

Gun Control



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Matthew Flynn II
Mrs. Moreau
Hugh C. Williams Senior High School
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The Second Amendment of the U.S. Constitution clearly states “*the right of the people to keep and bear arms, shall not be infringed.*” The right to bear arms is one of the many unalienable rights that the founding fathers believed were essential for the country to remain a democracy, and prevent itself from becoming a tyranny. In 1934, the first gun control law, the National Firearms Act, was passed. Since then several firearm regulations have been passed to increase the difficulty and discourage citizens from owning automatic weapons. The second amendment was passed with the understanding that citizens will always be able to obtain the same firearms that militias and military units possessed. Several laws have been passed since then to make it very difficult for a citizen to own an automatic weapon. Citizens of the United States, as stated by the Second Amendment, should be able to legally own automatic firearms without paying a federal fine or registering the firearm.

Many who support gun control argue that the Second Amendment was created to protect the rights of a militia, and not an individual. The Second Amendment, in its entirety, states “*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*” (US Const., Amend. II). The reference to a militia in the amendment is referring to citizens’ rights to create a militia. In order to do so, the citizens must first be armed. Furthermore the amendment clearly guarantees the right of citizens to own the firearms that the government, and militia, had access to. When the Second Amendment was passed, citizens were allowed to own the same firearms as the government. The amendment was created, so this would forever be the case. However, since 1934 it has been outlawed for citizens to easily obtain automatic firearms; the same firearms that the government police forces and military possessed. Many advocates for gun control also believe that with fewer firearms on the streets, fewer crimes will occur. Today’s gun control advocates are not the first to propose this

idea, Adolf Hitler once preached the same rhetoric (Ray, para. 3). His regime first registered all weapons; so it was known which citizens possessed guns. Slowly, they began to take the guns from those who had them. When the Nazi's returned later, to take the citizens to concentration camps, there was absolutely no resistance. If the citizens would have been armed, they could have built a resistance to fight the Nazi's. Hitler addressed this occurrence in one of his dinner talks when he stated "*The most foolish mistake we could possibly make would be to allow the subject races to possess arms. History shows that all conquerors who have allowed their subject races to carry arms have prepared their own downfall by so doing. Indeed, I would go so far as to say that the supply of arms to the underdogs is a sine qua non for the overthrow of any sovereignty*" (Ray, para 1). Hitler understood that if those who opposed his regime had access to arms, they would have been able to build a resistance. Hitler also knew that if those of Jewish decent in Germany would have owned firearms, it would have been far more difficult to round them up and send them into concentration camps. Hitler clearly stated that any authoritarian government like Nazi Germany will be overthrown by its people, if its people have firearms. However, without firearms regardless of how cruel and unjust a government may be, the people will not be able to form a resistance. Another idea that is supported by many is the idea that automatic weapons should not be easily available to citizens. The legislation at which citizens are deterred from obtaining firearms, also contradicts the Second Amendment. Nowhere in the amendment or the Constitution does it condone the government restricting access to these weapons, or making it difficult to obtain these weapons.

Before discussing gun control today, one should return to the original document of the country, The Constitution along with the Bill of Rights. Many have debated over what the founding fathers intentions were when ratifying the Constitution, then adding the Bill of Rights.

James Madison, one of the founding fathers, in his Federalist papers wrote *“the ultimate authority . . . resides in the people alone”* (Halbrook, para. 1). Madison believed that citizens who were armed, had the ultimate authority. If need be, they could form a militia and rebel against a tyrant government. Madison proceeded to discuss if this situation were ever to arrive, the oppressive government *“would be opposed (by) a militia amounting to near half a million citizens with arms in their hands”* (Halbrook, para 1). Madison believed that the only way for the people to ensure their sovereignty was by bearing arms, and by maintaining this unalienable right the people would remain in control of the government, and not be controlled by the government.

Thomas Jefferson also believed the purpose of government was to serve and protect the rights of the people. Jefferson felt that government was established by the people, and the people are in charge of government. However, in order to maintain this balance of government working for the people, instead of working for itself and controlling the people. The people should maintain the right to bear arms; Jefferson once said *“What country can preserve its liberties if its rulers are not warned from time to time that their people preserve the spirit of resistance? Let them take arms. The remedy is to set them right as to facts, pardon and pacify them”* (Eyler, para. 2). Jefferson believed the only way to keep government honest, and prevent government from becoming a tyranny, was for the citizens to maintain the ability to form a resistance, and to be able to overthrow a government. This concept was the reasoning for the overthrow of the monarchy and the revolution, if the colonists would not have been able to bear arms. It would have been impossible to form a militia and fight the British.

George Washington, the first President of the United States, shared the common belief with the other Founding Fathers that rights do not come from the government; government can only grant privileges. Furthermore, if the people do not reserve the right to be in charge of the

government, then these privileges may be taken away by the government. Washington also believed the purpose of the Constitution was to protect these privileges. Washington said *“Firearms stand next in importance to the Constitution itself. They are the American people's liberty teeth and keystone under independence... From the hour the Pilgrims landed, to the present day, events, occurrences, and tendencies prove that to ensure peace, security, and happiness, the rifle and pistol are equally indispensable...The very atmosphere of firearms everywhere restrains evil interference--they deserve a place of honor with all that's good”* (“The Right to Bear Arms”). Washington understood that the ability of the citizens to bear arms was the only way to ensure that government fulfilled its purpose, and ensured the rights of the people. Washington also understood that if the colonists would not have possessed firearms, the continental army could have never been established. As one of the Founding Fathers, and the first president of the United States, George Washington arguably had a better understanding about the founder’s intentions than anyone else. Washington clearly believed that the right to bear arms is an unalienable right, and that it should be preserved throughout all of America’s future.

The process of bringing gun control to America has been slow, but is surely in progress. Although America is far from the type of gun control the Nazi’s had, we are also far from the type of gun control the founding fathers advocated for, no gun control. The first law imposing gun control was the National Firearms Act of 1934 (“Milestones in Federal Gun Legislation”). This act banned automatic weapons, short barreled shotguns, and several gun parts such as silencers. In 1938 the Federal Firearms Act was passed, this act was targeted towards those who distributed firearms (“Milestones in Federal Gun Legislation”). Anyone that sold arms was required to get a gun dealer’s license from the Secretary of Commerce, and to keep a record of

all sales. A fee was also required when applying for a gun dealer's license. In 1968 the Gun Control Act was passed. This act further increased the restrictions on those who could own firearms, and mandated more difficult record keeping for gun dealers ("Milestones in Federal Gun Legislation"). In 1972 the Bureau of Alcohol Tobacco and Firearms was created. This created a division of the bureaucracy whose mission was to enforce gun regulation and control. In 1986 the Law Enforcement Officers Protection Act was passed, this act made it illegal to transport or produce armor piercing ammunition ("Milestones in Federal Gun Legislation"). In 1990 the Crime Control Act was passed, this act made it illegal to assemble semiautomatic rifles or shotguns from legally imported parts ("Milestones in Federal Gun Legislation"). In 1994 the Brady Handgun Violence Prevention Act was passed, this act mandated a five day background check waiting period before a firearm may be sold ("Milestones in Federal Gun Legislation"). This act not only made it a more difficult process for a citizen to purchase a firearm, it also resulted in a lack of gun dealer profits. Many individuals do not want to go through a long drawn out process to purchase a firearm. In 1994 the Violent Crime Control and Law Enforcement Act were also passed. This act is commonly known as the "assault weapons ban", because this act banned manufacture, possession, and importation of new semiautomatic assault rifles. Nineteen specific rifles were defined as assault rifles in the act ("Milestones in Federal Gun Legislation"). All of these acts contradict the Framers of the constitution views on gun control; it also contradicted the views of one of America's greatest presidents, Ronald Reagan. President Reagan once said *"There are those in America today who have come to depend absolutely on government for their security. And when government fails they seek to rectify that failure in the form of granting government more power. So, as government has failed to control crime and violence with the means given it by the Constitution, they seek to give it more power at the*

expense of the Constitution. But in doing so, in their willingness to give up their arms in the name of safety, they are really giving up their protection from what has always been the chief source of despotism -- government" ("Reagan on Gun Control and Self-Defense", para. 3).

Ronald Reagan is a prime example of modern day American's that still support the constitution and the Second Amendment, and feel that the several regulations on firearms that have been passed were unconstitutional. Reagan believed that firearms were the essence of a citizen's safety and security, and without firearms the citizens have neither.

Recently the United States Supreme Court has ruled to uphold and reinforce the Second Amendment. In *District of Columbia v. Heller* the Court upheld the Second Amendment and deemed several gun control laws passed by the District of Columbia unconstitutional. In the case Heller, a D. C. special policeman, applied for a permit to keep a handgun in his home. The District denied his permit. The legislation in the District prohibited an unlicensed handgun in an individual's house, and required that all firearms kept in an individual's house must be bound by a trigger lock. Heller took the case to the district court on the grounds that the Second Amendment protected his right to keep a firearm in his residence, that is loaded and functional for the means of self protection and defense. The district court dismissed Heller's case, but the Circuit Court upheld that the right to keep a loaded firearm in a citizen's house was protected by the Second Amendment. When brought to the Supreme Court, the court ruled "*The Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home*" (*District of Columbia v. Heller*). The ruling also stated "*The Amendment's prefatory clause announces a purpose, but does not limit or expand the scope of the second part, the operative clause. The operative clauses text and history demonstrate that it connotes an*

individual right to keep and bear arms” (District of Columbia v. Heller). In its ruling the Supreme Court upheld the position of the Founding Fathers, and a large portion of the country. Even though the Supreme Court did uphold the Second Amendment, it also condoned the banning of certain firearms such as assault rifles. In this decision, the Court directly contradicted the intentions of the founding fathers. History suggests that within time the court will readdress the case, and conclude that owning assault rifles is another liberty that is protected by the Second Amendment.

Since the ratification of the Constitution and the Bill of Right, several laws have been passed to restrict and increase the difficulty of a citizen owning an automatic weapon. These laws directly contradict the beliefs of the Founding Fathers, and the Second Amendment. The Second Amendment was passed with the understanding that citizens will always be able to obtain the same firearms that militias and military units possessed.

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Author Contact Information:

Matthew J Flynn II
343 CR 35
Canton, NY 13617

Email: Flynnm14@gmail.com