

Is it Time to Amend the Constitution of the United States?

In the latest public school massacre at least 17 people were killed when a former student, armed with an AR-15 rifle opened fire at a high school on St. Valentine's Day, February 14, 2018.

Some say this is a time for grieving, not to talk about gun control. Perhaps we have grieved enough, due to the epidemic of gun violence in the United States. It is time to have a serious conversation about guns.

District of Columbia v. Heller was a landmark United States Supreme Court decision decided in 2008. In a 5 to 4 decision, the court, split largely on political grounds, determined that the Second Amendment protects an individual's right to possess a firearm unconnected to service in a militia. The Second Amendment decisively states as follows:

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.

Justice Scalia wrote for the narrow majority in the *Heller* case. *Heller* is a must-read simply to understand the divergent views concerning the history of the Second Amendment. There are those, even at the time that the amendment was adopted, who believe that it only applied to the right to bear arms in connection with state militias, which no longer exist but rather have evolved into the National Guard. Others, in 1789, believed that the rights granted by the Second Amendment were more broad and the reference to the militia was merely an example as to why a Second Amendment was needed. Almost everyone agrees that the Second Amendment's specific goal was to protect hunters, frontiersmen, and others who might have to aid the government in its function of keeping law and order.

I love old antiques, and I totally respect the utopian vision of those who framed our Constitution, even if they did make a few booboos, such as endorsing slavery.

With the unrelenting bloodshed caused by easy access to assault rifles, perhaps it is time to take a stand against the current civil war going on in this country; the one between criminals and terrorists versus law-abiding American citizens. Gun advocates believe that assault rifles are necessary to guarantee liberty and that any restriction on guns would be a slippery slope leading to total government control of every facet of our lives. Heaven forbid, the government might even be able to access all of our data such as it is now doing under artifices such as the Patriot Act and its corollary legislation and regulations.

It is odd that on the one hand we assiduously fight crime and terrorism by sweeping aside the Fourth Amendment right to prevent search and seizure except upon "probable cause,"

but we are not as willing to fight murder and terrorism when guns are involved. The question is whether the unregulated use of weaponry that we have in this country is endangering our liberties and our way of life. Undoubtedly the answer is at least a strong “maybe” and deserves attention.

What would an amendment to the Constitution look like which would change the way we handle guns in this country?

An 2014 essay by Associate Justice of the Supreme Court from 1975-2010 John Paul Stevens, “Sixth Amendment: How and Why we Should Change the Constitution,” is worth a read. Stevens was a Republican and among the longest serving United States Supreme Court Associate Justices. He was nominated for the office by President Gerald Ford. Stevens suggested the following language:

A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear arms when serving in the militia shall not be infringed.

Stevens dissented in *District of Columbia v. Heller*, and was writing within two years of the massacre of grammar school children in Newtown, Connecticut in December 2012.

Stevens’ solution would protect the concepts behind the ability to have a robust militia but open up the door to regulation of any other gun use. For most people in America, that still may be too big a camel’s nose in the tent.

My proposal for the Second Amendment would look like this:

The right to bear arms, munitions and weaponry for the use of legal hunting, sport and military use shall not be infringed; and any regulation thereof shall be reasonably related to legitimate protection of the nation’s citizens.

No doubt, there can be major criticism of this suggestion but what we need to have is debate. Name-calling just will not do. Arguments based upon fantasy, whimsy and extreme, dramatic, unfounded arguments get us nowhere.

There seems something odd about the fact that I have to go for an eye test and a photo to get a driver’s license, not to mention the written test and the road test, but that I can go out and buy an assault rifle even if I am a total crazy. What is wrong with that picture?

One of the arguments frequently made to me, and is very touching because of my background, is that if the Jews had guns in Germany perhaps the Holocaust would not have occurred. It is absolutely true that when the Jews were fighting for their lives in the Warsaw Ghetto, and actually gained their independence for a time, they were deprived of weapons. Those weapons could have been supplied by the allies, as well as the Polish underground. The Jews were sold out, not because of gun control, but rather because the Jews of Europe were targeted for extermination and no one came to their aid. The United States specifically determined not to bomb the rail links leading to the death camps at Auschwitz, while saying publicly that such bombing was impossible to do. It turned out this was a lie. Another example is the availability of guns in Israel. After my daughter completed her Army service in Israel, I suggested to her that she get a gun. She looked

into it and decided not to bother. She told me that virtually every civilian who has a gun in Israel has the equivalent training of an auxiliary policeman. Gun owners in Israel have to be specially licensed, must go to the shooting range every month and certify their experience, and have a quick check to make sure their mental status has not changed. A gun owner in Israel must pay all the fees associated with the training, licensing and registration of their weaponry. In Israel, people fight terrorists, not students in schools who tick them off.

What is necessary to protect citizens from intrusive government and dangerous trends restricting our freedoms are not assault rifles, but rather healthy democratic institutions. When I went into Williamsport High School a few years ago to talk about the American Constitution, I was shocked at how little the students knew. They had a great teacher, and the students were in an honors class. Yet, the only student who knew anything about the American Constitution was a lawyer's kid.

Studies have shown that the time that the American Revolution occurred and the Constitution was adopted, we had one of the highest literary rates in history. Not so today. We are both grammatically and educationally living in a time of abysmal ignorance, dominated by short bursts of social media and little in-depth understanding of any national problem.

It is time to end the war between the left wing and the National Rifle Association. The mayhem and destruction that results from the assault on one another does America no good, prolongs the debate, and provides no solution.

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