a crime.

Criminal Conspiracy. An agreement or confederacy of two or more persons to do a criminal or unlawful act in an unlawful or criminal manner.

Criminal gross negligence. Gross negligence is culpable or criminal when accompanied by acts of commission or omission of a wanton or willful nature, showing a reckless or indifferent disregard of the rights of other, under circumstances reasonably calculated to produce injury, or which make it not improbable that injury will be occasioned, and the offender knows or is charged with knowledge of the probable result of his acts; "culpable" meaning deserving of blame or censure. *See also* Criminal negligence, *below.*

Criminal negligence. *See* Criminal gross negligence. *Also*, Negligence.

Deed. At common law, a sealed instrument, containing a contract or covenant, delivered by the party to be bound thereby, and accepted by the party to whom the contract or covenant runs. (*See*, Black's Law Dictionary, Sixth Edition, for extended definition.)

Demonstrative evidence. That evidence addressed directly to the senses without intervention of testimony. Such evidence is concerned with real objects which illustrate some verbal testimony and has no probative value in itself. People v Diaz, 111 Misc.2d. 1083, 445 N.Y.S.2d 888, 889. Real ("thing") evidence such as the gun in a trial of homicide or the contract itself in the trial of a contract case. Evidence apart from the testimony of witnesses concerning the thing. Such evidence may include maps, diagrams, photographs, models, charts, medical illustrations, X-rays.

Due process of law. Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs. …

Phrase means that no person shall be deprived of life, liberty, property or of any right granted him by statute, unless matter involved first shall have been adjudicated against him upon trial conducted according to established rules regulating judicial proceedings, and it forbids condemnation without a hearing. *Pettit v. Penn,* La.App., 180 So.2d 66, 69. The concept of "due process of law" as it is embodied in Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious and that the means

selected shall have a reasonable and substantial relation to the object being sought. *U.S. v. Smith*, D.C.Iowa, 249 F.Supp. 515, 516. Fundamental requisite of "due process" is the opportunity to be heard, to be aware that a matter is pending, to make an informed choice whether to acquiesce or contest, and to assert before the appropriate decision-making body the reasons for such choice. *Trinity Episcopal Corp. v. Romney*, D.C.N.Y., 387 F.Supp. 1044, 1084. Aside from all else, "due process" means fundamental fairness and substantial justice. *Vaughn v. State*, 3 Tenn.Crim.App. 54, 456 S.W.2d, 879, 883. (*See*, Black's Law Dictionary, Sixth Edition, for extended definition.)

Due process rights. All rights which are of such fundamental importance as to require compliance with due process standards of fairness and justice. Procedural and substantive rights of citizens against government actions that threaten the denial of life, liberty, or property. *See* Due process of law.

Evidence. Any species of proof, or probative matter, legally presented at the trial of an issue, by the act of the parties and through the medium of witnesses, records, documents, exhibits, concrete objects, etc., for the purpose of inducing belief in the minds of the court or jury as to their contention. *Taylor v. Howard*, 111 R.I. 527, 304 A.2d 891, 893. Testimony, writings, or material objects offered in proof of an alleged fact or proposition. That probative material, legally received, by which the tribunal may be lawfully persuaded of the truth or falsity of a fact in issue. *People v. Leonard*, 207 C.A.2d 409, 24 Cal.Rptr. 597, 600.

Testimony, writings, material objects, or other things presented to the senses that are offered to prove the existence or nonexistence of a fact. Calif.Evid.Code.

All the means by which any alleged matter of fact, the truth of which is submitted to investigation, is established or disproved. Any matter of fact, the effect, tendency, or design of which is to produce in the mind a persuasion of the existence or nonexistence of some matter of fact. That which demonstrates, makes clear, or ascertains the truth of the very fact or point in issue, either on the one side or on the other. That which tends to produce conviction in the mind as to existence of a fact. The means sanctioned by law of ascertaining in a judicial proceeding the truth respecting a question of fact.

As a part of procedure "evidence" signifies those rules of law whereby it is determined what testimony should be admitted and what should be rejected in each case, and what is the weight to be given to the testimony admitted. *See* Evidence rules. …

There are, generally speaking, two types of evidence from which a jury may properly find the truth as to the facts of a case. One is direct evidence – such as the testimony of an eyewitness. The other

is indirect or circumstantial evidence -- the proof of a chain of circumstances pointing to the existence or non-existence of certain facts. As a general rule, the law makes no distinction between direct and circumstantial evidence, but simply requires that the jury find the facts in accordance with the preponderance of all the evidence in the case, both direct and circumstantial.

Exculpatory evidence. A defendant in a criminal case is entitled to evidence in possession or control of the government if such evidence tends to indicate his innocence or tends to mitigate his criminality if he demands it and if the failure to disclose it results in a denial of a fair trial. *U.S. v. Agurs*, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342. Disclosure of evidence by the government is governed by Fed.R.Crim.P. 16.

Expert evidence. Testimony given in relation to some scientific, technical, or professional matter by experts, i.e., persons qualified to speak authoritatively by reason of their special training, skill, or familiarity with the subject. *See also* Expert witness.

Inculpatory evidence. Evidence tending to show a person's involvement in a crime; incriminating evidence. *See* Incriminating evidence.

Preponderance of evidence. A standard of proof (used in many civil suits) which is met when a party's evidence on a fact indicates that it is "more likely than not" that the fact is as the party alleges it to be. *See* Fair preponderance of evidence.

Tangible evidence. Physical evidence; evidence that can be seen or touched, e.g., documents, weapons. Testimonial evidence is evidence which can be heard, e.g., the statements made by anyone sitting in the witness box. *See* Demonstrative evidence.

Evidence to support findings. Substantial evidence or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion and enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for jury. *Jordan v. Craighead*, 114 Mont. 337, 136, P.2d 526, 528. *See also* Ultimate facts.

Exculpatory. Clearing or tending to clear from alleged fault or guilt; excusing. *Baird v. State*, 246 S.W.2d 192, 195. *See* Exculpatory statement or evidence. *Compare* Incriminate.

Exculpatory statement or evidence. A statement or other evidence which tends to justify, excuse or clear the defendant from alleged fault or guilt. *State v. Cobb*, 2 Ariz.App. 71, 406 P.2d 421, 423. Declarations against declarant's interest which indicate that defendant is not responsible for crimes charged. *U.S. v. Riley*, C.A.Iowa, 657 F.2d 1377, 1385. Evidence which extrinsically tends to establish defendant's innocence of crimes charged as

differentiated from that which although favorable, is merely collateral or impeaching. *Com. V. Jeter*, 273 Pa.Super. 83, 416 A.2d 1100, 1102. For purposes of rule constraining State from disposing of potentially exculpatory evidence, is evidence which clears or tends to clear accused person from alleged guilt. *Gibson v. State*, 110 Idaho 631, 718 P.2d 283, 285. *Compare* Incriminating evidence.

Expert. One who is knowledgeable in specialized field, that knowledge being obtained from either education or personal experience. *Midtown Properties, Inc. v. George F. Richardson, Inc.*, 139 Ga.App. 182, 228 S.E.2d 303, 307. One who by reason of education or special experience has knowledge respecting a subject matter about which person having no particular training are incapable of forming an accurate opinion or making a correct deduction. *Balfour v. State*, Ind., 427 N.E.2d 1091, 1094. One who by habits of life and business has peculiar skill in forming opinion on subject in dispute. *Brown v. State*, 140 Ga.App. 160, 230 S.E.2d 128, 131. *See* Expert testimony; Expert Witness.

Fraud. An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. A false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. Anything calculated to deceive, whether by a single act or combination, or by suppression of truth, or suggestion of what is false, whether it be by direct falsehood or innuendo, by speech or silence, word of mouth, or look or gesture. *Delahanty v. Fist Pennsylvania Bank*, N.A.,318 Pa.Super. 90, 464 A.2d 1243, 1251. A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated. *Johnson v. McDomald*, 170 Okl. 117, 39 P.2d 150. "Bad faith" and "fraud" are synonymous, and also synonyms of dishonesty, infidelity, faithlessness, perfidy, unfairness, etc.

Elements of a course of action for "fraud" include false representation of a present or past fact made by defendant, action in reliance thereupon by plaintiff, and damage resulting to plaintiff from such misrepresentation. Citizens Standard Life Ins. Co. v. Gilley, Tex.Civ.App., 521, S.W.2d, 354, 356.

As distinguished from negligence, it is always positive, intentional. It comprises all acts, omissions, and concealments involving a breach of a legal or equitable duty and resulting in

damage to another. And includes anything calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence, by word of mouth, or by look or gesture. Fraud, as applied to contracts, is the cause of an error bearing on a material part of the contract, created or continued by artifice, with design to obtain some unjust advantage to one party, or to cause an inconvenience or loss to the other. (*See*, Black's Law Dictionary, Sixth Edition, for extended definitions of types of fraud.)

Incompetency. Lack of ability, knowledge, legal qualification, or fitness to discharge the required duty or professional obligation. A relative term which may be employed as meaning disqualification, inability or incapacity and it can refer to lack of legal qualifications or fitness to discharge the required duty and to show wand of physical or intellectual or moral fitness. *County Bd. Of Ed. Of Clarke County v. Oliver*, 270 Ala. 107, 116 So.2d 566, 567.

Incompetent evidence. Evidence which is not admissible under the established rules of evidence; e.g. Fed. Rules of Evidence. Evidence. Evidence which the law does not permit to be presented at all, or in relation to the particular matter, on account of lack of originality or of some defect in the witness, the document, or the nature of the evidence itself. *See* e.g. Hearsay. *See also* Inadmissable.

Injure. To violate the legal right of another or inflict an actionable wrong. To do harm to, damage, or impair. To hurt or wound, as the person; to impair the soundness of, as health; to damage. *Ziolkowski v. Continental Casualty Co.*, 284 Ill.App. 505, 1 N.E.2d 410, 412. As applied to a building, "injure" means to materially impair or destroy any part of the existing structure. *See* Injury.

Interpolate. To insert (additional or false) words in a complete instrument or document, thus altering meaning of such. *See also* Interlineation.

Kidnapping. A person is guilty of kidnapping if he unlawfully removes another from his place of residence or business, or a substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial period in a place of isolation, with any of the following purposes (a) to hold for ransom or reward, or as a shield or hostage; or (b) to facilitate commission of any felony or flight thereafter; or (c) to inflict bodily injury on or to terrorize the victim or another; or (d) to interfere with the performance of any governmental or political

function. Model Penal Code, § 212.1. (*See* Black's Law Dictionary, Sixth Edition, for extended definition.)

Kind. Class, grade, or sort. *City of St. Louis v. James Braudis Coal Co.*, Mo.App., 137 S.W.2d 688, 670. Genus; generic class; description. *See* in kind; Like-kind exchange; Sample.

Levying War. In criminal law, the assembling of a body of men for the purpose of effecting by force a treasonable object; and all who perform any part, however minute, or however remote from the scene of action, and who are leagued in the general conspiracy, are considered as engaged in levying war, within the meaning of the constitution. Art. III, Section 3, U.S. Constitution. *See also* Insurrection.

"The words include forcible opposition, as the result of a combination of individuals, to the execution of any public law of the United States, and to constitute treason within the Federal Constitution, there must be a combination of individuals united for the common purpose of forcibly preventing its execution. *Kegerreis v. Van Zile*, 180 App. Div. 414, N.Y.S. 874,876."

Malconduct. Ill conduct, especially dishonest conduct, maladministration, or, as applied to officers, official misconduct. *See* Malfeasance; Misfeasance.

Maleficia non debent remanerre impunita; et impunitas continuum affectum tribuit delinquenti. Evil deeds ought not to remain unpunished; and impunity affords continual incitement to the delinquent.

Malpractice. Professional misconduct or unreasonable lack of skill. This term is usually applied to such conduct by doctors, lawyers, and accountants. Failure of one rendering professional services to exercise that degree of skill and learning commonly applied under all the circumstances in the community by the average precedent reputable member of the profession with the result of injury, loss or damage to the recipient of those services or to those entitled to rely upon them. It is any professional misconduct, unreasonable lack of skill or fidelity in professional or fiduciary duties, evil practice, or illegal or immoral conduct. *Matthews v. Walker*, 34 Ohio App.2d 128, 296 N.E.2d 569, 571, 63 O.O.2d 208. *See also* Discovery rule; Standard of care.

Malum in se. A wrong in itself; an act or case involving illegality from the very nature of the transaction, upon principles of natural, moral, and public law. *Grindstaff v. State*, 214 Tenn. 58, 377 S.W.2d 921,926; *State v. Shedoudy*, 45 N.M. 516, 118 P.2d 280, 287. An act is said to be malum in se when it is inherently and

essentially evil, that is, immoral in its nature and injurious in its consequences, without any regard to the fact of its being noticed or punished by the law of the state. Such are most or all of the offenses cognizable at common law (without the denouncement of a statute); as murder, larceny, etc. *Compare* Malum prohibitum.

Malum non praesumitur. Wickedness is not presumed.

Malum prohibitum. A wrong prohibited; a thing which is wrong because prohibited; an act which is not inherently immoral, but becomes so because its commission is expressly forbidden by positive law; an act involving an illegality resulting from positive law. *Compare* Malun in se.

Material evidence. *See* Evidence. Tangible evidence.

Misrepresentation. Any manifestation by words or other conduct by one person to another that, under the circumstances, amounts to an assertion not in accordance with the facts. An untrue statement of fact. An incorrect or false representation. That which, if accepted, leads the mind to an apprehension of a condition other and different from that which exists. Colloquially it is understood to mean a statement made to deceive or mislead.

As amounting to actual legal fraud consists of material representation of presently existing or past fact, made with knowledge of its falsity and with intention that other party rely thereon, resulting in reliance by that party to his detriment. *Jewish Center of Sussix County v. Whale*, 86 N.J. 619, 432 A.2d 521, 524.

In a limited sense, an intentional false statement respecting a matter of fact, made by one of the parties to the contract and influential in producing it. A "misrepresentation," which justifies the recission of a contract, is a false statement of a substantive fact, or any conduct which leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead. *See also* Deceit; Deception; False; Fraud; Material fact; Reliance..

Misprision. A word used to describe an offense which does not possess a specific name. United States v. Perlstein, C.C.A.N.J., 126 F.2d 789, 798. But more particularly and properly the term denotes either: (1) a contempt against the sovereign, the government, or the courts of justice, including not only contempts of court, properly so called, but also all forms of seditious or disloyal conduct and leze-majesty; (2) maladministration of public office; neglect or improper performance of official duty, including peculation of public funds; (3) neglect of light account made of a crime, that is, failure in the duty of a citizen to endeavor to

prevent the commission of a crime, or, having knowledge of its commission, to fail to reveal it to the proper authorities.

Misprision of felony. The offense of concealing a felony committed by another, but without such previous concert with or subsequent assistance to the felon as would make the party concealing an accessory before or after the fact. *United States v. Perlstein*, C. C.A.N.J., 126 F.2d 789, 798. Elements of the crime are that the principal committed and completed the felony alleged, that the defendant had full knowledge of that fact, that the defendant failed to notify the authorities, and that defendant took an affirmative step to conceal the crime. *U.S. v. Ciambrone*, C.A.Nev., 750 F2d 1416, 1417.

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, is guilty of the federal crime of misprision of felony. 18 U.S.C.A. §4. *See also* Obstructing justice.

Misprision of treason. The bare knowledge and concealment of an act of treason or treasonable plot by failing to disclose it to the appropriate officials; that is, without any assent or participation therein, for if the latter elements be present the party becomes a principal. 18 U.S.C.A. §2382.

Non-disclosure. A failure to reveal facts, which may exist when there is no "concealment." State v. Watson, 145 Kan. 792, 67 P.2d 515, 517. *See* Fraud; Material fact; Misrepresentation.

Null and void. Naught; of no validity or effect. Usually coupled with the word "void;" as "null and void." The words "null and void," when used in a contract or statute are often construed as meaning "voidable." *Burns Mortg. Co. v. Schwartz*, C.C.A.N.J., 72 F.2d 991, 992. "Null and void" means that which binds no one or is incapable of giving rise to any rights or obligations under any circumstances, or that which is of no effect. *Zogby v. State*, 53 Misc.2d 740, 279 N.Y.S.2d 665,668. *See also* Void; Voidable.

Physical evidence. *See* Evidence: Tangible evidence. *See also* Demonstrative evidence.

Political subdivision. A division of the state made by proper authorities thereof, acting within their constitutional powers, for purpose of carrying out a portion of those functions of state which by long usage and inherent necessities of government have always been regarded as public. *State ex re. Maisano v. Mitchell,* 155 Conn. 256, 231, A.2d 539, 542.

Presumption. An inference in favor of a particular fact. A presumption is a rule of law, statutory or judicial, by which finding of a basic fact gives rise to existence of presumed fact, until presumption is rebutted. *Van Wart v. Cook*, Okl.App., 557, P.2d 1161, 1163. A legal device which operates in the absence of other proof to require that certain inferences be drawn from the available evidence. Poet Terminal & Warehousing Co. b. John S James Co., D.C.Ga., 92 F.R.D. 100, 106.

A presumption is an assumption of fact that the law requires to be made from another fact or group of facts found or otherwise established in the action. A presumption is not evidence. A presumption is either conclusive or rebuttable. Every rebuttable presumption is either (a) a presumption affecting the burden of producing evidence or (b) a presumption affecting the burden of proof. Calif.Evid.Code, § 600.

In all civil actions and proceedings not otherwise provided for by Act of Congress or by the Federal Rules of Evidence, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast. Federal Evidence Rule 301.

See also Disputable presumption; Inference; Juris et de jure; Presumptive evidence; Prima facie; Raise a presumption.
(See Black's Law Dictionary, Sixth Edition, for extended definition.)

Professional. One engaged in one of learned professions or in an occupation requiring a high level of training and proficiency. *Reich v. City of Reading*, 3 Pa. Cmwlth. 511, 284 A.2d 315, 319.

Rebut. In pleading and evidence, to defeat, refute, or take away the effect of something. When a plaintiff in an action produces evidence which raises a presumption of the defendant's liability, and the defendant adduces evidence which shows that the presumption is ill-founded, he is said to "rebut it." *See* Rebuttable presumption; Rebuttal evidence.

Rebuttal evidence. Evidence given to explain, repel, counteract, or disprove facts given in evidence by the opposing party. That which tends to explain or contradict or disprove evidence offered by the adverse party. *Layton v State*, 261 Ind. 251, 301 N.E.2d 633, 636. Rebuttal occurs during the trial stage where evidence is given

by one party to refute evidence introduced by the other party. … Also evidence given in opposition to a presumption of fact or a *prima facie* case; in this sense, it may be not only counteracting evidence, but evidence sufficient to counteract, that is, conclusive. *See* Rebuttable presumption.

Rebuttable presumption. In the law of evidence, a presumption which may be refuted by evidence. Otherwise called a "disputable" presumption. A species of legal presumption which holds good until evidence contrary to it is introduced. *Beck v. Kansas City Public Service Co.*, Mo.App., 48 S.W.2d 213, 215. It shifts burden of proof. *Heiner v. Donna*, 285 U.S. 312, 52 S.Ct. 358, 362, 76 L.Ed. 772. It gives particular effect to certain group of facts in absence of further evidence, and presumption provides prima facie case which shifts to defendant the burden to go forward with evidence to contradict or rebut fact presumed. *Gulle v. Boggs*, Fla., 174 So.2d 26, 28. And which standing alone will support a finding against contradictory evidence. *Lieber v. Rigby*, 34 Cal.App.2d 582, 94 2d 49, 50. *See also* Presumption.

Recovery. In its most extensive sense, the restoration or vindication of a right existing in a person, by the formal judgment or decree of a competent court, at his instance and suit, or the obtaining, by such judgment, of some right or property which has been taken or withheld from him. *St. Paul Fire & Marine Ins. Co. v. Wood*, 242 Ark. 879, 416 S.W.2d 322, 327. This is also called a "true" recovery, to distinguish it from a "feigned" or "common" recovery.

The obtaining of a thing by the judgment of a court, as the result of an action brought for that purpose. The amount finally collected, or the amount of judgement. In *re Lahm*, 179 App.Div. 757, 167 N.Y.S. 217, 219. To be successful in a suit to obtain a judgement. *Garza v. Chicago Health Clubs, Inc.*, D.C.Ill., 347 F.Supp. 955, 962.

See Common recovery; Recoupment; Repossession; Restitution.

Final recovery. The final judgment or verdict in an action. See Judgment; Verdict.

Slave. A person who is wholly subject to the will of another; one who has no freedom of action, but whose person and services are wholly under the control of another. One who is under the power of a master, and who belongs to him; so that the master may sell and dispose of his person, of his industry, and of his labor, without his being able to do anything, have anything, or acquire anything, but what must belong to his master. The 13th Amendment abolished

slavery.

Slavery. The condition of a slave; that civil relation in which one man has absolute power over the life, fortune, and liberty of another. The 13th Amendment abolished slavery.

Suppression of evidence. The ruling of a trial judge to the effect that evidence sought to be admitted should be excluded because it was illegally acquired. Motion to suppress illegally obtained evidence are governed by Fed.R.Crim.P. 5.1(a), 12, and 41. See also Exclusionary Rule; Motion to suppress.

The crime of compounding a felony by refusing to give evidence or to testify in a criminal proceeding.

Concept of "suppression" as that term is used in rule that suppression by the prosecution of material evidence favorable to an accused on request violates due process, implies that the government has information in its possession of which the defendant lacks knowledge and which the defendant would benefit from knowing. *U.S. v. Natale*, C.A.N.Y., 526 F.2d 1160, 1170. *See also* Withholding of evidence.

Tangible. Having or possessing physical form. Capable of being touched and seen; perceptible to the touch; tactile; palpable; capable of being possessed or realized; readily apprehensible by the mind; real; substantial.

Usurpation. The unlawful encroachment or assumption of the use of property, power or authority which belong to another. An interruption or the disturbing a man in his right and possession. The unlawful seizure or assumption of sovereign power. The assumption of government or supreme power by force or illegally, in derogation of the constitution and of the rights of the lawful ruler.

Usurpation for which writ of prohibition may be granted involves attempted exercise of power not possessed by inferior officer.

APPENDIX II – Quotations Showing Historical Background, Original Intent, Plus Relevant Statements, Arguments, and Points Worthy of Consideration.

"A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." The Second Amendment of the United States Constitution. "And that the said Constitution be never construed to authorize Congress...to prevent the people of the United States, who are peaceable citizens, from keeping their own arms..." Philadelphia Independent Gazetteer, August 20, 1789

"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..." RICHARD HENRY LEE writing in Letters from the Federal Farmer to the Republic (1787-1788)

"A militia; when properly formed, are in fact the people themselves...and include all men capable of bearing arms." RICHARD HENRY (LIGHT HORSE HARRY), LEE, Additional Letters from the Federal Farmer (1788) at 169.

"A free people ought...to be armed...." GEORGE WASHINGTON Speech of January 7, 1790 in the Boston Independent Chronicle, January 14, 1790

"On every question of construction (of the Constitution) let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed." THOMAS JEFFERSON, letter to William Johnson, June 12, 1823, The Complete Jefferson, p322

"And what country can preserve its liberties, if its rulers are not warned from time to time, that this people preserve the spirit of resistance? Let them take arms... The tree of Liberty must be refreshed from time to time, with the blood of patriots and tyrants." THOMAS JEFFERSON, letter to William S. Smith,1787, in S. Padover (Ed.), Jefferson, On Democracy (1939), p. 20.

"Laws that forbid the carrying of arms...disarm only those who are neither inclined nor determined to commit crimes... Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man." THOMAS JEFFERSON: Thomas Jefferson's "Commonplace Book," 1774-1776, On Crimes and Punishment. by Cesare Beccaria, 1764

"A strong body makes the mind strong. As to the species of exercises, I advise the gun. While this gives moderate exercise to the body, it gives boldness, enterprise and independence to the mind. Games played with the ball and others of that nature, are too violent for the body and stamp no character on the mind. Let your gun therefore be the constant companion of your walks." THOMAS JEFFERSON, Encyclopedia of T. Jefferson, 318 (Foley, Ed., 1967).

"The best we can hope for concerning the people at large is that they be properly armed." ALEXANDER HAMILTON, of New York, The Federalist Papers at 184-8

"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." ALEXANDER HAMILTON of New York, The Federalist, No. 29

"The right of the people to keep and bear arms has been recognized by the General Government; but the best security of that right after all is, the military spirit, that taste for martial exercises, which has always distinguished the free citizens of these States...Such men form the best barrier to the liberties of America." Gazette of the United States, October 14, 1789

"The whole of the Bill of Rights is a declaration of the right of the people at large or considered as individuals...It establishes some rights of the individual as unalienable and which consequently, no majority has a right to deprive them of." ALBERT GALLATIN of the New York Historical Society, October 7, 1789

"The people are not to be disarmed of their weapons. They are left in full possession of them." ZACHARIA JOHNSON, 3 Elliot, Debates at 646.

"The right of the people to keep and bear...arms shall not be infringed. A well regulated militia, composed of the people, trained to arms is the best and most natural defense of a free country..." JAMES MADISON, 1 Annals of Congress 434 (June 8, 1789).

"Besides the advantage of being armed, which the Americans possess over the people of almost every other nation... Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the

governments are afraid to trust the people with arms." JAMES MADISON, of Virginia, Federalist Papers, #46.

"Arms in the hands of citizens [may] be used at individual discretion...in private self-defense..." JOHN ADAMS, A Defense of the Constitutions of the Government of the USA, 471 (1788)

"The militia, who are in fact the effective part of the people at large, will render many troops quite unnecessary. They will form a powerful check upon the regular troops, and will generally be sufficient to over-awe them." TENCH COXE of Pennsylvania, An American Citizen, Oct. 21, 1787

"Who are the militia? Are they not ourselves? Congress has no power to disarm the militia. Their swords and every other terrible implement of the soldier, are the birthright of an American...The unlimited power of the sword is not in the hands of either the federal or state governments, but, where I trust in God it will ever remain, in the hands of the people." TENCH COXE of Pennsylvania The Pennsylvania Gazette, Feb. 20, 1788

"The strongest reason for people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government." -Thomas Jefferson Papers, 334 (C.J.Boyd, Ed., 1950)

"... God forbid we should ever be twenty years without such a rebellion. The people cannot be all, and always, well informed. The part which is wrong will be discontented, in proportion to the importance of the facts they misconceive. If they remain quiet under such misconceptions, it is lethargy, the forerunner of death to the public liberty. ... And what country can preserve its liberties, if it's rulers are not warned from time to time, that this people preserve the spirit of resistance? Let them take arms. The remedy is to set them right as to the facts, pardon and pacify them. What signify a few lives lost in a century or two? The tree of liberty must be refreshed from time to time, with the blood of patriots and tyrants. It is its natural manure." - Thomas Jefferson, Nov. 13, 1787, letter to William S. Smith, see Jefferson On Democracy, 20 (S. Padover ed. 1939).

"I ask, sir, what is the militia? It is the whole people, except for a few public officials." - George Mason, 3 Elliot, Debates at 425-426.

"Whenever governments mean to invade the rights and liberties of the people, they always attempt to destroy the militia, in order to raise an army upon their ruins." -Rep. Elbridge Gerry of

Massachusetts, spoken during floor debate over the Second Amendment, I Annals of Congress at 750, August 17, 1789.

"...the people are confirmed by the article in their right to keep and bear their private arms." -Tench Coxe in "Remarks on the First Part of the Amendments to the Federal Constitution." Under the pseudonym "A Pennsylvanian" in the Philadelphia Federal Gazette, June 18, 1789 at 2 col. 1.

"To preserve liberty, it is essential that the whole body of people always possess arms..." -Richard Henry Lee, 1788, Member of the First U.S. Senate.

"...The people are confirmed by the next article in their right to keep and bear their private arms." –President John Adams. Article in the Philadelphia Gazette ten days after the introduction of the Bill of Rights. Philadelphia Federal Gazette June 18, 1789 at 2, col. 2.

"The very atmosphere of firearms anywhere and everywhere restrains evil interference - they deserve a place of honor with all that is good." -George Washington

"The battle, Sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, Sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat but in submission and slavery! Our chains are forged! Their clanking may be heard on the plains of Boston! The war is inevitable; and let it come! I repeat, Sir, let it come!" -Patrick Henry, in his famous "The War Inevitable" speech, March, 1775.

"It is in vain, Sir, to extenuate the matter. Gentlemen may cry, Peace, Peace! But there is no peace. The war is actually begun! The next gale that sweeps from the North will bring to our ears the clash of resounding arms! Our brethren are already in the field! Why stand we here idle? What is it that Gentlemen want? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take, but as for me, give me liberty or give me death!" -Patrick Henry, in his famous "The War Inevitable" speech, March, 1775.

"That the Constitution shall never be construed to authorize Congress to infringe the just liberty of the press or the rights of conscience; or to prevent "the people" of the United States who are peaceable citizens from keeping their own arms..." -Samuel Adams in arguing for a Bill of Rights, from the book "Massachusetts," published by Pierce & Hale, Boston, 1850, pg. 86-87.

"The militia, when properly formed, are in fact the people themselves... [T]he Constitution ought to secure a genuine and guard against a select militia, by providing that the militia shall always be kept well organized, armed, and disciplined, and include . . . all men capable of bearing arms..." -Richard Henry Lee, "Letters from the Federal Farmer to the Republic," (1788) p. 169.

"That a well-regulated militia, composed of the body of the people trained to arms, is the proper, natural and safe defense of a free state; that standing armies in time of peace should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power." -George Mason, Article 13 of the Virginia Declaration of Rights of 1776.

"Who are the militia? They consist of the whole people, except for a few public officials." -George Mason, Framer of the Declaration of Rights, Virginia, 1776 , which became the basis of the U.S. Bill of Rights; 3 Elliot, Debates at 425-426.

"The prohibition is general. No clause in the Constitution could by rule of construction be conceived to give the Congress the power to disarm the people." -William Rawle, 1825; He was offered the position of the first U.S. Attorney General, by President Washington.

"Government is not reason. It is not eloquence. It is a force, like fire: a dangerous servant and a terrible master". -George Washington

"God grants liberty only to those who love it, and are always ready to guard and defend it." -Daniel Webster

"Whenever people . . . entrust the defense of their country to a regular, standing army, composed of mercenaries, the power of that country will remain under the direction of the most wealthy citizens..." -"A Framer", in the Independent Gazetteer, 1791

"If cowardly and dishonorable men sometimes shoot unarmed men with army pistols or guns, the evil must be prevented by the penitentiary and gallows, and not by a general deprivation of a constitutional privilege." -Arkansas Supreme Court, 1878

"The right of citizens to bear arms is just one guarantee against arbitrary government, one more safeguard against the tyranny which now appears remote in America, but which historically has proved to be always possible." -Senator Hubert H. Humphrey (D-Minnesota)

"The one weapon every man, soldier, sailor, or airman should be able to use effectively is the rifle. It is always his weapon of personal safety in an emergency, and for many it is the primary weapon of offense and defense. Expertness in its use cannot be overemphasized." -General Dwight D. Eisenhower

"To prohibit a citizen from wearing or carrying a war arm...is an unwarranted restriction upon the constitutional right to keep and bear arms. If cowardly and dishonorable men sometimes shoot unarmed men with army pistols or guns, the evil must b e prevented by the penitentiary and gallows, and not by a general deprivation of constitutional privilege." -WILSON V. STATE, 33 ARK 557, AT 560, 34 AM. REP.. 52, AT 54. (1878).

" 'The right of the people to keep and bear arms shall not be infringed.' The right of the whole people, old and young, men, women, and boys, and not militia only, to keep and bear arms of every description, and not such merely as are used by the militia, shall not be infringed, curtailed, or broken in upon, in the smallest degree; and all for the important end to be attained: the rearing up and qualifying a well-regulated militia, so vitally necessary to the security of a free state. Our opinion is that any law, State or Federal, is repugnant to the Constitution, and void, which contravenes this right." -NUNN V. STATE, 1 GA. (1 KEL.) 243, AT 251 (1846)

"Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword; because the whole of the people are armed, and constitute a force superior to any bands of regular troops that can be, on any pretense, raised in the United States." -Noah Webster, "An Examination into the leading Principles of the Federal Constitution." in Paul Ford, ed., Pamphlets on the Constitution of the United States , at 56 (New York, 1888).

"...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 use of arms, who stand ready to defend their rights..." -Alexander Hamilton, speaking of standing armies in The Federalist 29.

"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 in their right to keep and bear private arms." -Tench Coxe, in "Remarks on the First Part of the Amendments to the Federal Constitution." under the pseudonym, "A Pennsylvanian" in the Philadelphia Federal Gazette, June 18, 1789 at 2 Col.

"The supposed quietude of a good man allures the ruffian; while on the other hand, arms, like laws, discourage and keep the invader and the plunderer in awe, and preserve order in the world as well as property. The same balance would be preserved were all the world destitute of arms, for all the world would be alike; but since some will not, others dare not lay them aside...Horrid mischief would ensue were one half the world deprived the use of them..." -Thomas Paine, I Writings of Thomas Paine at 56 (1894).

"The ultimate authority...resides in the people alone." -James Madison, author of the Bill of Rights, in Federalist Paper No. 46.

"The whole of the Bill [of Rights] is a declaration of the right of the people at large or considered as individuals...It establishes some rights of the individual as unalienable and which consequently, no majority has the right to deprive them of." -Albert Gallatin of the New York Historical Society, October 7, 1789.

The Constitution 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 and that they are entitled to freedom of person, freedom of religion, freedom of property, and freedom of press." -Thomas Jefferson

"What, Sir, is the use of a militia? It is to prevent the establishment of a standing army, the bane of liberty...Whenever governments mean to invade the rights and liberties of the people they always attempt to destroy the militia, in order to raise an army upon their ruins." -Rep. Eldridge Gerry of Massachusetts (spoken during floor debate over the Second Amendment, I Annals of Congress at 750 (August 17, 1789.))

"That a well-regulated militia, composed of the body of the people trained to arms, is the proper, natural and safe defense of a free state; that standing armies in the time of peace should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power." -George Mason, Article 13 of the Virginia Declaration of Rights of 1776.

"The prohibition is general. No clause in the Constitution could by rule of construction be conceived to give Congress the power to disarm the people. Such a flagitious attempt could only be made

under some general pretense by a state legislature. But if in blind pursuit of inordinate power, either should attempt it, this amendment may be appealed to as a restraint on both." -William Rawie, 1825; considered academically to be an expert commentator on the Constitution. He was offered the position of the first Attorney General of the United States by President Washington.

"It is not certain that with this aid alone (possession of arms) they would not be able to shake off their yokes. But were the people to possess the additional advantages of local governments chosen by themselves, who could collect the national will, and direct the national force; and of officers appointed out of the militia, by these governments and attached both to them and to the militia, it may be affirmed with the greatest assurance, that the throne of every tyranny in Europe would be speedily overturned, in spite of the legions which surround it." -James Madison, "Federalist No. 46"

"A government resting on the minority is an aristocracy, not a Republic, and could not be safe with a numerical and physical force against it, without a standing army, an enslaved press and a disarmed populace." -James Madison, The Federalist Papers, No. 46.

"Americans have the right and advantage of being armed - unlike the citizens of other countries whose governments are afraid to trust the people with arms." -James Madison, The Federalist Papers No. 46 at 243-244.

"They tell us Sir, that we are weak - unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance by lying supinely on our backs, and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak, if we make a proper use of those means which the God of nature hath placed in our power." -Patrick Henry (1736 - 1799) in his famous "The War Inevitable" speech, March, 1775.

"Instances of the licentious and outrageous behavior of the military conservators still multiply upon us, some of which are of such nature, and have been carried to so great lengths, as must serve fully to evince that a late vote of this town, calling upon its inhabitants to provide themselves with arms for their defense, was a measure as it was legal natural right which the people have reserved to themselves, confirmed by the Bill of Rights [the post-Cromwellian English Bill of Rights] to keep arms for their own defense; and as Mr. Blackstone observes, it is to be made use of when the sanctions of society and law are found insufficient to restrain the violence

of oppression." -"A Journal of the Times" (1768-1769); Colonial Boston newspaper article

"He that violates his oath profanes the Divinity of faith itself." - Cicero (found on LA City Hall wall.)

"Disperse, you rebels - Damn you, throw down your arms and disperse!" -Maj. John Pitcairn, Lexington, Massachusetts, April 19, 1775

"To avoid domestic tyranny, the people must be armed to stand upon [their] own Defense; which if [they] are enabled to do, [they] shall never be put upon it, but [their] Swords may grow rusty in [their] hands; for that Nation is surest to live in Peace, that is most capable of making War; and a Man that hath a Sword by his side, shall have least occasion to make use of it." -John Trenchard & Walter Moyle, "An Argument Showing, That a Standing Army is Inconsistent With a Free Government, and Absolutely Destructive to the Constitution of the English Monarchy" [London, 1697]

"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 possible limits...and [when] 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." -Sir George Tucker, Judge of the Virginia Supreme Court and U.S. District Court of Virginia in I Blackstone COMMENTARIES Sir George Tucker Ed., 1803, pg. 300 (App.)

"No kingdom can be secured otherwise than by arming the people. The possession of arms is the distinction between a freeman and a slave. He who has nothing, and who himself belongs to another, must be defended by him, whose property he is, and needs no arms. But he, who thinks he is his own master, and has what he can call his own, ought to have arms to defend himself, and what he possesses; also he lives precariously, and at discretion." -James Burgh "Political Disquisitions: Or, an Enquiry into Public Errors, Defects, and Abuses" [London, 1774-1774

"It is proper to take alarm at the first experiment upon our liberties. We hold this prudent jealousy to be the first duty of citizens and one of the noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much ...to forget it." -James Madison

"The people cannot delegate to government the power to do anything which would be unlawful for them to do themselves." -John Locke

"Those rights, then, which God and nature have established, and are therefore called natural rights, such as life and liberty, need not the aid of human laws to be more effectually invested in every man than they are; neither do they receive any additional strength when declared by the municipal laws to be inviolate. On the contrary, no human legislature has power to abridge or destroy them, unless the owner shall himself commit some act that amounts to a forfeiture." - Sir William Blackstone

"Necessity is the plea of every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves." - William Pitt

"See if the law takes from some persons what belongs to them, and gives it to other persons to whom it does not belong. See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime." – excerpt from <u>The Law</u> by Frederic Bastiat (1801-1850).

APPENDIX III – BIBLIOGRAPHY This bibliography consists of legal sources, historical sources, and various expert and professional sources regarding Arms in common military, militia, and law enforcement use, both in the past and in current use, and, as such, is put forward and presented as material, exculpatory, and rebuttal evidence.

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The Oxford Universal Dictionary on Historical Principals. Third Edition, Revised with Addenda. Oxford At The Clarendon Press. 1944. First Published 1933.

The Constitution for the United States of America. 1789. View the document, read the official text, plus other historical information, at the National Archives Website: http://www.archives.gov/national archives experience/constitution transcript.html

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United States v. Miller and Short-Barreled Shotguns. A Critical Analysis of the U.S. Supreme Court Opinion Including Evidentiary Presentation. By Brian C. Puckett. Copyright 2003. 2118 Wilshire Blvd. #447, Santa Monica, California 90403. Email: guns1776@earthlink.net . Attention: The entire text of United States v. Miller and Short Barreled Shotguns is hereby entered and cited as evidence showing the failures by the court in the *Miller* case, and the invalidity of the National Firearms Act of 1934, and can be read at, or downloaded, in its entirety, from the following website URL: http://www.keepandbeararms.com/Puckett/MillerShotgun.pdf

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APPENDIX IV – Distribution List. Past and Present Documents. List of Documents, Public Officials, Media, and Others Notified.

Declaration of Citizen's Right to Keep and Bear Arms. Dated October 12, 1998. Notarized and Filed for Record October, 19, 1998, Book 3, Pages 255-270, Washington County Circuit Clerk Office, Washington County, Arkansas.

Follow-up letter to Governor Mike Huckabee, and notice to BATF. Dated June 12, 2000. Filed for Record May 29, 2001, Misc. Personal Book 3, Page 562, Washington County Circuit Clerk Office, Washington County, Arkansas.

(Apostile No. 991156 for the above Public Documents received March 17, 2000, U.S. Clerk's Office. Signed by Notary Public W. Mack Crutchfield, Benton County, Arkansas. Certified at Little Rock, Arkansas August 19, 1999, by the Secretary of State, Sharon Priest.)

Public Notice – A Volunteer Artillery Company is Commissioned. Dated May 12, 2001. Notarized June 4, 2001 by Joyce Eubanks, Notary Public, Washington County, Arkansas.

Notice to the Governor of Arkansas. Dated July 4, 2002. Filed for Record August 27, 2002, Misc. Personal Book 3, Pages 623-625, Washington County Circuit Clerk Office, Washington County, Arkansas.

Officials and Media furnished with copies of the above documents:
(All copies to Public Officials sent via certified mail)
Mike Huckabee, Governor, State of Arkansas
Winthrop Rockefeller, Lieutenant Governor, State of Arkansas
Steve Whitmill, Washington County Sheriff
Colonel Don Melton, Arkansas State Police Director
Mark Pryor, Arkansas State Attorney General
Sharon Priest, Secretary of State of Arkansas
U.S. Senator Tim Hutchinson
U.S. Senator Blanche Lincoln
U.S. Congressman John Boozman
John Ashcroft, United States Attorney General
Paul O'Neill, United States Secretary of Treasury
Bradley A. Buckles Director of BATF
Arkansas Democrat Gazette
The Morning News of Northwest Arkansas
Northwest Arkansas Times

Officials and Media and furnished with copies of "The Silver Bullet":
(All copies to Public Officials sent via certified mail)
Mike Huckabee, Governor, State of Arkansas
Winthrop Rockefeller, Lieutenant Governor, State of Arkansas
Charlie Daniels, Secretary of State, State of Arkansas
Mike Beebe, Attorney General, State of Arkansas
Lt.Col. Steve Dozier, Interim Director, Arkansas State Police
Jim Holt, Arkansas State Senator
Carl J. Truscott,Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives.
Lee Owen, Sheriff, Washington County, Arkansas
Tim Helder, Sheriff Elect & Chief Deputy, Washington County, Arkansas
U.S. Senator Mark Pryor
U.S. Senator Blanche Lincoln
John Ashcroft, United States Attorney General
Arkansas Democrat Gazette
The Morning News of Northwest Arkansas

Northwest Arkansas Times

STATE OF ARKANSAS

SECRETARY OF STATE

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: *United States of America*

   This Public document
2. has been signed by ROBERT JOHN MABRITO
3. acting in the capacity of Notary Public WASHINGTON County, Arkansas
4. bears the seal/stamp of Notary Public WASHINGTON County, Arkansas

Certified

5. at Little Rock, Arkansas
6. the 24th day of June 2004
7. by the Secretary of State, State of Arkansas
8. No. 2326550031
9. Seal / Stamp

10. Signature:

Charlie Daniels, Secretary of State

Done in The Year Two Thousand and Four, on this 23rd Day of The Month of June, in The Perpetual Reign of The Lord Jesus Christ in His Everlasting Kingdom, to whom "every knee shall bow".

Paul Glenn Smith

Paul Glenn Smith, Commander

Hollis Wayne Fincher

Hollis Wayne Fincher, Lt. Commander

Archetype

Form: Affidavit

(Convention de La Haye du 5 octobre 1961)
TIAS 10072, 33 UST 883, 527 UNTS 189, (Convention #12)

Act of State

Primary Signature Certification

I, Robert John Mabrito, a duly certified and qualified Notary, do hereby certify the document enclosed to be a true, correct, complete, and not misleading Original of the Archetype, containing the primary signature as sealed below. This notarization is for the purpose of signature certification only, for foreign use (i.e. United States of America) of the U.S. originated document. This is pursuant to the Hague Conference on Private International Law dated 5 October 1961, at the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents. It was on 15 October 1961 wherein the United States declared as being a signatory to this Convention, and this procedure is required for the legalisation of administrative/judicial documents as herein enclosed.

Paul Glenn Smith
Counsellor

Notary: Robert John Mabrito

Hollis Wayne Fincher
Counsellor

Washington, Arkansas
County - State

Robert John Mabrito
Notary Public
Washington County, Arkansas
My Commission Expires: 5/4/2014

Seal/Stamp

My Commission expires: 5/4/2014

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