



PROJECT MUSE®

---

## Guns, Democracy, and the Insurrectionist Idea

Horwitz, Joshua, Anderson, Casey

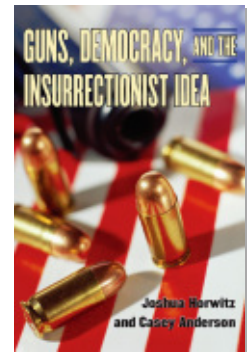
Published by University of Michigan Press

Horwitz, Joshua & Anderson, Casey.

Guns, Democracy, and the Insurrectionist Idea.

Ann Arbor: University of Michigan Press, 2009.

Project MUSE., <https://muse.jhu.edu/>.



➔ For additional information about this book

<https://muse.jhu.edu/book/6285>

## NOTES

---

### **Introduction**

1. "Meacham Park Meeting Discusses Race," *STLtoday.com*, February 8, 2008.
2. *District of Columbia et al. v. Heller*, 128 S. Ct. 2783, 2802 (2008).
3. Lake Research Partners, Missouri statewide survey conducted for the American Hunters and Shooters Association, August 2006. In possession of the authors.
4. Lund, "Past and Future."
5. See Cottrol and Diamond, "Second Amendment."
6. See Polsby and Kates, "Of Holocausts."
7. Viereck, *Conservatism Revisited*, 144.
8. Viereck, *Conservatism Revisited*, 155.

### **Chapter 1**

1. See <http://www.nrila.org/Issues/FAQ/?s=27>.
2. Lake Research Partners, Missouri statewide survey conducted for the American Hunters and Shooters Association, August 2006. In possession of the authors.
3. Kopel, "Trust the People" (emphasis added).
4. Lund, "Past and Future," 31.
5. Lund, "Past and Future," 46, 70-73.
6. Bridgewater, "Armed Revolution."
7. LaPierre, *Guns, Crime, and Freedom*, 7.
8. John Ashcroft, chair, Constitution, Federalism, and Property Rights Subcommittee of the Senate Judiciary Committee, statement, September 23, 1998. Available at <http://www.senate.gov/nrpc/releases/1999/gc012501.htm>.
9. For an overview of the patriot movement and its intersection with gun

rights groups, see *Shooting for Respectability*, 10; Dees with Corcoran, *Gathering Storm*.

10. See <http://www.fec.gov/DisclosureSearch/mapApp.do>.

11. See <http://www.ronpaullibrary.org/document.php?id=16>.

12. See [http://www.pbs.org/newshour/vote2008/blog/2008/03/huckabee\\_concedes\\_gop\\_race\\_aft.html](http://www.pbs.org/newshour/vote2008/blog/2008/03/huckabee_concedes_gop_race_aft.html).

13. See video of Huckabee speaking at a house party in New Hampshire at [http://www.youtube.com/watch?v=53BE93\\_0gIc](http://www.youtube.com/watch?v=53BE93_0gIc).

14. Of course, some gun rights enthusiasts assert that handguns alone are insufficient for home defense. We know of at least one firearms instructor who says he and his wife keep loaded handguns on the nightstands next to their bed “so we can fight our way to the combat shotgun we keep in the closet” in the event an intruder breaks in and attacks during the night. We have not, however, ever met anyone who claims that a semiautomatic assault rifle is necessary to adequately protect their homes.

15. See Miller, Hemenway, and Azrael, “State-Level Homicide Rates.”

16. Lund, “Past and Future.”

17. See Cottrol and Diamond, “Second Amendment.”

18. See Polsby and Kates, “Of Holocausts.”

19. LaPierre, *Global War*, 127.

20. Kopel, *Firearms Law and the Second Amendment Symposium*.

21. Shaun Kranish, founder of the Web site ICarry.org, question to David Kopel and Joyce Lee Malcolm, *Firearms Law and the Second Amendment Symposium*, George Mason University School of Law, Arlington, Virginia, October 7, 2006.

22. Kopel and Little, “Communitarians,” 553.

23. Wayne LaPierre, “The Second Amendment As a Freedom Issue,” speech at Commonwealth Club, San Francisco, March 11, 2004.

24. Charlton Heston, “Opening Remarks to Members,” NRA Annual Meeting, Charlotte, North Carolina, May 20, 2000, <http://www.nra.org/Speech.aspx?id=6044&fid=5>.

25. Report of the Executive Vice President, Minutes of the Annual Meeting of Members, National Rifle Association of America, April 14, 2007. In possession of the authors.

26. “NRA Endows Chair at George Mason U. Law School,” *Chronicle of Higher Education*, March 14, 2003.

27. Forte and Spalding, *Heritage Guide*.

28. See <http://www.i2i.org>.

29. See <http://www.castlerockfoundation.org/recipients.html>; <http://www.southeasternlegal.org/default.aspx?page=15>.

30. Kayne Robinson, “President’s Column,” *America’s First Freedom: The Official Journal of the NRA*, February 2005, 10.

31. LaPierre, *Essential Second Amendment Guide*, vii.
32. LaPierre, "Standing Guard," 13.
33. *Freedom in Peril*, 3.
34. "Freedom Index," *America's First Freedom: The Official Journal of the National Rifle Association*, January 2007, 22.
35. *Freedom in Peril*, 9.
36. *Freedom in Peril*, 14.
37. Michel and Herbeck, *American Terrorist*, 339.
38. See <http://www.mercgroup.com/services.html>.

## Chapter 2

1. DeWeese, "Why We Need 'The Freedom in Education Act.'"
2. Kopel, "Are They Schools?"
3. Zelman, "Taxes and Gun Rights—What Gun Owners Must Know," April 3, 2006. <http://ipfo.org/pdf/cs200604.pdf>.
4. Zelman and Wolfe, "Can The Second Amendment And Social Security Coexist?"
5. See LaPierre, *Global War*.
6. Video no longer available, but also quoted at [http://www.washingtonspectator.com/articles/20060715united\\_nations\\_2.cfm](http://www.washingtonspectator.com/articles/20060715united_nations_2.cfm).
7. Blaine Harden, "NRA Pressured to Resist Bush Energy Policies," *Washington Post*, January 27, 2007.
8. *Freedom in Peril*, 23.
9. *Freedom in Peril*, 23.
10. According to Sampson, Morenoff, and Raudenbush, "Social Anatomy," 229, evidence shows that first-generation immigrants are among the least violent of criminal groups.
11. Jennifer Freeman, "Open Borders Threaten Gun Rights," n.d. <http://www.libertybelles.org/articles/openborders.htm>.
12. Second Amendment Foundation, "Zogby Poll Shows Americans Favor Border Control over Gun Control," September 12, 2005, <http://www.saf.org/viewpr-new.asp?id=159>.
13. In his new study on Jefferson's view of the militia, historian David Konig makes it clear that Jefferson was no Insurrectionist and fully understood that the right to revolt was not enshrined in the Constitution. See Konig, "Thomas Jefferson's Armed Citizenry."

## Chapter 3

1. NRA, IRS Form 990 (2004); NRA Foundation, IRS Form 990 (2004).
2. Feldman, *Ricochet*, 45–47.

3. Feldman, *Ricochet*, 123, 126.
4. See discussion of letter in Sam Verhovek, "An Angry Bush Ends His Ties to Rifle Group," *New York Times*, May 11, 1995.
5. See <http://www.fec.gov/finance/disclosure/srssea.shtml>.
6. "Creigh Deeds Answers Your Questions," February 21, 2006, <http://www.raisingkaine.com/showDiary.do?diaryId=1709>.
7. See <http://www.nrapvf.org/> (see 2006 Texas 14 and Florida 21; subscription required). In possession of the authors.
8. Cassidy, "Ringleader," 46.
9. *Freedom in Peril*, 3.
10. Susan Schmidt and James V. Grimaldi, "Nonprofit Groups Funneled Money for Abramoff," *Washington Post*, June 25, 2006.
11. Reid, "Paladin Press."
12. "Ted's World," *Denver Westword*, July 27, 1994.
13. "Ted Nugent to Fellow NRAers: Get Hardcore," Associated Press, April 17, 2005.
14. Elizabeth Goodman, "Ted Nugent Threatens to Kill Barack Obama and Hillary Clinton during Vicious Onstage Rant," *Rolling Stone*, August 24, 2007.
15. U.S. Department of Justice, Respondent's Memorandum of Law in Support of Motion for Summary Judgment at 3, filed in *RSM, Inc. (d/b/a Valley Gun) v. Herbert*, No. 1:05-cv-00847.
16. *RSM, Inc. v. Herbert*, No. 1:05-cv-00847, Slip Op. at 4 (D. Md., February 23, 2006).
17. Americans for Gun Safety Foundation, "Selling Crime," 14.
18. *RSM, Inc. v. Herbert*, Slip Op. No. 06-0396 (4th Cir. 2006), 13.
19. "'Rogue Gun Dealer' Avoids Prison," *The Examiner*, Jan. 15, 2008.
20. Feldman, *Ricochet*, 268.
21. 18 U.S.C. § 925 (d).
22. Diaz, *Making a Killing*, 89.
23. Feldman, *Ricochet*, 260.
24. Feldman, *Ricochet*, 269-70.
25. See the JPFO's "Boot the BATFE" campaign, <http://www.jpfo.org/filegen-a-m/bootbatfe.htm>.
26. Bob Herbert, "In America; The Company They Keep," *New York Times*, February 16, 1996.
27. Steve Bailey, "A.K.A. gunnut," *Boston Globe*, August 10, 2007.
28. Second Amendment Foundation, "SAF Celebrates Patriot's Day, the Root of the Second Amendment," April 19, 2006, <http://www.saf.org/viewpr-new.asp?id=179>.
29. Jews for the Preservation of Firearms Ownership, "Jews and 'Gun Control': Fear of Freedom or Freedom from Fear?" n.d., <http://www.jpfo.org/filegen-a-m/fear.htm>.

30. Pratt, "Supreme Court Has Declared," 8.
31. Pratt, "South African Gun Owners," 6–7. For a refutation of Pratt's claim about the mountains of data showing the protective values of guns, see Miller, Hemenway, and Azrael, "State-Level Homicide Rates."
32. Zeskind, "Armed and Dangerous."
33. Zeskind, "Armed and Dangerous." For a detailed discussion of the relationship between the gun rights movement and the militia movement, see *Shooting for Respectability*, 10; Dees with Corcoran, *Gathering Storm*, 49–52.
34. Joshua Horwitz, Larry Pratt, and Joe Scarborough, conversation, March 8, 2005, on-air segment available at <http://www.gunowners.org/svtb.htm>.
35. Zeskind, "Armed and Dangerous."
36. U.S. Department of the Treasury, *Following the Gun*, xi.
37. Bouchard, Testimony, 34.
38. Carl J. Truscott, director of ATF, to F. James Sensenbrenner Jr., chair, House Committee on the Judiciary, November 11, 2005. In possession of the authors.
39. Michel and Herbeck, *American Terrorist*, 148, 166, 46, 142.
40. Michel and Herbeck, *American Terrorist*, 150, 269.
41. Jefferson's views about Insurrection are complicated, but "never did he describe it as a right." His famous statement regarding Shays's Rebellion—"a little rebellion now and then is a good thing"—was not an effort to justify the rebels' actions but rather to caution against a harsh repression of a political phenomenon that was natural and necessary (Konig, "Thomas Jefferson's Armed Citizenry," 263–64).
42. See Kenneth Ofgang, "Ninth Circuit Revives Suit Against Gun Makers in Valley Shootings," *Los Angeles Metropolitan News-Enterprise*, November 23, 2003; Anti-Defamation League, "Aryan Nations, Church of Jesus Christ Christian," n.d., [http://www.adl.org/learn/ext\\_us/Aryan\\_Nations.asp?xpicked=3&item=11](http://www.adl.org/learn/ext_us/Aryan_Nations.asp?xpicked=3&item=11); "Daily Briefing," *Seattle Times*, May 17, 2000; "The Hate Filled Descent of Buford Furrow," *Seattle Post-Intelligencer*, September 17, 1999.
43. See [www.stormfront.org](http://www.stormfront.org), with the motto, "White Pride, World Wide," where LastReb2 (with a picture of a Confederate flag) wrote on November 9, 2006, the day after the election, "Yeap, the Democrats worry more about destroying the 2nd amendment than destroying Bin Laden and his band of terrorists. I predict that America will look like Bagdad by next year" (<http://www.stormfront.org/forum/showthread.php/buy-your-guns-and-ammo-340261.html?t=340261&highlight=gun>).
44. Article and comments found at [www.keepandbeararms.com/news/nl](http://www.keepandbeararms.com/news/nl). Comment dated February 6, 2007.
45. Article and comments found at [www.keepandbeararms.com/news/nl](http://www.keepandbeararms.com/news/nl). Comment dated February 7, 2007.
46. Bob Moser, "The Abbeville Horror: A 'Patriot' Shootout Kills Two

Officers, Shatters the Peace of an Old South Town and Raises Questions about an Extremist Past—and Present,” spring 2004, <http://www.splcenter.org/intel/intelreport/article.jsp?pid=668>.

47. See Humphrey Taylor, “Two in Five Americans Live in Gun-Ownning Households,” *Harris Poll* 25, May 30, 2001, [http://www.harrisinteractive.com/harris\\_poll/index.asp?PID=234](http://www.harrisinteractive.com/harris_poll/index.asp?PID=234).

48. Lake, Snell, Perry Nationwide Survey of 1,000 registered voters for the Educational Fund to Stop Gun Violence, May 15–21, 2001. See archived press release at [www.commondreams.org/news2001/0612-05.htm](http://www.commondreams.org/news2001/0612-05.htm).

49. Testimony at Virginia Senate Courts of Justice Committee, January 16, 2006. Personal observation.

50. Shaun Kranish, founder of the Web site ICarry.org, question to David Kopel and Joyce Lee Malcolm, Firearms Law and the Second Amendment Symposium, George Mason University School of Law, Arlington, Virginia, October 7, 2006.

51. Margot Sanger-Katz, “Browns get five years in tax case,” *Concord (New Hampshire) Monitor*, April 25, 2007.

52. Scott Brooks, “As trial goes on, he hunkers down,” *New Hampshire Union Leader*, January 18, 2007.

53. Russell Goldman, “New Hampshire Couple Vows to Fight Feds to the Death,” ABC News, June 18, 2007. <http://abcnews.go.com/US/Story?id=3290003>.

54. Fox News interview, June 26, 2007. <http://www.youtube.com/watch?v=D2rVCI9-tSI>.

55. Margot Sanger-Katz, “Feds keep close eye on Browns.” *Concord (New Hampshire) Monitor*, September 17, 2007.

56. Carol DeMare, “Radical Politics Tied to Charges,” *Albany (New York) Times-Union*, September 14, 2007.

57. See Margot Sanger-Katz, “When time came, Ed Brown folded,” *Concord (New Hampshire) Monitor*, October 19, 2007.

58. Margot Sanger-Katz, “2 Judges out of Brown cases,” *Concord (New Hampshire) Monitor*, October 18, 2007.

59. Shaun Kranish, *Ed Brown under Siege*, October 18, 2007. No longer available on the internet.

60. “Militia Leader Put Government on Notice Years Ago: Fincher Arrested in November on Charges of Illegal Weapons Charges,” *Northwest Arkansas Morning News*, January 6, 2007; reader comments at <http://www.nwaonline.net/articles/2007/01/07/news/010707fzfincher.txt>.

61. Comment has been removed but a copy is in possession of the authors.

62. “Fincher Found Guilty of Having Illegal Weapons: Militia Leader Faces Prison Time for Machine Guns,” *Northwest Arkansas Morning News*, January 12, 2007; reader comments at <http://www.nwaonline.net/articles/2007/01/13/news/011307fzfincher.txt>.

63. See nospeedbumps.com, April 23, 2006. <http://nospeedbumps.com/?p=161#comment-22247>.

64. Form submission to [csgv@csgv.org](mailto:csgv@csgv.org), December 8, 2006, in possession of the authors.

65. Packing.org is now defunct, but copies of these comments are in possession of the authors.

66. Copies of these comments are in possession of the authors.

67. *U.S. v. Miller*, 307 U.S. 174, 178 (1939).

68. Tribe, *American Constitutional Law*, 902.

69. Laurence H. Tribe, "Sanity and the Second Amendment," *Wall Street Journal*, March 5, 2008.

70. As we describe in chapter 4, based on the great change that occurred in the country between the revolution in 1776 and the drafting of the Constitution in 1787, we find the insurrectionary Second Amendment not plausible.

71. Levinson, "Embarrassing Second Amendment," 650; Van Alstyne, "Essay," 1249.

72. Van Alstyne, "Essay," 1243, 1244 (emphasis in the original).

73. Bogus, "History and Politics," 14.

74. Amar, "Bill of Rights," 1163, 1163 n. 151.

75. McIntosh, "Revolutionary Second Amendment," 674–75.

76. Laurence H. Tribe, "Sanity and the Second Amendment," *Wall Street Journal*, March 5, 2008.

77. Amar, "Enduring and Empowering," 107.

78. Bogus, "History and Politics," 21.

79. *District of Columbia et al. v. Heller*, 128 S. Ct. 2783 (2008).

80. *District of Columbia et al. v. Heller*, 128 S. Ct. at 2821.

81. *District of Columbia et al. v. Heller*, 128 S. Ct. at 2802.

82. Sanford Levinson, "D.C. v. Heller: A Dismaying Performance by the Supreme Court," *Huffington Post*, June 26, 2008, [http://www.huffingtonpost.com/sanford-levinson/dc-v-heller-a-dismaying-p\\_b\\_109472.html](http://www.huffingtonpost.com/sanford-levinson/dc-v-heller-a-dismaying-p_b_109472.html). Levinson did make it clear that no matter the poor quality of the opinion, "as a partisan Democrat, I confess to being relieved that the dissenters did not prevail, for the upholding of the D.C. ordinance would, in effect, have served as a massive in-kind campaign contribution to John McCain."

83. Zumbo, "Assault Rifles for Hunters?"

84. *Outdoor Life* message board, February 20, 2007. Forum is no longer active, but copies of comments are in possession of the authors.

85. See [http://armsandthelaw.com/archives/2007/02/Zumbo\\_controversy.php](http://armsandthelaw.com/archives/2007/02/Zumbo_controversy.php).

86. "NRA Publications Suspends Ties to Jim Zumbo," February 22, 2007, <http://www.nraila.org/News/Read/InTheNews.aspx?ID=8952>.

87. Pat Wray, "How Could This Happen?" *Corvallis (Oregon) Gazette-Times*, February 24, 2007.

88. "TimJenkin," comment, February 25, 2007, <http://www.keepandbear>



arms.com/news/nl/read\_comments.asp?nl=57846020375895&tmpD=2%2F26%2F2007.

89. Brian Foster, comment on Wray, “How Could This Happen?” February 26, 2007, [http://www.gazettetimes.com/articles/2007/02/27/sports/venture/1ven01\\_wray.txt](http://www.gazettetimes.com/articles/2007/02/27/sports/venture/1ven01_wray.txt).

90. “Quoteman,” comment, February 26, 2007, [http://www.keepandbeararms.com/news/nl/read\\_comments.asp?nl=57846020375895&tmpD=2%2F26%2F2007](http://www.keepandbeararms.com/news/nl/read_comments.asp?nl=57846020375895&tmpD=2%2F26%2F2007).

91. See [http://www.thefiringline.com/HCI/molon\\_labe.htm](http://www.thefiringline.com/HCI/molon_labe.htm).

92. Academics have offered a number of compelling academic responses to the insurrectionist view of the Second Amendment (e.g., Cornell, *Well-Regulated Militia*) but few responses have come from political leaders or in the popular press.

## Chapter 4

1. At the NRA’s 2000 Annual Meeting, association president Charlton Heston said in his opening remarks, “The smoke in the air of our Concord Bridges and Pearl Harbors is always smelled first by the farmers, who come from their simple homes to find the fire, and fight” (<http://www.nra.org/Speech.aspx?id=6044&fid=5>).

2. Galvin, *Minute Men*, xiii, 2.

3. Much of the later Antifederalist rhetoric in opposing the Constitution and supporting the call for a universal militia during the debate over the first militia act was a fear of a “select” militia, a rich irony considering the most effective militia in the colonies, that of Massachusetts, was based on a select militia concept.

4. Galvin, *Minute Men*, 11.

5. Galvin, *Minute Men*, 36, 65–66.

6. Shy, *People Numerous*, 103, 126. See also Galvin, *Minute Men*, 55.

7. Galvin, *Minute Men*, 133.

8. Galvin, *Minute Men*, 245.

9. Shy, *People Numerous*, 243.

10. George Washington, letter to the President of Congress, in *Writings*, 1:223.

11. Shy, *People Numerous*, 37.

12. Cornell, *Well-Regulated Militia*, 12–13.

13. Cornell, *Well-Regulated Militia*, 27.

14. Shy, *People Numerous*, 37.

15. Cornell, *Well-Regulated Militia*, 15–16.

16. Cornell, *Well-Regulated Militia*, 14.

17. Blackstone, *Commentaries*, book 1, chapter 1.
18. Goldberg, "Constitutional Status," 550–51, 625.
19. Wood, *Creation*, 130.
20. Wood, *Creation*, 131.
21. Wood, *Creation*, 40.
22. Chernow, *Alexander Hamilton*, 434.
23. Bridgewater, "Armed Revolution."
24. Polsby and Kates, "Of Holocausts," 1258.
25. Wood, *Creation*, 23, 25.
26. Edling, *Revolution*, 79; Wood, *Creation*, 356.
27. Edling, *Revolution*, 77–78.
28. Shy, *People Numerous*, 128.
29. Edling, *Revolution*, 80.
30. Wood, *Creation*, 415.
31. Shy, *People Numerous*, 128.
32. Randall, *George Washington*, 351, 375–76.
33. Shy, *People Numerous*, 131.
34. George Washington, "Farewell Orders to the Armies of the United States," November 2, 1783, in *Writings*, 27:226.
35. James Tilton to Gunning Bedford, December 25, 1783, in Washington, *Writings*, 27:285.
36. Edling, *Revolution*, 73.
37. Edling, *Revolution*, 82.
38. Edling, *Revolution*, 100.
39. Shy, *People Numerous*, 132.
40. Wood, *Creation*, 407.
41. Wood, *Creation*, 404, 406.
42. Wood, *Creation*, 319, 322, 324.
43. Wood, *Creation*, 327.
44. Cornell, *Well-Regulated Militia*, 30, 37; Wood, *Creation*, 433; Edling, *Revolution*, 156.
45. Cornell, *Well-Regulated Militia*, 34–35.
46. Randall, *George Washington*, 433. See also Lettieri, *Connecticut's Young Man*, 65–66.
47. Shy, *People Numerous*, 25.
48. Wood, *Creation*, 430, 432.
49. Wood, *Creation*, 432.
50. Edling, *Revolution*, 100.
51. Edling, *Revolution*, 111–12, 45; Cornell, *Well-Regulated Militia*, 40.
52. Wills, *Necessary Evil*, 212–14.
53. Edling, *Revolution*, 105–6; Cornell, *Well-Regulated Militia*, 42.
54. Madison, *Notes*, 483.

55. Madison, *Notes*, 514–15; Cornell, *Well-Regulated Militia*, 42.
56. Cornell, *Well-Regulated Militia*, 62.
57. Proceedings of the Virginia Convention, as compiled in 3 Elliot 423, June 14, 1788.
58. Proceedings of the Virginia Convention, as compiled in 3 Elliot 424, June 14, 1788.
59. See Justice John Paul Stevens's dissent in *Heller* at 128 S. Ct. at 2822. But see also how often staunch gun rights advocates such as Mike Huckabee use the phrase "The Second Amendment is not about duck hunting": "And a freedom conservative is a person who understands that the purpose of the Second Amendment is not about duck hunting and deer hunting, though I love both of them and am a lifetime member of Ducks Unlimited and I'm not a latecomer to the NRA. I was the first governor in America to have a concealed carry permit, so don't mess with me. But I'm always amused, if not amazed, when some political candidate tries to tell me that the purpose of the Second Amendment is largely about hunting. My friend, the purpose of the Second Amendment is to preserve our very freedom. And our founding fathers understood it clearly" (Mike Huckabee, Conservative Political Action Conference, Washington, D.C., March 2, 2007, [http://www.conservative.org/pressroom/2007/speech\\_huckabee.asp](http://www.conservative.org/pressroom/2007/speech_huckabee.asp)).
60. Cornell, *Well-Regulated Militia*, 50–51.
61. Cornell, *Other Founders*, 31.
62. Brief of amici curiae, Jack N. Rakove, Saul Cornell, David T. Konig, William J. Novack, Lois Schworer et al., *District of Columbia v. Heller*, U.S. Supreme Court No. 07-290 (2008). [http://www.abanet.org/publiced/preview/briefs/pdfs/07-08/07-290\\_PetitionerAmCuRakove.pdf](http://www.abanet.org/publiced/preview/briefs/pdfs/07-08/07-290_PetitionerAmCuRakove.pdf).
63. Finkelman, "Well Regulated Militia," 144–45.
64. Finkelman, "Well Regulated Militia," 132.
65. Finkelman, "Well Regulated Militia," 133.
66. Wills, *Necessary Evil*, 121.
67. Cornell, "St. George Tucker," 1123, 1128.
68. Cornell, "Originalism Right."
69. Cornell, *Well-Regulated Militia*, 75.
70. Cornell, *Other Founders*, 54, 60–61.
71. Brutus, No. 7, January 3, 1788, in Storing, *Complete Anti-Federalist*, 2.9.83–87.
72. Cornell, *Other Founders*, 92–93.
73. Cornell, *Other Founders*, 110–13.
74. Cornell, *Other Founders*, 115.
75. Cornell, *Other Founders*, 117.
76. Cornell, "Don't Know Much," 679.

77. Konig, "Thomas Jefferson's Armed Citizenry," 266–67.
78. Thomas Jefferson to C. W. F. Dumas, September 10, 1787, quoted in Konig, "Thomas Jefferson's Armed Citizenry," 265.
79. Konig, "Thomas Jefferson's Armed Citizenry," 259.
80. Lund, "Past and Future," 45–46, 76 n. 72.
81. Wills, *Necessary Evil*, 215–16.
82. Cornell, *Well-Regulated Militia*, 76.
83. Hamilton, Jay, and Madison, *Federalist Papers*, No. 46, p. 299 (Madison).
84. Hamilton, Jay, and Madison, *Federalist Papers*, No. 46, p. 298 (Madison).
85. Hamilton, Jay, and Madison, *Federalist Papers*, No. 28, p. 182 (Hamilton).
86. Rossiter in Hamilton, Jay, and Madison, *Federalist Papers*, xvi.
87. Wood, *Creation*, 614.
88. Elkins and McKittrick, *Age of Federalism*, 471.
89. Elkins and McKittrick, *Age of Federalism*, 463, 482, Cornell, *Other Founders*, 202, 209.
90. Elkins and McKittrick, *Age of Federalism*, 481–82.
91. Hamilton, *Works*, 6:418–24.
92. Washington, *Writings*, 33:506–7.
93. Gallatin, *Writings*, 3:5–6.
94. Findley, *History*, 300, 177.
95. Philip S. Foner, *Democratic-Republican Societies*, 147.
96. Cornell, *Well-Regulated Militia*, 85.
97. Wills, *Necessary Evil*, 141–44, 148–49.
98. Smith, *John Marshall*, 352–57, 372–73; Ellis, *American Sphinx*, 283.
99. Konig, "Thomas Jefferson's Armed Citizenry," 270.
100. Edling, *Revolution*, 137; Ellis, *American Sphinx*, 283; Cornell, *Well-Regulated Militia*, 20.
101. See <http://www.monticello.org/reports/quotes/liberty.html>.

## Chapter 5

1. Schwartz, *From Confederation to Nation*, 132.
2. Lincoln, *Collected Works*, 4:267; Lincoln, *Collected Works: First Supplement*, 434.
3. Lincoln originally used the word *treasonable* but deleted it in favor of *revolutionary*, perhaps offering some insight into how he viewed the "nobility" of a revolution while a constitution still functions.
4. Lincoln, *Collected Works*, 4:264–65.
5. Lincoln, *Collected Works*, 4:426.
6. Lincoln, *Collected Works*, 4:432–33.
7. Cornell, *Well-Regulated Militia*, 167.

8. *Texas v. White*, 74 U.S. 700 (1868).
9. Abraham Lincoln to James C. Conkling, August 26, 1863, quoted in White, *Eloquent President*, 213 (also known as "Letter to the Springfield Rally").
10. James C. Conkling to Abraham Lincoln, September 4, 1863, quoted in White, *Eloquent President*, 217.
11. Kauffman, *American Brutus*, 46. Booth was well acquainted with firearms. He had learned to shoot as a youth at a military academy and later, during his acting career, shot himself while cleaning a gun. After learning of Lee's surrender at Appomattox, Booth "took out his frustrations at a pistol gallery on Pennsylvania Avenue" (Kauffman, *American Brutus*, 91, 110, 207).
12. Kauffman, *American Brutus*, 7, 14; Goodwin, *Team of Rivals*, 738.
13. Kauffman, *American Brutus*, 113, 142, 253.
14. Foner and Mahoney, *House Divided*, 138.
15. Eric Foner and Brown, *Forever Free*, 78-79.
16. Although conspiracy theorists have tried to link Johnson with the plot to kill Lincoln, it has never been proven, and any evidence to that effect may have been an attempt by Booth to implicate the vice president. See Kauffman, *American Brutus*, 396.
17. Eric Foner, *Reconstruction*, 247-48.
18. Polsby and Kates, "Of Holocausts," 1265.
19. Cottrol and Diamond, "Second Amendment," 354-55.
20. Kopel, "Klan's Favorite Law."
21. Eric Foner, *Reconstruction*, 203.
22. Eric Foner, *Reconstruction*, 203.
23. Eric Foner, *Reconstruction*, 204.
24. Eric Foner, *Reconstruction*, 216.
25. Eric Foner, *Reconstruction*, 231.
26. Eric Foner, *Reconstruction*, 276-78.
27. Eric Foner, *Reconstruction*, 279.
28. Hahn, *Nation under Our Feet*, 266.
29. Eric Foner, *Reconstruction*, 425-26.
30. Hahn, *Nation under Our Feet*, 286-87.
31. Hahn, *Nation under Our Feet*, 290, 292.
32. Eric Foner, *Reconstruction*, 454-55.
33. Eric Foner, *Reconstruction*, 458-59.
34. Eric Foner, *Reconstruction*, 439.
35. Eric Foner, *Reconstruction*, 436.
36. Hahn, *Nation under Our Feet*, 266.
37. Hahn, *Nation under Our Feet*, 282-83.
38. Hahn, *Nation under Our Feet*, 283.
39. Eric Foner, *Reconstruction*, 439-40, 508.

40. Amar, *America's Constitution*, 380.
41. Eric Foner, *Reconstruction*, 562–63, 559.
42. Hahn, *Nation under Our Feet*, 297–98, 301–2.
43. Hahn, *Nation under Our Feet*, 304.
44. Hahn, *Nation under Our Feet*, 305.
45. Hahn, *Nation under Our Feet*, 306–7.
46. Eric Foner, *Reconstruction*, 437.
47. Hahn, *Nation under Our Feet*, 294–95; Eric Foner, *Reconstruction*, 437.
48. Hahn, *Nation under Our Feet*, 307, 288, 296; Eric Foner, *Reconstruction*, 438.
49. Foner, "Reconstruction Amendments."

## Chapter 6

1. See <http://www.jpfo.org/about.htm>.
2. See, e.g., "Turkeyman," comment on Donna J. Miller, "Report Looks at Gun Shows Nationwide," *Cleveland Plain Dealer*, November 7, 2007, [http://blog.cleveland.com/metro/2007/11/\\_the\\_coalition\\_to\\_stop.html#439814](http://blog.cleveland.com/metro/2007/11/_the_coalition_to_stop.html#439814).
3. La Pierre, *Guns, Crime, and Freedom*, 155.
4. LaPierre, *Global War*, 125, 158.
5. Feldman, *Ricochet*, 44.
6. Kopel and Griffiths, "Hitler's Control."
7. Harcourt, "On Gun Registration," 657.
8. Cottrol, "Liberal Democrat's Lament," 60.
9. Polsby and Kates, "Of Holocausts," 1246–47.
10. Halbrook, "Nazi Firearms Law," 484, 485–87, 494.
11. Halbrook, "Nazi Firearms Law," 495, 532.
12. Halbrook, "Nazi Firearms Law," 535.
13. Harcourt, "On Gun Registration," 671 (emphasis ours), 672 (emphasis ours), 673.
14. Kershaw, *Hitler*, 74–75.
15. Kershaw, *Hitler*, 76, 75.
16. Kershaw, *Hitler*, 89.
17. Kershaw, *Hitler*, 98–99.
18. Kershaw, *Hitler*, 111.
19. Bullock, *Hitler*, 54 n. 1.
20. Kershaw, *Hitler*, 111.
21. Bullock, *Hitler*, 57–58, 63.
22. Bullock, *Hitler*, 59, 58.
23. Adolf Hitler, *Mein Kampf*, quoted in Kershaw, *Hitler*, 97.
24. Bullock, *Hitler*, 59.
25. Kershaw, *Hitler*, 112–16; Bullock, *Hitler*, 61–62.

26. See James, "Economic Reasons."
27. Bullock, *Hitler*, 161.
28. Adolf Hitler, July 18, 1930, quoted in Bullock, *Hitler*, 162.
29. Bullock, *Hitler*, 217.
30. Bullock, *Hitler*, 217, 221, 230.
31. Kershaw, *Hitler*, 317.
32. Kershaw, *Hitler*, 324, 322.
33. Bullock, *Hitler*, 184–85.
34. Kershaw, *Hitler*, 379.
35. Bullock, *Hitler*, 209–10.
36. Kershaw, *Hitler*, 420.
37. Kershaw, *Hitler*, 424.
38. Bessel, "Why Did the Weimar Republic Collapse?" 124.
39. Bessel, *Political Violence*, 16, 27, 31, 42, 48, 2.
40. Bessel, *Political Violence*, 45.
41. Fischer, *Stormtroopers*, 6.
42. Bessel, *Political Violence*, 75 (emphasis in the original), 76.
43. Kershaw, *Hitler*, 368.
44. Bessel, *Political Violence*, 79, 82–83.
45. Kershaw, *Hitler*, 439, 445.
46. Bullock, *Hitler*, 260, 261; Bessel, *Political Violence*, 112.
47. Kershaw, *Hitler*, 459; Bullock, *Hitler*, 262–63.
48. Bullock, *Hitler*, 263.
49. Bullock, *Hitler*, 266–69; Kershaw, *Hitler*, 465–68.
50. Bullock, *Hitler*, 270; Kershaw, *Hitler*, 468.
51. Kershaw, *Hitler*, 468.
52. Bullock, *Hitler*, 270.
53. Larry Derfner, "People of the Guns," *Jerusalem Post*, May 16, 2002.
54. Harcourt, "On Gun Registration," 671.
55. Information provided by University of Hawaii political science professor Rudy Rummel.
56. Rudy Rummel to Joshua Horwitz, February 3, 2007.
57. LaPierre, *Global War*, 125, 158.
58. LaPierre, *Essential Second Amendment Guide*, 23.
59. Freedom House, "Table of Independent Countries, 2007," <http://www.freedomhouse.org/template.cfm?page=365&year=2007>; Derek Miller et al., *Bit-ing the Bullet*, 7; Cukier, "Firearms Regulation."

## Chapter 7

1. Spitzer, "Don't Know Much," 721–22.
2. Eric Foner, *Story*, 16.
3. Dahl, *On Democracy*, 51.

4. See Freedom House, “Map of Freedom in the World, 2007,” <http://www.freedomhouse.org/template.cfm?page=363&year=2007>.

5. Eric Foner, *Story*, xviii–xix.

6. McPherson, *Abraham Lincoln*, 62.

7. Wood, *Creation*, xv; Barlow, *Advice*, 39, 33. (Barlow also shared with most Federalists a strong civic republican understanding of the role of the armed citizen [see chapter 4].)

## Chapter 8

1. Eric Foner, *Story*, 16.

2. Cornell, *Other Founders*, 20.

3. Schwartz, *From Confederation to Nation*, 188.

4. Lincoln, *Collected Works*, 2:405–6.

5. Charles Sumner, *The Equal Rights of All: The Great Guaranty and Present Necessity, For the Sake of Security, and to Maintain a Republican Government*, vol. 10 of Sumner, *Works*, 236.

6. See Max Weber, “Bureaucracy,” in Weber, *From Max Weber*, 226; Dahl, *On Democracy*, 37–38.

7. Dahl, *On Democracy*, 76–77.

8. The struggle for equal political rights is far from over, and as citizens we must constantly defend the entire basket of these rights. In the United States, we talk a lot about democracy and freedom in the rest of the world, but we still have unfinished business here at home. Butterfly ballots and hanging chads catch our attention every four years, but democracy can be equally threatened by secret earmarks, bribery, corruption, and nepotism.

9. Dahl, *On Democracy*, 147.

10. Holmes, “What Russia Teaches,” 33.

11. Dahl, *On Democracy*, 47.

12. *Freedom in Peril*, 1.

13. Charlton Heston, “Opening Remarks to Members,” NRA Annual Meeting, Charlotte, North Carolina, May 20, 2000, <http://www.nra.org/Speech.aspx?id=6044&fid=5>.

14. Kopel, “Trust the People.”

15. Rupnick, “Popular Front,” 13.

## Chapter 9

1. See <http://my.barackobama.com/page/community/post/stateupdates/gG5NxL>.

2. Banner, “Second Amendment,” 898, 903–4.

3. *District of Columbia et al. v. Heller*, 128 S. Ct. 2783, 2807, 2815–16 (2008).

4. *District of Columbia et al. v. Heller*, at 2801–2802.



5. *District of Columbia et al. v. Heller*, at 2802, 2817.
6. *Presser v. Illinois*, 116 U.S. 252, 267 (1886).
7. Suleiman, *Dismantling Democratic States*, 24, 36.
8. Proceedings of the Virginia Convention, as compiled in 3 Elliot 414, June 14, 1788.
  9. Weber, *Theory*, 154, 156.
  10. Redner, "Beyond Marx-Weber," 638, 640.
  11. Wulf, "Bumpy Road," 3.
  12. Wimmer, "State's Monopoly," 1.
  13. Dahl, *On Democracy*, 44.
  14. Levinson, "Embarrassing Second Amendment," 650.
  15. Levinson, "Embarrassing Second Amendment," 650–51.
  16. Williams, *Mythic Meanings*, 5.
  17. Pound, *Development*, 90–91.
  18. Brownlie, *Principles*, 72.
  19. Spitzer, review, 286. See also Spitzer, "Don't Know Much."
  20. Blackstone, *Commentaries*, book 1, chapter 1.
  21. Blackstone, *Commentaries*, book 1, chapter 7.
  22. Goldberg, "Constitutional Status," 556–57.
  23. Polsby and Kates, "Of Holocausts," 1273–74.
  24. Kaldor, *New and Old Wars*, 37.
  25. Wimmer, "State's Monopoly," 5.
  26. Wulf, "Bumpy Road," 7–8.
  27. Wimmer, "State's Monopoly," 9.
  28. George Will, "Rhetoric of Unreality: Where Is Iraq after Nearly 3 Years of War?" *Washington Post*, March 2, 2006.
  29. Wulf, "Bumpy Road," 16.
  30. Dahl, *On Democracy*, 46.
  31. Kaldor, *New and Old Wars*, 31. See also Doyle, "Liberalism and World Politics."
  32. Leander, "Globalisation and the State Monopoly," 7, 13.
  33. Leander, "Globalisation and the State Monopoly," 8.
  34. Wimmer, "State's Monopoly," 14.
  35. Dahl, *On Democracy*, 41.
  36. Spitzer, "Don't Know Much," 723.
  37. Weber, *Theory*, 154, 156.
  38. Eugene Volokh, "Monopoly on the Use of Force," April 20, 2007, [http://volokh.com/archives/archive\\_2007\\_04\\_15-2007\\_04\\_21.shtml#1177088441](http://volokh.com/archives/archive_2007_04_15-2007_04_21.shtml#1177088441).

## Chapter 10

1. Spitzer, "Don't Know Much," 721–22.
2. Dahl, *After the Revolution* 17.

3. See Dahl, *On Democracy*, 125; Wood, *Creation*, 542–43.
4. Sandy Froman, “NRA: The Largest Civil-Rights Group Ever,” *WorldNetDaily*, April 12, 2007, [http://www.worldnetdaily.com/news/article.asp?ARTICLE\\_ID=55148](http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=55148).
5. The debate over the Second Amendment is about how far the protection extends. We argue that the Second Amendment protects state sovereignty by safeguarding the militia from federal inattention or usurpation, while the Insurrectionists give it a much more expansive reading.
6. *Hodel v. Irving*, 481 U.S. 704, 716 (1987).
7. *Dolan v. City of Tigard*, 512 U.S. 374, 384 (1994); *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1011 (1984); *Nollan v. California Coastal Comm’n*, 483 U.S. 825, 831 (1987) are cited in *Whirlpool v. Henry*, plaintiff’s briefs in support of request for permanent injunction and declaratory relief, 8. [Doc. No. 93]. All documents from the Whirlpool/Conoco litigation are from Civil Docket Report for Case No. 4:04-cv-00820-TCK-PJC, originally captioned *Whirlpool v. Henry*, and numerical references are to the indexing system in the case file.
8. American Bar Association, “Special Committee,” 4, quoting Callies and Breemer, “Right to Exclude.”
9. See Holbrook Mohr, “Lawsuit: Lockheed Should Have Prevented Rampage,” *Jackson (Mississippi) Clarion-Ledger*, March 21, 2005: “It is the employer’s responsibility to provide a safe and healthful workplace for all its employees,” quoting an Occupational Safety and Health Administration official who was describing the agency’s view.
10. See, e.g., *Gibbs v. Shuttleking*, 162 S.W. 3d 603 (2005).
11. “Consortium Backs AOL in Guns-at-Work Suit,” Associated Press, August 9, 2001.
12. *Hansen v. America Online*, 96 P3d 950, 955 2004 UT 62 (2004).
13. *Hansen v. America Online*, 96 P3d 950, 956 2004 UT 62 (2004).
14. *Hansen v. America Online*, 96 P3d 950, 951 2004 UT 62 (2004).
15. Larry Pratt, “Driving America Online Offline,” *WorldNetDaily*, January 25, 2001, <http://www.worldnetdaily.com/index.php?pageId=7951>.
16. “Suit by 3 Ex-AOL Workers May Set Legal Precedent,” *Deseret (Utah) Morning News*, January 22, 2001.
17. See Lott and Mustard, “Crime”; Lott, “Guns, Crime, and Safety.” Lott and Mustard’s work has received heavy criticism: see, e.g. Ayers, and Donohue, “Shooting Down,” 1193; Hemenway, review.
18. In at least one state, however, gun rights advocates have argued that laws preventing holders of permits to carry concealed weapons from bringing their firearms into restaurants, bars, or other areas designated as “gun-free” will force gun owners to leave their guns in their cars, where they will be targets for thieves. See Virginia Citizens Defense League, “VCDL Update 8/14/05,” <http://www2.vcdl.org/cgi-bin/wspd.cgi.sh/vcdl/vadetail.html?RECID=841121&FILTER=>. It states, “We have warned the General Assembly re-

peatedly about the dangers of forcing a permit holder to leave his gun in an unattended car.”

19. See Oklahoma Stat., Title 21, §§ 1289.7a, 1290.22(B) (Supp. 2004 and 2005). See also Greg Piatt, “Legislature Approves Gun Owner Protections,” press release, May 27, 2005, <http://74.125.47.132/search?q=cache:TDSbIcSjiRkJ:204.126.144.2/house/news7632.html>.

20. Case No. 04-cv-820-TCK-PJC.

21. Whirlpool complaint, 8 [Doc. No. 1].

22. Whirlpool complaint, 4–5 [Doc. No. 1].

23. Whirlpool complaint, 5 [Doc. No. 1].

24. See Kris Axtman and Mark Clayton, “Worker Right or Workplace Danger?” *Christian Science Monitor*, August 12, 2005.

25. Whirlpool complaint, 10 [Doc. No. 1].

26. ConocoPhillips Fact Book 2003, 38, <http://www.conocophillips.co.uk/NR/rdonlyres/98FC7635-08F2-460F-BD27-614E5B68C196/0/factbook.pdf>.

27. U.S. Public Interest Research Group, “Oil Refineries Pose Unnecessary Security Risk to 17 Million Americans,” press release, August 4, 2005, <http://www.uspirg.org/news-releases/new-energy-future/new-energy-future/oil-refineries-pose-unnecessary-security-risk-to-17-million-americans>.

28. Amicus curiae brief, National Rifle Association of America, in support of defendants and in opposition to plaintiffs’ motion for permanent injunctive and declaratory relief, 3 [Doc. No. 109].

29. Amicus curiae brief, National Rifle Association of America, in support of defendants and in opposition to plaintiffs’ motion for permanent injunctive and declaratory relief, 12 [Doc. No. 109].

30. Amicus curiae brief, National Rifle Association of America, in support of defendants and in opposition to plaintiffs’ motion for permanent injunctive and declaratory relief, 12–14 [Doc. No. 109].

31. ConocoPhillips response brief to amicus curiae brief, National Rifle Association, 3–4 [Doc. No. 122].

32. *ConocoPhillips v. Henry*, 520 F. Supp 2d. 1282, 1295 (2007) (appeal pending as of August 2008). While the court ultimately did not find an actionable invasion of ConocoPhillips’s property rights and granted the injunctions based on the Oklahoma statutes’ conflict with federal regulations, the court stated that “there can be no doubt that the Amendments burden Plaintiffs’ right to exclude because the Amendments prohibit exclusion of what Plaintiffs perceive to be a dangerous activity on their business properties and impede Plaintiffs’ ability to ‘provid[e] a safe workplace’” (*ConocoPhillips* at 1310).

33. “NRA to Boycott Companies,” *Tulsa World*, August 1, 2005.

34. “NRA Calling for Boycott of ConocoPhillips,” Associated Press, August 1, 2005.

35. “NRA to Boycott Companies,” *Tulsa World*, August 1, 2005.

36. “ConocoPhillips Reports Second-Quarter Net Income of \$5.4 Billion or \$3.50 Per Share,” [http://www.conocophillips.com/newsroom/news\\_releases/2008news/07-23-2008.htm](http://www.conocophillips.com/newsroom/news_releases/2008news/07-23-2008.htm).

37. “Mulder,” comment, November 29, 2004, <http://www.freerepublic.com/focus/f-news/1289203/posts?q=1&&page=251>.

38. Sullum, “NRA vs. the Constitution.”

39. Richman, “NRA Gets It Wrong.” For additional conservative commentary, see Lora, “NRA vs. the Parking Lot,” which says that “to undermine property rights is to aid the state in its inexorable criminal quest.” The author also suggests that gun owners may want to consider joining Jews for the Preservation of Firearm Ownership rather than the NRA because of the Jewish group’s “principled stand on rights in general.”

40. American Bar Association, “Special Committee,” 4–5; Merrill, “Property.”

41. Recommendation Approved by the ABA House of Delegates, February 12, 2007. See <http://www.flchamber.com/docs/Coalitions/ABARecommendation.pdf>.

42. Florida Chamber of Commerce, “Guns at Work,” [http://www.flchamber.com/docs/Coalitions/GunsAtWorkCoalition/WWS\\_GunsAtWork.pdf](http://www.flchamber.com/docs/Coalitions/GunsAtWorkCoalition/WWS_GunsAtWork.pdf).

43. Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008, Florida Stat., § 790.251.

44. “Walt Disney World Fires Back on Guns at Work,” *Orlando Sentinel*, July 3, 2008.

45. “Guns at Work Law Upheld for Now,” *Miami Herald*, July 29, 2008.

46. Paul Gerwitz and Chad Golder, “So Who Are the Activists?” *New York Times*, July 6, 2005. The authors debunk not the notion of judicial activism but the conservative definition that only liberal-leaning judges are activist: Anthony Kennedy ranked second, right behind Clarence Thomas, but third was Antonin Scalia, with a 56 percent overturn rate.

47. LaPierre, *Guns, Freedom, and Terrorism*, 119.

48. Carrington, “Civil Jury,” 83.

49. Carrington, “Civil Jury,” 86.

50. Public Law 109–92, U.S. Statutes at Large 119 (2005): 2095, codified at U.S.C. 15 (2005), §§ 7901–3.

51. Protection of Lawful Commerce in Arms Act, S. 397, 109th Cong., 1st sess., *Congressional Record*, October 25, 2005, E2162–63.

52. Sheryl Gay Stolberg, “House Passes Bill to Protect Gun Industry from Lawsuits,” *New York Times*, October 20, 2005.

53. National Rifle Association, “Historic Victory for NRA,” press release, October 20, 2005. <http://www.nraila.org/news/read/NewsReleases.aspx?ID=6682>.

54. First Amended Complaint, *Ileto v. Glock*, No. BC234882, (Cal. Superior Ct. filed 5/23/2001).

55. *Ileto v. Glock*, 349 F.3d 1191, 1196, (9th Cir. 2003), *cert. denied*, 543 S. Ct. 4 (2005).
56. *Ileto v. Glock*, 349 F.3d 1191, 1205 (9th Cir. 2003), *cert. denied*, 543 S. Ct. 4 (2005).
57. *Ileto v. Glock*, 421 F. Supp. 2d 1274, 1284 (C.D. Cal. 2006).
58. *Ileto v. Glock*, 421 F. Supp. 2d 1274, 1304 (C.D. Cal. 2006).
59. Civil minutes order, *Ileto v. Glock*, no. 2:01 CV 01-9762 ABC (RNB) (C.D. Cal. 9/19/2006).
60. *Hernandez v. Kahr Arms*, Worcester, Mass. Superior Court, No. 021747C. See summary from the Brady Campaign to Prevent Gun Violence, <http://www.gunlawsuits.org/docket/casestatus.php?RecordNo=76>.
61. *NAACP v. Acusport*, 271 F. Supp. 2d 435, 451 (E.D. N.Y. 2003).
62. Goldberg, "Constitutional Status," 541, 544, 550–51.
63. Goldberg, "Constitutional Status," 551.
64. Bogus, *Why Lawsuits Are Good*, 43.
65. *Marbury v. Madison*, 5 U.S. 137, 163 (1803). See also Goldberg, "Constitutional Status," 563.
66. Thomas, "Restriction of Tort Remedies," 985.
67. Goldberg, "Constitutional Status," 607.
68. Foster, "Good Guns," 1750.
69. *Duke Power Co. v. Carolina Env. Study Group*, 438 U.S. 59 (1978).
70. Lytton, "Afterword," 339–40.
71. Lytton, "Afterword," 351–52.
72. See, e.g., Foster, "Good Guns"; Larkin, "Protection of Lawful Commerce Act."
73. See *City of New York v. Beretta*, 524 F. 3d 384 (2d Cir. 2008) (PLCAA is constitutional); *Ileto v. Glock*, 421 F. Supp. 2d 1274 (C.D.C. 2006), appeal pending (PLCAA is constitutional); *City of Gary v. Smith & Wesson*, No. 45Do5-05-CT-0243 (Ind. Sup. Ct., October 23, 2006), *affirmed* 875 N.E. 3d 422 (Ind., 2008) holding that the Immunity Act is unconstitutional because the law violates due process guarantees and separation-of-powers protections.
74. *City of Gary v. Smith & Wesson*, No. 45Do5-05-CT-0243 (Ind. Sup. Ct., October 23, 2006), 4–5, *affirmed* 875 N.E. 3d 422 (Ind. 2008).
75. Lytton, "Afterword," 340.
76. Exod. 22:2; Num. 35; Deut. 19.
77. Blackstone, *Commentaries*, book 4, chapter 16.
78. Blackstone, *Commentaries*, book 4, chapter 14.
79. *Erwin v. State*, 29 Ohio St. 186, 199–200 (Ohio 1876).
80. Koons, "Gunsmoke," 629.
81. Florida Stat., Title XLVI, § 776.08.
82. Florida Stat., Title XLVI, § 776.032.
83. Lund, "Past and Future," 15.
84. Blackstone, *Commentaries*, book 1, chapter 1.

85. National Rifle Association, "Texas Legislature Votes NRA-Backed 'Castle Doctrine' into Law," press release, March 20, 2007, <http://www.nraila.org/News/Read/InTheNews.aspx?ID=9108>.
86. See Fulton, *Right to Carry*.
87. "Gun Law Triggers at Least 13 Shootings," *Orlando Sentinel*, June 11, 2006.
88. "Victims' Families Want Law Changes," *Miami Herald*, September 27, 2006. For an account of another event and further analysis, see Perlstein, "View to a Kill."
89. See "Shooting Cases to Test New Self-Defense Law," *Palm Beach Post*, December 13, 2006; "New Law May Aid Acreage Shooter," *Palm Beach Post*, September 19, 2006.
90. "Plea Deal Reached in Slaying: Confusion over New 'Home Intruder' Law Cited," *Lexington (Kentucky) Herald-Leader*, August 3, 2006.
91. "Bill Expanding Self-Defense Rights Zips through House," *Dallas Morning News*, March 19, 2007.
92. See "House Reverses Itself on Right to Brandish Guns," Associated Press, February 23, 2007.
93. Joshua Horwitz, personal observation, January 21, 2008.
94. "Gun-Rights Banner at Capitol Draws Outcry over Its Language," *Philadelphia Inquirer*, April 25, 2007.
95. "There's Something about Mary: Unmasking a Gun Lobby Mole," *Mother Jones*, July 30, 2008.

## Chapter 11

1. Suleiman, *Dismantling Democratic States*, 7.
2. Dahl, *On Democracy*, 50.
3. Ronald Reagan, "First Inaugural Address," January 20, 1981, <http://www.reaganfoundation.org/reagan/speeches/first.asp>.
4. William J. Clinton, "President's Radio Address," January 27, 1996, <http://www.presidency.ucsb.edu/ws/index.php?pid=53258>.
5. Suleiman, *Dismantling Democratic States*, 2, 32.
6. Spitzer, "Don't Know Much," 722.
7. Oliver Ellsworth, "Landholder V," December 3, 1787, <http://teachingamericanhistory.org/library/index.asp?document=1654>.
8. Brutus, No. 7, January 3, 1788, in Storing, *Complete Anti-Federalist*, 2.9.83–87.
9. Science, State, Justice, Commerce, and Related Agencies Appropriations Act of 2006, Public Law 109-108, U.S. Statutes at Large 119 (2005): 2295–96.
10. U.S. Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, *Commerce in Firearms in the United States*, 2.
11. NRA fund-raising letter to supporters, April 13, 1995. See discussion of

letter in San Verhovek, "An Angry Bush Ends his Ties to Rifle Group," *New York Times*, May 11, 1995.

12. U.S.C. Title 28, § 25.9(b)(1)(iii).

13. Fox Butterfield and Raymond Hernandez, "Gun Makers Accord on Curbs Brings Pressure from Industry," *New York Times*, March 30, 2000; Schuck, "Why Regulating Guns," 240.

14. Bradford, Gundlach, and Wilkie, "Countermarketing," 7.

15. Suleiman, *Dismantling Democratic States*, 52.

16. Hemenway, *Private Guns*.

### **Conclusion**

1. Proceedings of the Virginia Convention, as compiled in 3 Elliot 414, June 14, 1788.

2. Kopel, "Trust the People."