



Written by [Thomas R. Eddlem](#) on March 17, 2013

Cruz Sends Scarborough and Maddow of MSNBC Into Conniptions

Texas Senator Ted Cruz's question to California Democratic Senator Dianne Feinstein on the Second Amendment in a March 14 hearing forced MSNBC hosts into conniptions, with Joe Scarborough saying that Cruz had made "willfully ignorant" statements and Rachel Maddow claiming Cruz had been "patronizing" to Feinstein as a woman.



At the heart of the congressional debate are the questions: Does the Second Amendment prohibit the federal government from passing laws related to firearms, leaving the role exclusively to the states? Or does the Second Amendment grant Congress the authority to pass laws banning guns whenever it believes it appropriate?

The [full text of the Second Amendment](#) is, "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed." Since the militia was a state-managed institution involving every able-bodied citizen, the phrase "shall not be infringed" clearly leaves all regulations — if any — to the states and prohibits all federal legislation on the issue. Indeed, [no laws](#) at the federal level on gun possession were passed during the founding generation after adoption of the Second Amendment.

Senator Cruz asked Feinstein the following question in the March 14 hearing on the ban on so-called "assault weapons":

The Second Amendment in the Bill of Rights provides that "the right of the people to keep and bear arms shall not be infringed." The term, "the right of the people," when the framers included it in the Bill of Rights, they used it as a term of art. That same phrase, "the right of the people," is found in the First Amendment: "the right of the people to peaceably assemble and petition their government for a redress of grievances." It's also found in the Fourth Amendment, "the right of the people to free from unreasonable searches and seizures." And the question I would pose to the senior Senator from California [Feinstein] is, would she deem it consistent with the Bill of Rights for Congress to engage in the same endeavor that we are contemplating doing with the Second Amendment in the context of the First or the Fourth Amendment? Namely, would she consider it constitutional for Congress to specify that the First Amendment shall apply only to the following books, and shall not apply to the books that Congress has deemed outside the protection of the First Amendment? Likewise, would she think that the Fourth Amendment's protection against searches and seizures could properly apply only to the following specified individuals, and not to the individuals that Congress has deemed outside the protection of the Bill of Rights?



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The Harvard Law School-educated Cruz's question sent MSNBC's *Morning Joe* host Joe Scarborough into an [on-air meltdown](#), where Scarborough essentially argued that it doesn't matter what the Second Amendment says. If the Supreme Court said a ban on guns is constitutional, Scarborough argued, then it must be constitutional:

Did Ted Cruz not go to law school? Has he ever been to law school? Did they teach Ted Cruz to read what the Supreme Court said, especially in the landmark — the landmark decision regarding Second Amendment rights over 200 years — was written in 2008. And I'm just wondering, why would he use his decision on the Judiciary Committee, if he went to Harvard, to put forward a willfully ignorant statement about this bill violating the Second Amendment. Because it does not. And Ted Cruz knows it does not. So who is he playing for? Is he playing for people who can't read? For illiterates?... I don't mean to go on and on here, but I am so shocked that he would continue to use his seat on the Judiciary Committee to just mislead millions of Americans and put forward a willfully ignorant position on what the Constitution says and what it does not say.

One must wonder what Joe Scarborough's opinion is of the *Dred Scott* or *Plessy v. Ferguson* decisions, when the Supreme Court ruled that the U.S. Constitution said black people can't be citizens and aren't entitled to equality under the law, respectively, despite explicit constitutional provisions providing otherwise in both cases. Scarborough's argument ultimately means that the U.S. Supreme Court may amend the U.S. Constitution simply by a 5-4 majority decision in a case at its pleasure.

Feinstein's [petulant, non-response](#) to Cruz's very specific, reasonable, and thoughtful question March 14 was to claim she had been given a "lecture" by Cruz:

Let me just make a couple of points. One, I'm not a sixth grader. Senator, I've been on this committee for 20 years.... I'm not a lawyer. But after 20 years I've been up close and personal to the Constitution. I have great respect for it. This doesn't mean that weapons of war — and the Heller decision clearly points out three exceptions, two of which are pertinent here. And so I, you know, it's fine you want to lecture me on the Constitution. I appreciate it. Just know I've been here for a long time. I've passed on a number of bills. I've studied the Constitution myself. I am reasonably well-educated.... This does not prohibit — you used the word prohibit — it exempts 2,271 weapons. Isn't that enough for the people in the United States? Do they need a bazooka? Do they need other high-powered weapons that military people use to kill in close combat? I don't think so. I come from a different place than you do. I respect your views. I ask you to respect my views.

Cruz calmly [responded](#) by pointing out that Feinstein had not even answered the question:

I think nobody doubts her sincerity or her passion. And yet at the same time, I would note that she chose not to answer the question that I asked, which is: In her judgment would it be consistent with the Constitution for Congress to specify which books are permitted and which books are not.

Finally, Feinstein [responded](#): "The answer is obvious. No."

For having the audacity to suggest the Left should consider holding the Second Amendment up to the same standard as the rest of the Bill of Rights, MSNBC's Rachel Maddow bizarrely [suggested](#) Cruz had been patronizing to Feinstein because she is a woman: "Let the record show that you can be a United States Senator for 21 years, you can be 79 years old, you can be the chair of the Senate Select Committee on Intelligence and one of the most recognizable and most widely respected veteran public servants in your nation. But if you are female, while you are also all of those other things, men who you



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defeat in argument will still respond to you by calling you hysterical and telling you to calm down. They will patronize you and say they admire your passion, sweetie. But then, of course, they only deal in facts, not your silly, girly, strong feelings. It is inescapable. You can set your watch by it.”

For revealing the leftist double-standard on the Bill of Rights, Maddow thought, Cruz was entitled to the pre-packaged leftist smear as a “sexist.”

But Feinstein’s answer of “no” to Cruz’s question turned out to not be quite that “obvious” for the far-left senator. Feinstein immediately reversed her position after Senator Dick Durban (D-Ill.) pointed out that the federal government also bans child pornography. Feinstein’s [reversal](#)-of-position was to a new “obvious” conclusion:

It’s obvious that there are different tests on different amendments. And I think what the senator was going to point out that didn’t occur to me at the moment, that there are certain kinds of pornographic materials that would not be covered by the First Amendment.

Of course, child pornography is simply evidence in a crime scene, in addition to a violation of privacy rights possessed by minors. Therefore, criminalizing those who create or traffic in child pornography doesn’t make freedom of speech and press any less absolute a right. Nor is a the federal law on child pornography even necessary to put all the perpetrators in jail. Traditionally, these cases were prosecuted by states, unless they crossed state boundaries, in which case federal officials brought them back to the scene of the crime for a trial on the state level.

But Senator Durbin [voiced](#) the leftist view of the Bill of Rights in the colloquy: “None of these rights are absolute. None of them.” While liberals believe that the Bill of Rights is a “bill of suggestions,” subject to whatever limitations politicians in Washington deem reasonable, constitutionalists believe that the words of the Constitution and Bill of Rights mean what they say. Where it says “Congress shall make no law ... abridging the freedom of speech or of the press,” constitutionalists believe that Congress can’t legislate on the subject without a constitutional amendment. And because the Cruz-Feinstein-Durban committee discussion clearly delineated the difference between these two worldviews — one that involves obeying the congressional oath to “support and defend” the Constitution, and the other that doesn’t — MSNBC hosts went into meltdown mode.

Photo of Sen. Ted Cruz: AP Images

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