

# THE TEXT OF THE SECOND AMENDMENT

By J. Neil Schulman

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If you wanted to know all about the Big Bang, you'd ring up Carl Sagan, right? And if you wanted to know about desert warfare, the man to call would be Norman Schwartzkopf, no question about it. But who would you call if you wanted the top expert on American usage to tell you the meaning of the Second Amendment to the United States Constitution?

That was the question I asked A.C. Brocki, editorial coordinator of the Los Angeles Unified School District and formerly senior editor at Houghton Mifflin Publishers -- who himself had been recommended to me as the foremost expert on English usage in the Los Angeles school system. Mr. Brocki told me to get in touch with Roy Copperud, a retired professor of journalism at the University of Southern California and the author of *American Usage and Style: The Consensus*.

A little research lent support to Brocki's opinion of Professor Copperud's expertise.

Roy Copperud was a newspaper writer on major dailies for over three decades before embarking on a distinguished seventeen-year career teaching journalism at USC. Since 1952, Copperud has been writing a column dealing with the professional aspects of journalism for *Editor and Publisher*, a weekly magazine focusing on the journalism field.

He's on the usage panel of the *American Heritage Dictionary*, and *Merriam Webster's Usage Dictionary* frequently cites him as an expert. Copperud's fifth book on usage, *American Usage and Style: The Consensus*, has been in continuous print since 1981, and is the winner of the Association of American Publisher's Humanities Award.

That sounds like an expert to me.

After a brief telephone call to Professor Copperud in which I introduced myself but did not give him any indication of why I was interested, I sent the following letter:

"I am writing you to ask you for your professional opinion as an expert in English usage, to analyze the text of the Second Amendment to the United States Constitution, and extract the intent from the text.

"The text of the Second Amendment is, '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 debate over this amendment has been whether the first part of the sentence, 'A well-regulated Militia, being necessary to the security of a free State,' is a restrictive clause or a subordinate clause, with respect to the independent clause containing the subject of the sentence, 'the right of the people to keep and bear Arms, shall not be infringed.'

"I would request that your analysis of this sentence not take into consideration issues of political impact or public policy, but be restricted entirely to a linguistic analysis of its meaning and intent. Further, since your professional analysis will likely become part of litigation regarding the consequences of the Second Amendment, I ask that whatever analysis you make be a professional opinion that you would be willing to stand behind with your reputation, and even be willing to testify under oath to support, if necessary."

My letter framed several questions about the text of the Second Amendment, then concluded:

"I realize that I am asking you to take on a major responsibility and task with this letter. I am doing so because, as a citizen, I believe it is vitally important to extract the actual meaning of the Second Amendment. While I ask that your analysis not be affected by the political importance of its results, I ask that you do this because of that importance."

## Questions and Answers

After several more letters and phone calls, in which we discussed terms for his doing such an analysis, but in which we never discussed either of our opinions regarding the Second Amendment, gun control, or any other political subject, Professor Copperud sent me the following analysis (into which I have italicized my questions for the sake of clarity):

The words "A well-regulated militia, being necessary to the security of a free state," contrary to the interpretation cited in your letter of July 26, 1991, constitutes a present participle, rather than a clause. It is used as an adjective, modifying "militia," which is followed by the main clause of the sentence (subject "the right," verb "shall"). The right to keep and bear arms is asserted as essential for maintaining a militia.

In reply to your numbered questions:

*(1) Can the sentence be interpreted to grant the right to keep and bear arms solely to "a well-regulated militia"?*

The sentence does not restrict the right to keep and bear arms, nor does it state or imply possession of the right elsewhere or by others than the people; it simply makes a positive statement with respect to a right of the people.

*(2) Is "the right of the people to keep and bear arms" granted by the words of the Second Amendment, or does the Second Amendment assume a pre-existing right of the people to keep and bear arms, and merely state that such right "shall not be infringed"?*

The right is not granted by the amendment; its existence is assumed. The thrust of the sentence is that the right shall be preserved inviolate for the sake of ensuring a militia.

*(3) Is the right of the people to keep and bear arms conditioned upon whether or not a well-regulated militia, is, in fact, necessary to the security of a free State, and if that condition is not existing, is the statement "the right of the people to keep and bear Arms, shall not be infringed" null and void?*

No such condition is expressed or implied. The right to keep and bear arms is not said by the amendment to depend on the existence of a militia. No condition is stated or implied as to the relation of the right to keep and bear arms and to the necessity of a well-regulated militia as a requisite to the security of a free state. The right to keep and bear arms is deemed unconditional by the entire sentence.

*(4) Does the clause 'A well-regulated Militia, being necessary to the security of a free State, '*

*grant a right to the government to place conditions on the "right of the people to keep and bear arms," or is such right deemed unconditional by the meaning of the entire sentence?*

The right is assumed to exist and to be unconditional, as previously stated. It is invoked here specifically for the sake of the militia.

*(5) Which of the following does the phrase "well-regulated militia" mean: "well-equipped," "well-organized," "well-drilled," "well-educated," or "subject to regulations of a superior authority"?*

The phrase means "subject to regulations of a superior authority;" this accords with the desire of the writers for civilian control over the military.

*(6) If at all possible, I would ask you to take into account the changed meanings of words, or usage, since that sentence was written two-hundred years ago, but not take into account historical interpretations of the intents of the authors, unless those issues cannot be clearly separated.*

To the best of my knowledge, there has been no change in the meaning of words or in usage that would affect the meaning of the amendment. If it were written today, it might be put: "Since a well-regulated militia is necessary to the security of a free state, the right of the people to keep and bear arms shall not be abridged."

*(7) As a "scientific control" on this analysis, I would also appreciate it if you could compare your analysis of the text of the Second Amendment to the following sentence:*

*"A well-schooled electorate, being necessary to the security of a free State, the right of the people to keep and read Books, shall not be infringed."*

*My questions for the usage analysis of this sentence would be,*

*(A) Is the grammatical structure and usage of this sentence and the way the words modify each other identical to the Second Amendment's sentence?; and*

*(B) Could this sentence be interpreted to restrict "the right of the people to keep and read Books" only to "a well-educated electorate" -- for example, registered voters with a high-school diploma?*

(A) Your "scientific control" sentence precisely parallels the amendment in grammatical structure.

(B) There is nothing in your sentence that either indicates or implies the possibility of a restricted interpretation.

## **Concluding Comment**

Professor Copperud had only one additional comment, which he placed in his cover letter: "With well-known human curiosity, I made some speculative efforts to decide how the material might be used, but was unable to reach any conclusion."

So now we have been told by one of the top experts on American usage what many knew all

along: the Constitution of the United States unconditionally protects the people's right to keep and bear arms, forbidding all governments formed under the Constitution from abridging that right.

As I write this, the attempted coup against constitutional government in the Soviet Union has failed, apparently because the *will* of the people in that part of the world to be free from capricious tyranny is stronger than the old guard's desire to maintain a monopoly on dictatorial power.

And here in the United States, elected lawmakers, judges, and appointed officials who are pledged to defend the Constitution of the United States ignore, marginalize, or prevaricate about the Second Amendment routinely. American citizens are put in American prisons for carrying arms, owning arms of forbidden sorts, or failing to satisfy bureaucratic requirements regarding the owning and carrying of firearms -- all of which is an abridgement of the unconditional right of the people to keep and bear arms, guaranteed by the Constitution. Even the American Civil Liberties Union (ACLU), staunch defender of the rest of the Bill of Rights, stands by and does nothing.

It seems it is up to those who believe in the right to keep and bear arms to preserve that right. No one else will. No one else can. Will we beg our elected representatives not to take away our rights, and continue regarding them as representing us if they do? Will we continue obeying judges who decide that the Second Amendment doesn't mean what it says it means but means whatever they say it means in their Orwellian doublespeak?

Or will we simply keep and bear the arms of our choice, as the Constitution of the United States promises us we can, and pledge that we will defend that promise with our lives, our fortunes, and our sacred honor?