One of the Second Amendment cases that the Court has heard, and until recently the only case challenging a congressional enactment, seemed to affirm individual protection but only in the context of the maintenance of a militia or other such public force. In *United States v. Miller*,[4] the Court sustained a statute requiring registration under the National Firearms Act of sawed-off shotguns. After reciting the original provisions of the Constitution dealing with the militia, the Court observed that "[w]ith 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 with that end in view."[5] The significance of the militia, the Court continued, was that it was composed of "civilians primarily, soldiers on occasion." It was upon this force that the states could rely for defense and securing of the laws, on a force that "comprised all males physically capable of acting in concert for the common defense," who, "when called for service . . . were expected to appear bearing arms supplied by themselves and of the kind in common use at the time."[6] Therefore, "[i]n the absence of any evidence tending to show that possession or use of a 'shotgun having a barrel of less than 18 inches in length' at this time has some reasonable relationship to the preservation or efficiency of a well-regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense."[7]

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[4] 307 U.S. 174 (1939). The defendants had been released on the basis of the trial court determination that prosecution would violate the Second Amendment and no briefs or other appearances were filed on their behalf; the Court acted on the basis of the government's representations.

[5] 307 U.S. at 178.

[6] 307 U.S. at 179.

[7] 307 U.S. at 178. In Cases v. United States, 131 F.2d 916, 922 (1st Cir. 1942), *cert. denied*, 319 U.S. 770 (1943), the court, upholding a similar provision of the Federal Firearms Act, said, "Apparently, then, under the Second Amendment, the Federal Government can limit the keeping and bearing of arms by a single individual as well as by a group of individuals, but it cannot prohibit the possession or use of any weapon which has any reasonable relationship to the preservation or efficiency of a well-regulated militia." *See* Lewis v. United States, 445 U.S. 55, 65 n.8 (1980) (dictum: *Miller* holds that 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'"). *See also* Hickman v. Block, 81 F.3d 98 (9th Cir.) (plaintiff lacked standing to challenge denial of permit to carry concealed weapon, because Second Amendment is a right held by states, not by private citizens), *cert. denied*, 519 U.S. 912 (1996); United States v. Gomez, 92 F.3d 770, 775 n.7 (9th Cir. 1996) (interpreting federal prohibition on possession of firearm by a felon as having a justification defense "ensures that [the provision] does not collide with the Second Amendment"). United States v. Wright, 117 F.3d 1265