

## Vlach: The real purpose of the Second Amendment

**Randy Vlach**

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Rows of handguns sit in the display case at Wyoming Gun Company in Casper on March 26, 2020. Cayla Nimmo file, Star-Tribune

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**T**he Second Amendment to the Constitution reads: “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.” On the surface it seems pretty simple and straightforward, right? The people have the right to own

guns, end of story. But the history of this amendment is not simple or straightforward nor is its original intent what gun rights advocates today claim it to be.

During the 1787 Constitutional Convention, James Madison was having trouble getting the delegates from the southern slave holding states, Virginia, the Carolinas, and Georgia, to sign off on the new constitution. They wanted a guarantee that the institution of slavery would not be infringed upon by a powerful central government. The south refused to join the Union unless slavery was protected. With the failure of the Articles of Confederation ever in mind, Madison and his Federalists, in their zeal to form “a more perfect union” out of 13 former colonies, agreed to their demands. The new constitution would allow the Atlantic slave trade to continue for another 20 years and it would allow the slave holding states to hunt down and reclaim fugitive slaves from across state lines. When it came to representation in Congress, the southern states wanted their slaves counted as full and equal citizens but of course with none of the rights of citizenship because they were owned property, human livestock. The northern states argued that because the slaves had no rights they should not be counted at all. Eventually a compromise was struck. We know it today as the three-fifths compromise. An enslaved person would be counted as three-fifths a human being for representative and tax purposes but still treated as property with no rights.

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Now even though the southern states got what they wanted out of the new constitution, that is to keep the institution of slavery alive and well and untouched, some were still wary of ratifying a document that gave so much power to the central government. During the Virginia ratifying convention, one of the sticking points became who would control the militias. The Constitution's article 1 section 8 clauses 15 and 16 gave Congress authority over the state militias. However, because state militias, especially in the southern states, were mainly used to put down slave revolts which by the time of the Revolution had become a serious problem in the colonies, the southern states were terrified that a future congress with an anti-slavery agenda could emasculate the militias and leave slave owners defenseless in the face of an uprising. So the southern states wanted to keep control over their militias, their only defense against slave revolts.

Many states at the time were also calling for a bill of rights which would put specific limits on federal power. Madison did not see the need for a bill of rights but when the Virginia anti-federalists balked at ratifying the Constitution without one, he agreed and promised to add an amendment to answer the militia question. With that agreement, Virginia ratified. After the Constitution was officially adopted, the first task of the new congress then was to pen a bill of rights.

The ten amendments of the Bill of Rights were taken almost word for word from the English Declaration of Rights of 1689. There is a provision in the English declaration that addresses firearms. It recognizes a right to have firearms for defense as "allowed by law." Most scholars agree this does not create an individual right but a right prescribed by law as to who may own firearms and for what purpose they may be owned. Likewise the wording of the Second Amendment, when compared with the English version from which it was taken, spells out a right to "bear arms" in the service of a "well-regulated militia," a militia regulated by the state. The amendment did not create nor was it intended to create an individual right to own firearms. It was created to

give the states the authority to raise, train, and arm their militias and was added to the Bill of Rights for that reason only. So the next time you hear someone defending their “god given” right to own firearms, remember, the Second Amendment never had anything to do with an individual’s right to own a firearm. It had only to do with the slave holding states’ desperate need to keep their enslaved people under control at gun point.

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