that fact, and that is the reason I support the amendment. With this understanding, I support this and I ask my colleagues to do that.

Mr. Chairman, I would like to clarify a couple of points here that were brought up earlier when some people reported that this was all public land in the Grand Staircase-Escalante. That is completely false. 200,000 acres of this was not public land that is surrounded in the Staircase.

Also, the idea the great economic benefits brought about. The children of the State of Utah, those kids we are trying to educate, lost over $1 billion out of this. I would like to see somebody make up that appropriations that we lost.

Mr. Chairman, I support the Vento amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. VENTO).

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCHUGH) having resumed the chair, Mr. MILLER of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1487) to provide for public participation in the declaration of national monuments under the Act popularly known as the Antiquities Act of 1906, pursuant to House Resolution 296, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. MCHUGH). Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read the third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HANSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of clause XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

□ 1045

MOTION TO INSTRUCT CONFEREES ON H.R. 1501, JUVENILE JUSTICE REFORM ACT OF 1999

Mr. DOOLITTLE. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Mr. MCHUGH). The Clerk will report the motion.

The Clerk read as follows:

Mr. DOOLITTLE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 1501 be instructed to insist that the conference report not include Senate provisions that—

(1) do not recognize that the second amendment to the Constitution protects the individual right of American citizens to keep and bear arms; and

(2) impose unconstitutional restrictions on the second amendment rights of individuals.

The SPEAKER pro tempore. Pursuant to clause 7, rule XXII, the gentleman from California (Mr. DOOLITTLE) and the gentlewoman from California (Ms. Lofgren) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have heard numerous statements made about the further efforts to secure gun control which I believe to be in violation of our fundamental liberties as citizens of this Republic and which I believe do violence to our United States Constitution and the Second Amendment contained therein. And I offer this resolution to instruct our conferees to abide by the Constitution and to do no harm thereto in the deliberations that will occur in the points of agreement arrived at in this conference committee.

Mr. Speaker, let us begin with the Second Amendment: ''A well-regulated militia being necessary for security of a free state, the right of the people to keep and bear arms shall not be infringed.''

I would submit that it is not the right of the Army, not the right of the National Guard; it says the right of the people, an individual right.

In the Second Amendment, James Madison used the phrase: right of the people, as he often did throughout the entire Bill of Rights. In each case the right secured has been considered an individual right.

For example, the First Amendment contains the right of the people peaceably to assemble and to petition the government for a redress of grievances. The Fourth Amendment contains the provision, the right of the people to be secure in their persons, houses, papers, and affects against unreasonable searches and seizures.

The structure of the Constitution is persuasive, I believe, in upholding the right of the individual to exercise his Second Amendment rights. The right to bear arms appears early in the Bill of Rights, listed with other personal liberties such as the personal right to free speech, the right to the free exercise of religion, the right to assembly as well as the freedom from unreasonable searches and seizures. Even more persuasive evidence comes from Madison's original proposal to interlineate the new rights within the Constitution's text rather than placing them at the end of the original text as, in fact, actually happened. Madison in his proposed Constitution placed the First and Second Amendments immediately after Article 1, section 1, clause 3, which includes the Constitution's original guarantees of individual liberties, freedom from ex post facto laws, and from bills of attainder.

If, as some claim, that the Second Amendment protects a collective right that resides with the State or the local militia, in his original plan Madison surely would have placed the Second Amendment in Article 1, section 8, which deals with the powers of Congress including Congress' power to organize and call out the militia. But Madison did not do that. He placed it with the individual rights because that is what it was intended to protect.

In Federalist Paper No. 46, James Madison, who later drafted the Second Amendment, argued that, quote, the advantage of being armed, which the Americans possess over the people of almost every other Nation, would deter the central government from tyranny. That view was consistent with Madison's contemporaries and certainly with the framers of the Constitution.

The new Constitution respected individuals' rights, Madison wrote, whereas the old world governments, quote, were afraid to trust the people with arms. Surprise, surprise. Nothing has changed over 200 years later, and the present governments of the world are afraid to trust people with arms, and unfortunately some in their own government have now succumbed to that fear.

But indeed that is what we face today, a distrustful government that wants to take away guns from the people in the name of safety and which unfortunately at State and local levels all too often has been successful, and we see a direct rise in violent crimes as a result of that limitation of handguns.

Not only does this effort discount the thousands of lives saved by firearms each year, it strips away a precious freedom. Let us not forget what Benjamin Franklin said, quote:

Those who would give up essential liberty to purchase temporary safety deserve neither liberty nor safety.

The importance of individual gun rights was a point on which both the Federalists led by Madison and the anti-Federalists agree.

Though he was strongly critical of Madison in the course of many other

constitutional disputes, Richard Henry Lee wrote, quote:

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.

Patrick Henry, the great Virginian, said, quote:

The great object is that every man be armed.

When Madison wrote the Constitution and Bill of Rights, he was not writing on a clean slate. Many States were demanding inclusion of a list of fundamental rights before they would agree to ratify the Constitution. Madison purchased a pamphlet containing the demands of the States of over 200 rights listed therein. He chose a total of 19 for express listing. This number was eventually whittled down, but one right Madison had to include, which was demanded by State conventions in Pennsylvania, Massachusetts, New Hampshire, Virginia, and New York was the express right to keep and bear arms. The States did not equivocate as to whether this right belonged to individuals or the State militia. Here from Pennsylvania is what was contained in their Constitution, quote:

That the people have a right to bear arms for the defense of themselves and their own State or the United States or for the purpose of killing game.

New Hampshire Constitution says this, quote:

Congress shall never disarm any citizen unless such as are or have been in actual rebellion. End of quote.

New York has this. Quote:

That the people have the right to keep and bear arms, that a well-regulated militia, including the body of the people capable of bearing arms, is the proper, natural, and safe defense of a free state.

Here is a great one. I am not going to tell my colleagues who said this, but let me just read it, and I will tell them at the end. Quote:

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.

That was not a quote from a modern militia member. That was a quote. It was not Charlton Heston talking or it was not some official from the National Rifle Association. Those words were spoken by the author of the Declaration of Independence himself, Thomas Jefferson.

Mr. Speaker, I have taken the time to go through these quotes by way of background to illustrate that the Second Amendment is a precious personal right of every American. I believe, if we gave full force and effect to it, that we would see a safer society, and it is my desire to have a safer society that leads me to stand up and make this privileged motion. I believe it is very wrong to continue to head down this path of Federal regulation, taking away fundamental rights on the supposed premise that somehow this is going to improve our society when, in fact, all of the empirical evidence shows that restrictive gun control makes us a less safe society, that it makes our cities very dangerous places to be. The urban areas have the most violent crime, have the least number of handguns. There is a direct correlation, and later on here I will talk about that, but for now, Mr. Speaker, I will conclude.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

(Ms. LOFGREN asked and was given permission to revise and extend her remarks.)

Ms. LOFGREN. Mr. Speaker, my colleague from California (Mr. DOOLITTLE) has offered a motion that, if adopted, would impair the ability of the House and Senate to adopt reasonable gun regulations, gun safety measures, and that is because in his motion he distorts the actual interpretation of the Second Amendment and interprets it in such a way that courts do not.

I would like to briefly reference some of the U.S. Supreme Court decisions that have addressed the issue of the Second Amendment. The most prominent one is U.S. versus Miller, a 1939 case where the court said, In the absence of any evidence tending to show the possession or use of a shotgun 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 with obvious purpose to assure the continuation and render possible the effectiveness of such forces the Declaration and guarantee of the Second Amendment will note it must be interpreted and applied with that end in view.

In another case, U.S. versus Hale, a 1992 case from the 8th Circuit and not overturned, but the Supreme Court opined that the purpose of the Second Amendment is to restrain the Federal Government from regulating the possession of arms where such regulation would interfere with the preservation or efficiency of the militia.

The Second Amendment has often been used to try and thwart sensible gun safety measures. In 1992, six of the Nation's former attorneys general wrote in a joint and bipartisan letter, and I quote:

For more than 200 years the Federal courts have unanimously determined that the Second Amendment concerns only the arming of the people in service to an organized State militia. It does not guarantee immediate access to guns for private purposes.

Mr. Speaker, the Nation can no longer afford to let the gun lobby's distortion of the Constitution cripple every reasonable attempt to implement an effective national policy towards guns and crimes, and that was signed by attorneys general Nicholas Katzenback, Ramsey Clark, Elliot Richardson, Edward Levy, Griffin Bell, and Benjamin Civiletti. I think it is important to outline the vast number of cases that have reached the same conclusion, and I submit for the RECORD a list of all of the court citations that established this point:

Court decisions supporting the ''militia'', rather than ''individual rights'' reading of the second amendment

U.S. SUPREME COURT

U.S. v. Miller, 307 U.S. 174 (1939)

Lewis v. United States, 445 U.S. 55 (1980)

U.S. COURTS OF APPEALS

U.S. v. Oakes, 564 F.2d 384 (10th Cir. 1977), cert. denied, 435 U.S. 926 (1978)

U.S. v. Swinton, 521 F.2d 1255 (10th Cir. 1975)

Hickman v. Block, No. 94–55836 (9th Cir. April 5, 1996)

U.S. v. Farrell, 69 F.3d 891 (8th Cir. 1995)

U.S. v. Hale, 978 F.2d 1016 (8th Cir. 1992)

U.S. v. Nelsen, 859 F.2d 1318 (8th Cir. 1988)

U.S. v. Cody, 460 F.2d 34 (8th Cir. 1972)

U.S. v. Decker, 446 F.2d 164 (8th Cir. 1971)

U.S. v. Synnes, 438 F.2d 764 (8th Cir. 1971), vacated on other grounds, 404 U.S. 1009 (1972)

Quilici v. Village of Morton Grove, 695 F.2d 261 (7th Cir. 1982), cert. denied, 464 U.S. 863 (1983)

U.S. v. McCutcheon, 446 F.2d 133 (7th Cir. 1971)

U.S. v. Warin, 530 F.2d 103 (6th Cir.), cert. denied, 426 U.S. 948 (1976)

U.S. v. Day, 476 F.2d 562 (6th Cir. 1973)

Stevens v. U.S., 440 F.2d 144 (6th Cir. 1971)

U.S. v. Johnson, Jr., 441 F.2d 1134 (5th Cir. 1971)

Love v. Pepersack, 47 F.3d 120 (4th Cir.), cert. denied, 116 S.Ct. 64 (1995)

U.S. v. Johnson, 497 F.2d 548 (4th Cir. 1974)

U.S. v. Tot, 131 F.2d 261 (3rd Cir. 1942), rev'd on other grounds, 319 U.S. 463 (1943)

U.S. v. Toner, 728 F.2d 115 (2d Cir. 1984)

U.S. v. Friel, 1 F.3d 1231 (1st Cir. 1993)

U.S. v. Graves, 131 F.2d 916 (1st Cir. 1942), cert. denied, sub nom., Velazquez v. U.S., 319 U.S. 770 (1943)

Fraternal Order of Police v. United States, 173 F.3d 898 (D.C. Cir. 1999)

United States v. Wright, 117 F.3d 1265 (11th Cir. 1997)

Gillespie v. Indianapolis, 1999 WL 463577 (7th Cir. July 9, 1999)

United States v. Broussard, 80 F.3d 1025 (5th Cir. 1996)

United States v. Williams, 446 F.2d 486 (5th Cir. 1971)

United States v. Graves, 554 F.2d 65 (3d Cir. 1977)

Thomas v. City Council of Portland, 730 F.2d 41 (1st Cir. 1984)

National Ass'n of Gov't Employees, Inc. v. Barrett, 968 F. Supp. 1564 (N.D. Ga. 1997), aff'd, 155 F.3d 1276 (11th Cir. 1998)

U.S. FEDERAL DISTRICT COURTS

Hamilton v. Accu-Tek, 935 F. Supp. 1307 (E.D.N.Y. 1996)

In re Brown, 189 B.R. 653 (M.D. La. 1996)

In re Evans, 57 Cal. Rptr. 2d 314 (Cal. Ct. App. 1996)

National Ass'n of Gov't Employees, Inc. v. Barrett, 968 F Supp. 1564 (N.D. Ga. 1997), U.S. v. Gross, 313 F. Supp. 1330. (S.D. Ind. 1970), aff'd on other grounds, 451 F.2d 1355 (7th Cir. 1971)

U.S. v. Kraase, 340 F. Supp. 147 (E.D. Wis. 1972)

Thompson v. Dereta, 549 F. Supp. 297 (D. Utah 1982)

Vietnamese Fishermen's Association v. KKK, 543 F. Supp. 198 (S.D. Tex. 1982)

U.S. v. Kozerski, 518 F. Supp. 1082 (D.N.H. 1981), cert. denied, 496 U.S. 842 (1984)

Moscowitz v. Brown, 850 F. Supp. 1185 (S.D.N.Y. 1994)

Mr. Speaker, I think we should be clear about what we are doing here today. The maker of the motion does not believe that we ought to have gun regulation, he does not believe we ought to have gun safety measures. He has a right to that opinion. He voted against the Brady bill. He voted to repeal the assault weapons ban. He voted to repeal the ban on the domestic production of large capacity clips. He and I do not agree on the issue of sensible gun safety regulation.

But I think we ought to be clear that his motion is to prevent gun safety regulations from being adopted by this House. The Second Amendment has nothing to do with it, and I would urge my colleagues to see through the kind of legal murkiness that is being put forth here today and to understand that this is really once again a disagreement between those who stand for sensible, moderate, reasonable gun safety regulation and those who believe we ought not have that.

Mr. Speaker, I reserve the balance of my time.

Mr. DOOLITTLE. Mr. Speaker, I yield myself such time as I may consume.

The Second Amendment has everything to do with it; that is my point. The proponents of unconstitutional gun control want to avoid the Constitution because we do have a Second Amendment, and that cuts against them, so they want to talk about gun safety and how they have such reasonable, responsible proposals, proposals which have never worked, which have utterly failed.

Crime continues to get worse or has gotten worse until demographic trends kicked in in the early 1990's, having nothing to do with gun control, and yet we continue to see these relentless efforts by our left wing advanced to take away our precious fundamental rights.

□ 1100

So I believe it has everything to do with it. The issue is precisely joined here, and that is why I began with talking about the Second Amendment and with the statements of the author of the Second Amendment, and with contemporaries who wrote and voted on the Second Amendment back in the days when it was approved. I just think it is important, Mr. Speaker, that that be noted.

I also want to point out that the Supreme Court has never ruled that the Second Amendment is not an individual right. Interestingly enough, Justice Scalia has come out with a book recently where he says it is a personal right. Now, that is one member of the Court, I stipulate, but nevertheless it is a member of the Court.

Justice Thomas in the Printz case, which thankfully overturned the Brady law, it was a great decision, made this observation,

This court has not had recent occasion to consider the nature of the substantive rights safeguarded by the Second Amendment. 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 the amendment's protections.

So the fact of the matter is, it has been some 60 years since the Supreme Court has actually interpreted the Second Amendment. We may have a case heading there now, and we will finally get to hear what the justices think that it means.

I just want to emphasize, we have never had a U.S. Supreme Court decision where they have held that the Second Amendment is not an individual right, nor could they reasonably so hold, because it is so clearly in the history of statements of Madison, the other Founders, meant to be an individual right.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Speaker, I thank the gentleman from California (Mr. DOOLITTLE) for yielding me this time.

Mr. Speaker, I rise in strong support of the Doolittle motion which simply reaffirms the importance of our Second Amendment right. Mr. Speaker, we take for granted the amount of lives that the Second Amendment right has saved, and I would like to take a moment and share with the House just a few experiences of actual people who in the last year have been able to protect their own lives and their property because of this very necessary and critical right.

In December of 1998, Kenneth Thornton of Memphis, Tennessee, protected himself from a personal assault at his business. In January of 1999, 62-year-old Perry Johns of Pensacola, Florida, was able to stop an assailant from taking him to the bank and forcing him to withdraw his money. In December of 1998, Jerry and Mary Lou Krause were able to ward off two intruders in their Toledo, Ohio, home, and in January of 1999, Gregory W. Webster of Omaha, Nebraska, was able to defend himself from three individuals wearing masks who fired shots at him in his own basement.

Now, in June of 1999, David Zamora was able to stave off an attempted highjack of his car at a fast foods drive-in at Phoenix, Arizona, and in June of 1999, 83-year-old poet Carlton Eddy Breitenstein of Rhode Island was able to defend himself from a repeated intruder.

Now, in June of 1999, Jack Barrett of Augusta, Georgia, was able to stop a prowler from invading his home who was dressed in black military clothing and brandishing a knife. In July of 1999, a former Marine was able to protect seven of his family members from five gun-toting thugs who descended on him and his family in their Tucson, Arizona, home.

In July of 1999, a Boulder, Colorado, woman was able to ward off and detain her estranged husband who threatened to murder and burglarize her in her very own home.

Mr. Speaker, the stories go on and on, and, in fact, in 1997, the Clinton Justice Department study found that as many as 1.5 million people use a gun in self-defense every year.

Mr. Speaker, it is so important that we not learn to appreciate what we have by losing it. If we even slightly diminish our Second Amendment rights, millions of Americans will be left vulnerable to attack. Let us continue to uphold that very right, which has allowed law-abiding citizens to protect themselves from cold blooded criminals. I urge a yes vote for the Doolittle motion.

Ms. LOFGREN. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT), a member of the Committee on the Judiciary.

Mr. SCOTT. Mr. Speaker, I thank the gentlewoman from California (Ms. LOFGREN) for yielding the time.

Mr. Speaker, I rise in opposition to the motion to instruct, first because there are no provisions in either the House or Senate version of H.R. 1501 which violate the Second Amendment to the Constitution, and second because the motion suggests an individual right to bear arms, which is, in fact, not found in the Constitution.

The argument offered by some and by the sponsor of the amendment is that the Second Amendment prohibits Congress from passing laws regulating individual gun laws.

The Second Amendment provides, quote, ''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.''

Mr. Speaker, the United States Supreme Court declared in 1939, in the case United States versus Miller, that the Second Amendment right to keep and bear arms applies only to the right of a State to maintain a militia and not to an individual's right to bear arms. More specifically, the Court stated that the obvious purpose of the Second Amendment was to assure the continuation and render possible the effectiveness of the State militia and that the amendment must be interpreted and implied with that end in view.

Following the Miller decision, numerous court decisions have consistently held that the Second Amendment guarantees a right to be armed only by persons using the arms in service to an organized State militia. The modern, well-regulated militia, is the National Guard, a State-organized militia force made up of ordinary citizens serving as part-time soldiers. Courts have consistently held that gun control laws affecting the private ownership, sale and use of firearms do not violate the Second Amendment because such laws do not adversely affect the arming of a well-regulated militia.

In fact, during the May 27, 1999, hearing on firearm legislation before the House Committee on the Judiciary's

Subcommittee on Crime, I personally asked the executive director of the National Rifle Association to cite any court decision which interpreted the Second Amendment as granting an individual right to bear arms, and he could not cite a single court decision.

The sponsor of the amendment likewise has offered his analysis but has been unable to cite a single Supreme Court decision which supports those views. Thus, the Second Amendment does not constitute a barrier to congressional regulation of firearms. Rather, the real challenge before us is to determine what Congress can do in the form of regulating firearms which will actually result in the reduction of gun violence.

Now, we do know that some modest provisions currently in existence have made a difference. 300,000 felons, fugitives and others prohibited from receiving firearms were prevented by the Brady law between 1993 and 1998 from making those purchases. Provisions passed in the Senate would bring about a significant reduction in the number of criminals acquiring guns.

Unfortunately, those good provisions in the Senate version of 1501 are coupled with counterproductive provisions affecting the system of juvenile justice in this country. Several of those provisions, such as jailing more children with adult criminals and kicking children with disabilities out of school without alternative educational services have been shown to be counterproductive.

On the other hand, the bill also contains bipartisan legislation reflecting proven initiatives which will, in fact, reduce juvenile crime. So, Mr. Speaker, we should focus on these reasonable gun safety provisions and proven juvenile justice provisions which will assist localities in substantially reducing the carnage of youth violence in this country and focus not on the counterproductive sound bites and flawed interpretations of the Constitution. I, therefore, ask my colleagues to oppose the motion.

Mr. DOOLITTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just observe how odd that the Constitution would give the individual the right to freedom of religion, the right to free speech, then give a right to the State about keeping and bearing arms and then go back to the right of the individual to be free from unreasonable searches and seizures. It just does not flow.

The fact of the matter is, the gentleman says there is no Supreme Court decision that supports my position. I have quoted the author of the Second Amendment and of the Constitution, James Madison, and of contemporaries who voted on the amendment themselves. Those are the ones the Supreme Court looks to when it renders its decision.

Are the Supreme Court decisions muddled on this issue? Yes. Have we had a Supreme Court decision on the Second Amendment in the last 60 years before the gentleman and I were even in existence here on this Earth? We have not. So the fact of the matter is, we need the Supreme Court to speak out, but I did say what one member of the Court said, Justice Scalia.

I do want to just also point out with reference to the Brady law, this book contains the most comprehensive study of gun control laws ever done. It is entitled, More Guns, Less Crime, Understanding Crime and Gun Control Laws. It is by John R. Lott, Jr.

So with that background, I just want to cite this statement in rebuttal of what the gentleman said.

> No statistically significant evidence has appeared that the Brady law has reduced crime and there is some statistically significant evidence that rates for rape and aggravated assault have actually risen by about 4 percent relative to what they would have been without the law.

So here are the facts and the statistics, but better than that we have the Constitution itself.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, when our forefathers came here a number of years ago and in 1776 wrote the Declaration of Independence, they broke with a tradition in essentially all of the countries they came from, mainly then from Europe and the British Isles. That tradition was a divine right of kings, that somehow people accepted the notion that the rights came from God to the king and the king would then give what rights he wished to his people.

In the Declaration of Independence, they made a radical departure from that because they said that we, we the people, are endowed by our Creator with certain unalienable rights and among these are the right to life, liberty and the pursuit of happiness.

Consistent with this notion that the rights belong to the people, and with their concern about the tyranny of the crown, the tyranny of the State, they wrote and it was ratified in 1791, 4 years after the ratification of the Constitution, the Second Amendment, part of the first 10 amendments which we know as the Bill of Rights, and there they continue this theme that has been mentioned a couple of times now by my good friend, the gentleman from California (Mr. DOOLITTLE), that they really were concerned that the people should have this right, the people.

Let me read the Second Amendment. My liberal friends rarely read the whole amendment. They read the second part of it: ''a well-regulated militia being necessary to the security of a free State.''

What does one think that means? What that means is that they were concerned that without a well-regulated militia, without the people having the right to keep and bear arms, that we could not be assured of all of the freedoms guaranteed to us, given to us by God, and guaranteed to us by the Constitution.

Let me read again: ''A well regulated militia, being necessary to the security of a free State, the right of the people,'' the right of the people, not the National Guard, not the Army, not the Navy, the right of the people, ''to keep and bear arms shall not be infringed.''

We meddle with this at the risk of losing all of those great guarantees of freedom, of rights that we have in the Constitution. I support wholeheartedly this privileged motion.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to note that although reasonable people can differ, there are many cases that have held that the Second Amendment allows for reasonable regulation, and I have submitted to the RECORD two pages of the names of those cases which will be printed in the CONGRESSIONAL RECORD today.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. MORAN).

□ 1115

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentlewoman from California for yielding me this time.

The eloquent statements that are referred to by James Madison, Richard Henry Lee, and others made 200 years ago were proper and a reflection of their great leadership at that time. But it was also a time when slavery was legal and we slaughtered Native Americans to take their land; when we resolved disputes by gunfights at the OK Corral or wherever. We were a pioneering Nation and, in fact, most families had guns. It was a small population. It was a population in danger. Our enemy was England at that time.

However over the last 200 years, we have progressed to become the greatest democracy in the history of western civilization. And yet, this issue is the one aspect of our society and our democracy which is the least civilized, which is the most embarrassing distinction of our country because every other civilized Nation in the world today has a handful of deaths by firearms. Whereas, the United States has more than 20,000 deaths by firearms, most of them innocent, accidental, or victims of the kind of carnage that we have witnessed this year and in so many subsequent years: teenagers getting their hands on lethal weapons.

There is a reason, and it is because of this perverse distortion of the meaning of the Constitution.

Let me just cite the words of Chief Justice Warren Burger, who was a gun collector. He loved guns. He had almost every major gun in his collection. He prized them. He was also a Republican appointee to the Supreme Court, became Chief Justice, served with great distinction. This is his public statement: ''One of the greatest pieces of fraud,'' and he said, ''I repeat the word 'fraud,' on the American people by special interest groups that I have ever

seen in my lifetime is this interpretation of the Second Amendment.''

Our Federal courts have ruled that this did not give individuals the right to bear arms. The purpose of this language was clearly to enable people to bear arms to the extent that it contributed to a well-regulated militia that was essential at that period of our growing Nation.

We have statements that reflect this interpretation of the Constitution that explain why the NRA has never challenged a gun control law by taking it to the Federal courts. They try the Tenth Amendment, they try other ways; they know they would lose on the Second Amendment. Nicholas Katzenbach, Ramsey Clark, Elliot Richardson, Edward Levi, Griffin Bell, Benjamin Civiletti, all of our U.S. Attorneys General, they say, For more than 200 years, the Federal courts have determined that the Second Amendment concerns the arming of the people in service to an organized State militia; it does not guarantee access to guns for private purposes.

All we are trying to do is to reflect the intent of the American people in a democratic society. The vast majority of the people want reasonable gun control. They want their children to live safely in their streets and to be safe in their schools. That is why this amendment should be soundly rejected.

Mr. DOOLITTLE. Mr. Speaker, may I inquire as to how much time each side has remaining.

The SPEAKER pro tempore (Mr. MILLER of Florida). The gentleman from California (Mr. DOOLITTLE) has 11 minutes remaining, and the gentlewoman from California (Ms. LOFGREN) has 17 minutes remaining.

Ms. LOFGREN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I just wanted to make the point that there are, in fact, have been presented two interpretations of the Second Amendment to the Constitution. One, that there is an individual right; another is that the right is connected to the well-regulated militia.

I would point out and remind the Speaker that the gentlewoman from California has entered into the record a list of court cases, including Supreme Court cases in 1939 and 1980, and over 20 cases decided in the United States Court of Appeals that support the militia interpretation of the Second Amendment. We have not found a single court decision offered today or previously, just public statements and interpretations supporting the individual right to bear arms.

I think that the people can read the court cases for themselves. They will be listed in the CONGRESSIONAL RECORD. It is an important documentation of the militia interpretation of the second amendment.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

In a way, I appreciate the debate this morning, because I think it is a more direct division of where we are with the Members of the House, and the American people can really see what the dispute is about.

We have heard a lot of cases and quotes today, but former Supreme Court justice Warren E. Burger, a very conservative Chief Justice who served on the court from 1969 to 1986, had a quote that I think really does sum it up quite well, and I would like to mention that to my colleagues. He said, and I quote,

> It is the simplest thing, a well-regulated militia. If the militia,

which is what we now call the National Guard essentially,

> has to be well regulated, in heaven's name, why shouldn't we regulate 14, 15, 16-year-old kids having handguns or hoodlums having machine guns. I was raised on a farm, and we had guns around the house all the time. So I am not against guns, but the National Rifle Association has done one of the most amazing jobs of misrepresenting and misleading the public.

The issue here is whether or not we will take modest steps to make the children, and I would add, the adults of America a little bit safer from crazed individuals who want to harm them with weapons of destruction.

I think of the bills that we have put in place, and although they are not enough, they have done some good. The Brady law, which the author of the motion to instruct voted against, and the Federal assault weapons ban, which he also voted against, have proven to be successful and effective tools for keeping the wrong guns out of the wrong people's hands. In fact, violent crime has fallen for 6 straight years, thanks, in some part, to the strong gun laws that provide mandatory background checks and banned the most dangerous types of assault weapons and limited, to some extent, the accessibility to kids and criminals. The Brady law has proven that criminals do try to buy handguns in stores. The background checks nationwide stopped approximately 400,000 felons and other prohibited purchasers from buying handguns over the counter from federally-licensed firearm dealers.

Now, what does this mean? Thousands of murderers, spousal abusers, drug traffickers, fugitives from justice, people who were mentally unstable were unable to get a gun and go out and harm someone. That is important, and what we want to do here today, and the reason why we are continuing to discuss this issue is that we want to close the loopholes that exist in current law so that those same murderers, spousal abusers, mentally ill individuals cannot, when they are turned down for the gun at the licensed gun dealer merely go over to the flea market and buy that weapon. That is really what we are here about.

We are here because, without closing that loophole, real people are suffering real harm.

Now, I have heard a lot of discussion that we have problems in American society. Clearly, we are not a trouble-free society. Clearly, regulation and sensible gun safety measures will not solve all of the problems of American society. We know that. But we also know that if those boys who were so distorted and filled with evil had walked into Columbine High School without arms, without guns, they would not have been able to kill as many children as they did. We know that if that middle-aged, hate-filled maniac who shot little 5-year-old children in the day care center in the Jewish community center in Los Angeles, if he had not had access to those weapons, he would not have been able to do the damage that he did.

So these are modest issues that we are trying to deal with. We are opposed by people who have, I believe distorted the law, but who, in fact, just oppose having regulations of any sort on guns. Now, they can have that opinion. They answer not to me, but to their own constituents. But I would like this House to give an answer to the mothers of America and say, we are going to put the gamesmanship behind us; we are going to focus on what matters to the mothers and fathers of America, which is to do something reasonable, modest, rational, that will make guns less prevalent in our society, that will make it harder for people who have no business having those weapons to have them, so that children like those little kids who were in the day care center will not have to face some crazed maniac with a gun, so that children like those in Columbine High School will not have to live in fear that they will suffer, be killed or be harmed by young people so disturbed and well armed. That is what this debate is about.

Mr. Speaker, I would urge my colleagues to search their heart and to understand that we ought to reject this motion. This motion really is about shall we have any gun control or gun safety legislation, or not. That is what this motion is about. I hope that this House will stand proudly and say, yes, we do think we can have some gun safety measures that make sense. We can yield that result to the American people.

Mr. Speaker, I reserve the balance of my time.

Mr. DOOLITTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it unbelievable, that we are the ones who are accused of distorting the Second Amendment. The gentleman from Virginia submitted a list of cases which he claims supports his position. I will tell my colleagues, not one of those cases that he has submitted supports the proposition that the Second Amendment is not an individual right, because the U.S. Supreme Court has never so held.

I heard Justice Burger quoted. He is not a member of the Supreme Court anymore. But Justice Scalia is, and he just wrote it is an individual right. He is a well-known conservative on the

court, but let us take a well-known liberal, not on the court, but a legal scholar known to all, Laurence Tribe who, in his latest treatise, has just acknowledged that the Second Amendment is, surprise, a personal right. Is Laurence Tribe committing gross distortions?

I think, Mr. Speaker, that it is clear what Madison and the founders intended, and I have submitted a list of his statements and other statements of the Founders to be in the RECORD. It is very clear they believed it to be an individual right. The gentleman from Virginia (Mr. MORAN) got up here and said well, the Second Amendment is outdated. Well, in view of all of the violent crime we are seeing, we ought to have a little more of the Second Amendment, and we would reduce some of that crime.

□ 1130

But the fact of the matter is if the Second Amendment is outdated, then introduce a bill in Congress to repeal it and submit it to the States for ratification. That is the procedure we go through.

Alternatively, he can abandon or waive his Second Amendment rights, but do not waive mine and do not waive the rights of the people I represent and the people we collectively represent. Mr. Speaker, I would submit that it clearly is an individual right.

Reference to slavery was made. I cannot resist doing this. The Supreme Court, in the Dred Scott decision, rendered a lengthy opinion. In that opinion, the supporter argued that the States adopting the Constitution could not have meant to consider even free blacks as citizens, and outlined the rights which black Americans would have if given citizenship. And then in Dred Scott they outlined these rights that blacks would have if indeed they had been citizens at the time.

Guess what one of them was? I am quoting from Dred Scott: ''And to keep and carry arms wherever they went.'' So that was Dred Scott. Now, we fought a Civil War over that. When the slaves were freed as a result of the Civil War, the southern States reenacted the slave codes, which made it illegal for blacks to exercise basic civil rights, including the right to purchase, own, and carry firearms.

So then the co-equal branch of Congress to the Supreme Court responded to this action of the States by passing the Freedmen's Bureau Act of 1866, which provided ''the right . . . to have full and equal benefit of all laws and proceedings concerning personal liberty, personal security, and the acquisition, enjoyment, and disposition of estate, real and personal, including the constitutional right to bear arms, shall be secured to and enjoyed by all the citizens of each State or district without respect to race or color or previous condition of slavery.''

That was what the Congress did in 1866 by passing that law. Obviously, they believed that citizens had the right to keep and bear arms because they put it right there in the Federal statute.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. HOSTETTLER).

(Mr. HOSTETTLER asked and was given permission to revise and extend his remarks.)

Mr. HOSTETTLER. Mr. Speaker, as I was listening to the debate in my office, I could not help but realize that there are times when students all across the United States tune in to C-Span, and not only students in school but individuals tune in to find out how their government operates, even to learn a little bit about constitutional issues, and how constitutionally the branches should operate, sometimes referred to as co-equal, discussions of separation of powers, and the like.

I find it intriguing that in many of these discussions and debates there are a great many people that rely on the opinion of the Supreme Court, somehow giving the inference to those who view and those who want to learn a little something about government when they view C-Span to believe that the Supreme Court guides the decision-making of the United States House of Representatives or United States Congress.

Mr. Speaker, this is a very intriguing doctrine. It is one that I know is stressed in many law schools. However, I am not an attorney, I am not a lawyer. I do not really know a lot about what Supreme Court Justices have said in the past about the Constitution. All I know is what the Constitution says.

We have to go back from time to time and actually read the Constitution, which the Framers made very simple so that an individual that was not a trained attorney could realize just what in fact the government was recognizing as rights, for example, in the Bill of Rights.

This is so prevalent in days gone by that Congress and the President have not felt the need or an obligation to give in to the wills and whims of whoever may be sitting on the Supreme Court, in that President Jackson, in his veto message regarding the creation of the Bank of United States on July 10, 1832, spoke directly about this issue of what Congress or the President should do with regard to the opinion or decision of the Supreme Court, when he said, ''Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others,'' for example, the Supreme Court.

''The opinion of the judges has no more authority over the Congress than the opinion of Congress has over the judges, and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the executive.''

Mr. Speaker, I could go on and on quoting from people who actually knew what the Constitution says, and were not necessarily impressed by the opinions of another branch of the Federal Government.

What I want to say in conclusion is that the gentleman from California has offered a great deal to the debate on the Constitution itself, and specifically the Second Amendment. I believe his motion to instruct is reasonable, rational, and bottom line, constitutional. I thank him for doing it.

POINT OF ORDER

Ms. LOFGREN. Point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. MILLER). The gentlewoman will state the point of order.

Ms. LOFGREN. Mr. Speaker, I believe that unless one is a member of the committee, one does not have the right to close.

The SPEAKER pro tempore. The proponent of a motion to instruct has the right to close.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to comment very briefly on the comments just made regarding our constitutional system.

I think it is actually a frightening concept to, at this late date, as we enter the next century, question the role of the Supreme Court in our Constitution as the interpreter of the Constitution itself. That is well settled law.

Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, just for the record, I would like to state that I disagree the with the Dred Scott decision. It has been overturned and is not good law at this time.

Second, I would like to point out that some citations made by the supporters of the motion that certain Supreme Court Justices have made certain statements in regard to their interpretation, no case for which those statements were in the majority has ever been cited.

Mr. Speaker, I would like to read part of the 1939 Miller case, so that it is clear what the Miller case said: ''In the absence of any evidence tending to show that possession or use of a [shotgun] 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 . . . 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.''

That is the Miller case in 1939. Later, in 1980 in the Lewis case, we have this language from the case: ''These legislative restrictions on the use of firearms are neither based upon constitutionally suspect criteria nor do they trench upon any constitutionally protected

liberties. The Second Amendment guarantees no right to keep and bear a firearm that does not have some reasonable relationship to the preservation or efficiency of a well regulated militia.''

Mr. Speaker, if we are going to state our opinion about what the constitutional law ought to be, we ought to acknowledge that the clear state of the law is that the Supreme Court and U.S. Court of Appeals decisions are clear that there is no individual right. It has to be connected with the militia.

If we wish the Supreme Court would change its mind, then we ought to say that. But the constitutional interpretation by the Supreme Court is clear that any right to bear arms must be reasonably related to the well regulated militia.

Ms. LOFGREN. Mr. Speaker, I yield 5½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, let me acknowledge my colleague, the gentlewoman from California (Ms. Lofgren), for continuing the fight on this issue, and as well, my colleague, the gentleman from California (Mr. Doolittle), for allowing us, I think, to have a very important debate on the Second Amendment.

The reason why I am delighted that he has brought this to the attention of the American people and to this body, and I would hope the Senate would have the equal opportunity to debate the Second Amendment, is that the Second Amendment has been used and abused by the opponents of what we would like to think is real gun safety reform, reasonable gun safety reform; gun safety reform in fact, Mr. Speaker, that has been supported by almost 80 percent of the American people, and I might add the large numbers of communities and parents tragically who have lost their children, their babies, in the midst of gunfire and the use of guns.

The reason why I think this debate is extremely important is because the Second Amendment has been used to create unnecessary hysteria among those in all of our communities. It has created hysteria in the African-American community. It has created hysteria in the rural and suburban communities. It has created hysteria among those groups that I believe have a right to express their view, but I disagree with, many of them militias, many of the people who feel the government is out to get them, and they must undermine the government and must keep themselves armed.

I disagree with that philosophy, I think it is not a reasonable perspective to take at this point in time in our history, but they have every right under the First Amendment to enjoy that position.

But as they enjoy that position, the fuel and fire is being lit, using that fear and apprehension. They are then being stimulated with real misinformation that this Congress or those of us who propose reasonable gun regulation, gun safety, are opposed to or are eliminating the Second Amendment.

Let me first of all provide those who may be somewhat confused as to what it means to undermine a constitutional amendment. One, it can be done. Certainly there is some suggestion that statutes may in fact undermine particular constitutional amendments. But if that is the case, if a statute passed by this body is viewed to undermine a constitutional amendment, the petitioner has every right to go to the other body of government, the judiciary, and challenge that that law is unconstitutional.

Might I say, Mr. Speaker, that in many instances those petitioners have prevailed; that laws in this Congress, passed with good intentions and good minds and good hearts, have been ruled unconstitutional by our Supreme Court or by our Federal court system. I might say, some of that I agree with. Some I disagree. It means that the system of checks and balances does work in this particular Nation.

The motion to instruct offered by the gentleman from California is again fueling the fire of that hysteria. But might I educate the listening and viewing public, and maybe Members on both sides of this issue. My understanding is that if we were to eliminate the Second Amendment, as has been suggested, or we might do such damage to it, that is in actuality putting forth a constitutional amendment that takes away the Second Amendment. If this body did that, it would take a two-thirds vote of this House, a two-thirds vote of the Senate, and a three-fourths vote of the State legislatures.

My question to my colleague is, have any of us done that? Do we have a motion to instruct from any of us who are advocates of strong gun safety reform to eliminate the Second Amendment? I think not. The Second Amendment stands on its own two feet. But let me cite again for my colleagues the 1939 Miller case, which has been stated previously before.

It says, ''In the absence of any evidence tending to show that the possession or use of a [shotgun] 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 instrument . . .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.''

What we are saying, or what I believe the Miller case is saying, the U.S. Supreme Court, 307 U.S. 174, 1939, is saying, we are reasonable people, here. We understand the intent of the Founding Fathers on retaining a well-organized militia under the Second Amendment. It was to protect us, this fledgling Nation, against the invasion of outside forces.

We are not intending, with real gun safety regulation, to go into the homes of law-abiding citizens and take away the arms that they might have. We are not asking for that, Mr. Speaker. We are not asking to stop the sports activities.

Some of us may disagree with the overproliferation of guns. We have too many guns in this country. But all we are asking for is a reasonable background check. We are asking for the unlicensed dealers who willy-nilly sell guns illegally, by the ATF's own documentation, the Bureau of Alcohol, Tobacco, and Firearms, we are asking for the ban of ammunition clips, for child safety locks, for a ban on juvenile possession of semi-automatic assault weapons. We should reasonably ask that children be accompanied by adults when they go to gun shows. We are asking for juvenile Brady.

What we are really asking for is to ensure, for the mothers and fathers of those who have died, who have lost their children, that those children not die in vain.

□ 1145

How many more of our children's funerals can we go to? My community, Houston, Texas, the fourth largest city in the Nation and colleagues of mine in other inner cities have suffered year after year when no one was paying attention to gun violence, when our children were dying, when, yes, they were taking guns against each other; but also they were caught in the midst of adult violence and they lost their lives. No one was crying out. Now we are crying out together, Mr. Speaker.

I think the Second Amendment is an unfortunately bogus argument. I ask for my colleagues to vote against this instruction and that we get down to business in saving the children of America.

Mr. Speaker, today I rise in opposition to the Doolittle Motion Instruct. The Doolittle to Motion to Instruct would do little other than upset 60 years of American Jurisprudence. The Doolittle Motion is yet another attempt by the Republican leadership to delay and distract Americans from the real issues facing this nation.

The NRA is trying to kill any gun safety legislation and the Republican leadership is the trigger man. This phony argument, long floated by the NRA, has been rejected by virtually every court and is merely an effort to distract from the reasonable and commonsense gun safety measures the Senate passed that would help keep guns out of the hands of dangerous criminals and protect children from gun violence: Requiring a criminal background check on every sale of a gun at a gun show; Banning the Importation of high capacity ammunition clips that have no other purpose than to kill lots of people very quickly; Requiring that a child safety lock be sold with every handgun; Banning the juvenile possession of semiautomatic assault weapons; and Juvenile Brady.

The NRA wants to kill gun safety legislation of any kind and has launched a massive lobbying campaign. Under the headline ''NRA Achieves its Goal: Nothing,'' James Jay Baker, the chief Lobbyist for the NRA said: ''Nothing is better than anything. *NRA Achieves its goal: Nothing,'' Washington Post, June 19, 1999, A01.

The Republican Leadership never wanted a gun safety bill—''(The defeat of the gun safety bill in the House) is a great personal victory for me.''—Tom Delay, House GOP Whip,'' House Defeats Gun Control Bill,'' Washington Post, June 19, 1999, A01. Despite the GOP's accusations, it is the GOP that is using the gun safety issue for partisan political gain. DELAY's spokesman, Michael Scanlon said, by November 2000, ''the gun debate this month will be long forgotten, with the exception of 2.8 million screaming mad gun owners who belong to the NRA. And I can tell you this, my friend: They will be lined up at the voting booth three days in advance to vote on this issue along, and they'll be pulling the Republican lever each time.'' ''Strategy Change Seen in Battle Over Gun Control,'' Baltimore Sun, June 28, 1999, A1.

The Doolittle Motion would preclude adoption of any provision of the Senate bill because it is so poorly drafted. By its own terms, the Doolittle motion's instruction that the conferees reject any Senate-adopted provision which does not affirmatively ''recognize'' that the second amendment to the Constitution applies to the rights of individuals would preclude the conferees from adopting virtually any Senate provision, since every Senate provision is silent with respect to the second amendment.

The second amendment is a nonissue in this debate, virtually every court has held that reasonable restrictions on gun ownership. The substance of the motion doesn't hold up to logical scrutiny any better than its form. The bottom line is that, until April of 1999, every federal court which has examined the question—the Supreme Court, every Circuit Court of Appeal and every Federal District Court—has flatly rejected the utterly baseless claim that the second amendment has anything to do with an individual's rights as opposed to the collective rights of the people (with a capital *P*) to form a ''well regulated militia.''

In the 1939 Miller case, the Supreme Court said on the facts there that: ''In the absence of any evidence tending to show that possession or use of a [shotgun] 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 . . . 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.'' U.S. v. Miller, 307 U.S. 174 (1939).

Forty years later, the Court reaffirmed this principle in Lewis v. United States (445 U.S. 55 (1980)) even more explicitly:

> These legislative restrictions on the use of firearms are neither based upon constitutionally suspect criteria, nor do they trench upon any constitutionally protected liberties . . . the Second Amendment guarantees no right to keep and bear a firearm that does not have some reasonable relationship to the preservation or efficiency of a well regulated militia.

Since Miller was decided in 1939, only a single Federal District Court (last April) has interpreted the second amendment to confer an individual right and that interpretation was immediately rejected by both federal courts that have since addressed the issue. In United States v. Boyd, 52 F. Supp. 2d 1233 (D.Ct. Kan. 1999) Boyd challenged his indictment under 18 U.S.C. 922(g)(9) the domestic restraining provision Emerson challenged as violative of the Second and Tenth Amendments.

The court cited United States v. Oakes, 564 F. 2d 384, 387 (10th Cir. 1977) which held that ''[t]o apply the [Second][A]mendment so as to guarantee appellants' right to keep an unregistered firearm which has not been shown to have any connection to the militia,*, would be unjustifiable in terms of either logic or policy.'' The Tenth Circuit has relied on Oakes to summarily reject all subsequent Second Amendment challenges. Boyd's Second Amendment challenge failed.

Similarly, in United States v. Henson, 1999 U.S. Dist. LEXIS 8987, *3 (S.D. W. Vir., June 14, 1999) the Court held that:

''Defendant's reliance on Emerson is misplaced (in his attempt to overturn his indictment under the same federal statute prohibiting those under a domestic restraining order from possessing weapons). Our Court of Appeals has held consistently that the Second Amendment confers a collective, rather than an individual right to keep and bear arms.''

Moreover, very recently in Gillespie v. City of Indianapolis Police Department, et al., 1999 U.S. App. LEXIS 15117, *42 (7th Cir. July 9, 1999) yet another Federal Court has found that:

''Whatever questions remain unanswered, Miller and its progeny do confirm that the Second Amendment establishes no right to possess a firearm apart from the role possession of the gun might play in maintaining a state militia.''

No one has gotten to the bottom line on the second amendment myth ruthlessly promoted by the gun lobby better than six of the nation's former Attorneys General in a joint and bipartisan letter to the Washington Post on October 3, 1992. They wrote:

''For more than 200 years, the federal courts have unanimously determined that the Second Amendment concerns only the arming of the people in service to an organized state militia; it does not guarantee immediate access to guns for private purposes. The national can no longer afford to let the gun lobby's distortion of the Constitution cripple every reasonable attempt to implement an effective national policy toward guns and crime.'' Nicholas deB. Katzenbach, Ramsey Clark, Elliot L. Richardson, Edward H. Levi, Griffen B. Bell, Benjamin R. Civiletti

It is precisely such distortion for precisely the purpose of thwarting an ''effective national policy toward guns and crime'' that is transparently at the core of the Doolittle Motion. Will we have the courage—once and for all—to turn our backs on an argument that Warren Burger, former Chief Justice of the Supreme Court, called *one of the greatest pieces of fraud, I repeat the word ''fraud,'' on the American public by special interest groups that I have ever seen in my lifetime.'' [Appearing on McNeil/Lehrer News Hour]

But the best proof of the bankruptcy of the ''individual rights'' claim comes from the NRA and the rest of the gun lobby itself. How many times do my colleagues think that the second amendment has served as the basis of an appeal by the NRA or anyone else trying to invalidate a gun control statute? Exactly NEVER; not once. Not when the Brady Law was challenged by sheriffs. Not when the NRA sued to block the assault weapons ban. NEVER. It isn't even mentioned. They cite the 10th Amendment, other amendments; NEVER the second. Why? Because they know themselves that no court in the nation (now save one likely to be reversed on appeal) will tolerate such nonsense.

For the Framers. For our children. Reject the Doolittle Motion and its gun lobby authors.

Ms. LOFGREN. Mr. Speaker, may I ask how much time is remaining.

The SPEAKER pro tempore (Mr. MILLER of Florida). The gentlewoman from California (Ms. LOFGREN) has 1½ minutes remaining. The gentleman from California (Mr. DOOLITTLE) has 4½ minutes. The gentleman from California has the right to close.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think we can make this very simple for the Members today. This motion basically asserts, and the debate has emphasized, that the Second Amendment prohibits the ability of Congress to regulate in any manner guns or weaponry. I think that is clearly not what the Second Amendment does.

What we are really wanting it do here is to come up with some modest, reasonable, sensible gun safety measures. Why? Because children all across America are at risk from evildoers who are armed at the teeth; and children, in fact up to 13 children a day, are losing their lives to arms and to weaponry.

We are not talking about the duck hunter. Duck season, duck hunting season will go on again this year, and that is absolutely fine. The Brady bill and its extension to juveniles is intended to keep guns out of the hands of criminals, not the duck hunters, but of criminals.

We are trying to close a loophole that has allowed criminals and people who are mentally unstable to get guns from flea markets and the like because the Brady law has prevented them from getting their hands on those weapons at licensed gun dealers. That is really all this is about. I believe that the American people strongly want us to do that very simple thing. Why? Because they know it is in their best interest.

So I would urge my colleagues to oppose this very ill-founded motion.

Mr. DOOLITTLE. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, what is great about this issue is we can quote liberals and make our point. I quoted Lawrence Tribe who says it is a personal right. I am going to quote the icon of liberal journalism throughout the country, the Washington Post. Sunday, September 19, 1999, the headline, and this is in the front page of the paper by the way, ''Gun controls limited aim bills. Would not have stopped recent killings''.

For weeks we have heard people come up here on the other side and orate about the terrible killings that have occurred, and, yes, they are terrible. What is also terrible is that they have represented that the bills, the legislation that they are trying to pass would have prevented them.

What this article goes on to say, if I may quote, ''None of the gun control legislation under discussion in Congress would have prevented the purchase of weapons by shooters in a recent spate of firearms violence, including last week's massacre at a Texas church, gun control supporters and opponents agree.''

The fact of the matter is I find the left's approach on gun control is just like it is on the so-called campaign finance reform. The assault on the Second Amendment is just like the assault on the First Amendment. These things do not work. They are undesirable. They are unconstitutional. But they do not give up. The more violence we hear about, the more shootings we have, the more bad legislation that comes forward promising to do something when, in fact, what they have already given us has utterly failed. For that reason, Mr. Speaker, we need to take a new approach.

Here is an interesting quote by the way, just to see what the other half of society thinks about all of this, the criminal half. This is a quote from Sammy ''The Bull'' Gravano, former Mafia member. Check this one out:

> Gun control, it's the best thing you can do for crooks and gangsters. I want you, the law-abiding citizen, to have nothing. If I am the bad guy, I am always going to have a gun. Safety locks? You will pull the trigger with a lock on, and I will pull the trigger without the safety lock. We will see who wins.

This is tragic that we continue to push this disastrous legislation which strips us of our constitutional right and, further more, which does not even work, which disarms the very communities that need protection.

I told my colleagues about this book, More Guns, Less Crime, by John R. Lott, Jr., the most exhaustive authoritative statistical analysis of gun control laws in the United States.

Let me just quickly cite some points that he makes in his conclusions in this book, because I think it illustrates what we are really up against.

Point number one, ''Preventing law-abiding citizens from carrying handguns does not end violence; it merely makes victims more vulnerable to attack.'' So now we have the professor saying this, agreeing with the former Mafia member, and, by the way, agreeing with what we all know is perfect common sense.

Number two, ''My estimates indicate that waiting periods and background checks appear to produce little if any crime deterrence.''

Most exhaustive study ever done.

Point number three, ''The evidence also indicates that the states with the most guns have the lowest crime rates. Urban areas may experience the most violent crime, but they also have the smallest number of guns.''

Point number four, ''Allowing citizens without criminal records or histories of significant mental illness to carry concealed handguns deters violent crimes and appears to produce an extremely small and statistically insignificant change in accidental deaths. If the rest of the country had adopted right-to-carry concealed-handgun provisions in 1992, about 1,500 murders and 4,000 rapes would have been avoided.''

This approach works. Our constitutional approach works. Our constitutional approach is still the law. Because the other side cannot manage to change the law, it does not give them the right to do an end run and try and pass a bill through Congress which strips us of our sacred constitutional rights.

I ask my colleagues to vote for my motion.

Mr. UDALL of Colorado. Mr. Speaker, I will vote for the motion to instruct conferees offered by the gentleman from California (Mr. DOOLITTLE) because, like him, I want the conferees on the Juvenile Justice legislation to omit any provisions that would be contrary to the Constitution. However, I do not think that the Constitution prohibits carefully-drawn, measured provisions dealing with access to firearms by minors and criminals or with firearm safety. In particular, I agree with the gentlewoman from California (Ms. LOFGREN) that there is no constitutional impediment to the kind of provisions specified in her motion to instruct, which is why I also will vote for that motion.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. DOOLITTLE).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DOOLITTLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 1501, JUVENILE JUSTICE REFORM ACT OF 1999

Ms. LOFGREN. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Ms. LOFGREN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 1501, be instructed that the committee on the conference recommend a conference substitute that includes provisions within the scope of conference which are consistent with the Second Amendment to the United States Constitution (e.g., (1) requiring unlicensed dealers at gun shows to conduct background checks; (2) banning the juvenile possession of assault weapons; (3) requiring that child safety locks be sold with every handgun; and (4) Juvenile Brady).

The SPEAKER pro tempore. Pursuant to clause 7 of rule XX, the gentlewoman from California (Ms. LOFGREN) and the gentleman from Florida (Mr. MCCOLLUM) each will control 30 minutes.

The Chair recognizes the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

(Ms. LOFGREN asked and was given permission to revise and extend her remarks.)

Ms. LOFGREN. Mr. Speaker, every year, an estimated 2,000 to 5,000 gun shows take place across the Nation in convention centers, school gyms, fairgrounds, and other facilities paid for and maintained often with taxpayer money. These arms bazaars provide a haven for criminals and illegal gun dealers who want to skirt Federal gun laws and buy and sell guns on a cash-and-carry, no-questions-asked basis.

The Brady law background check applies to licensed gun dealers only. The same is true of most State firearm background checks. At gun shows, it is perfectly legal in most States and under Federal law for individuals to sell guns from their private collections without a waiting period or background check on the purchaser. However, licensed Federal firearm dealers operating at these same shows must comply with background checks and waiting periods.

Many unscrupulous gun dealers exploit this loophole to operate full-fledged businesses without following Federal gun laws. Since so many sales that occur at gun shows are essentially unregulated, guns obtained at these shows that are later used in crime are difficult, if not impossible, to trace.

When the United States Senate debated juvenile justice legislation in June of this year, an amendment proposed by Senator FRANK LAUTENBERG to require that background checks be done on all purchases made at gun shows was passed and included in the legislation. However, when this House debated its version of the juvenile justice legislation, no such amendment was included.

It is not clear what the outcome will be in the conference committee, but we believe it is important, and I believe, to instruct the conferees to include this crucial loophole closure on the Brady bill.

The Brady bill has made our country safer. It has proven that criminals do try to buy handguns at many shows and has stopped over 400,000 criminals and other prohibited persons from obtaining weapons in the licensed gun offices.