Lesson 133

The Second Amendment

- **The United States Constitution and its Amendments**
  - What is the United States Constitution?
  - The Bill of Rights
  - The 14th Amendment
  - The 19th Amendment
- **The Second Amendment and Bearing Arms**
  - The Second Amendment
  - What is Originalism?
  - The Right's vs. the Left's View
  - Parable Methodology and the Second Amendment

In this lesson we are going to look at the Constitution and some of the Amendments and see how the Republican and Democratic parties interpret them.

The United States Constitution and its Amendments

What is the United States Constitution?

The United States' Constitution is a document that formalized the country's government; it put in writing the essential laws citizens would abide by, as well as establish the rights of those citizens. Before the Constitution came about, the United States was a loosely connected confederation, which had a Congress as a somewhat government. This Congress did have a document called the Articles of Confederation which gave it some control, but with the states being essentially small countries themselves, Congress didn't have much authority. After the American Revolution ended in 1783, the now independent confederation realized it needed a stronger central government, so a constitutional convention was called. Delegates representing 12/13 states (one state, Rhode Island, refused to send delegates) came together to discuss the formation of a government. After many conventions, the Constitution was drafted to replace the Articles of Confederation and serve as the foundational laws of the country. Most of the delegates signed the document, but in order for it to become law, each of the 13 states had to ratify it. In late 1787, five out of the 13 states ratified the Constitution, followed by more in the following years. Finally in 1790, the last state, Rhode Island, agreed to ratify the Constitution and officially make it law, although by then a government regulated by the Constitution had already begun.

The Bill of Rights

The first ten Amendments to the United States Constitution are called the Bill of Rights. Some people were not satisfied with the Constitution because it did not guarantee many rights for regular people (the Federalists thought the Constitution was sufficient, while the anti-Federalists thought something else was needed). So on June 8, 1789 James Madison introduced a document with 17 amendments, but by September 25th the Senate and the House of Representatives had lowered it to 12. On October 2, 1789, President George Washington sent those 12 amendments to the states to be ratified. On December 15, 1791, three-fourths of the states had ratified 10 of these amendments. Those 10 became the Bill of Rights (one of the 12 that was sent to the states was ratified later as the 27th Amendment). As a whole it specifically limits the power of the federal government and delineates some important rights that regular people have. The Bill guarantees a range of things like the right to free speech, free press, and that the government can't favor a religion (all the first amendment). The last two amendments also say that any rights mentioned in the Constitution do not overrule other rights that the already people have, and that any power that is not given to the federal government in the Constitution (or prohibited by it) belongs to the states or the people.

The 14th Amendment

In July 1868, the 14th Amendment was added to the Constitution. Section one of the Amendment states that, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws”. The first key point of the 14th Amendment is the Citizenship Clause, which says that all persons born or naturalized in the United States are citizens of the country and of the state in which they reside. This clause overturned the Dred Scott decision of 1857, which had denied citizenship to African Americans furthering the incorrect belief that they were property rather than people with rights. By establishing birthright citizenship, the amendment extended legal recognition and protections to African Americans and other formerly enslaved individuals, recognizing their status as members of society. The second key point of the 14th Amendment is the Equal Protection Clause, which mandates that no state shall deny to any person within its jurisdiction the equal protection of the laws. It was initially intended to ensure that newly freed slaves and African Americans were protected from discriminatory state laws and practices that persisted after the abolition of slavery but now has been instrumental in numerous legal battles against discrimination, serving as the foundation for landmark Supreme Court decisions such as Brown v. Board of Education which desegregated schools in the United States.

The 19th Amendment

The 19th Amendment reads “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation.” Previous to the adoption of this amendment in the Constitution, only men had the right to vote in the United States. Technically, back in the late 1700s women were able to vote in some colonies, but after the Constitution was ratified and states began to write their own state constitution, this ability was taken away. By the mid 1800s, women’s rights/suffrage organizations began to form. They called for equality, and more specifically, the right to vote. Even though some individual states began to grant this right, an Amendment to include it in the Constitution was rejected by Congress in 1887. But then the United States entered World War I in 1917. The National American Woman Suffrage Association used this event to sway public opinion. They argued that since women were participating in and supporting the war, they should be rewarded for such patriotic behavior. People started to agree with the idea, eventually leading the President Wilson to voice his support of a suffrage amendment. The amendment was written, and Congress voted in its favor in 1919. A year later in 1920, it was officially added to the Constitution. In this movement we are able to thread the events surrounding equality throughout history, and this amendment was a significant step towards equality in the United States.

The Second Amendment and Bearing Arms

The Second Amendment

The Second Amendment is one of the most argued over amendments out of all 27 of them today. It says, “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.” The Bill of Rights (specifically this amendment) was influenced by several documents including the English Bill of Rights (1689) which says, “subjects, which are protestants, may have arms for their defense suitable to their condition, and as allowed by law.” There are also other documents that this amendment comes from like the Virginia Declaration of Rights (1776) by George Mason. His document was a template for the Bill of Rights and his works were popular at the time (he was also a delegate at the Constitutional Convention). On the subject of bearing arms, it says: “That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.” At this time the people didn’t like standing armies. The Constitution gave the federal government the power to create one, but with the recent Revolutionary War, people were skeptical of this. Anti-Federalist especially didn’t like the power it gave the government. This amendment allowed militias to be formed - but they would be under the authority of the state: “governed by, the civil power” - not the federal government. Madison believed that militias could successfully keep a standing army in check, especially since the people would be more attached to their state and their locally appointed officers. Other documents that the states made around this time outlining the rights of the people, specifically said that individual people had the right to bear arms to protect themselves, but the wording of the amendment is ambiguous. There wasn’t much debate about this amendment until recent years.

What is Originalism?

Originalism is a legal theory or approach to constitutional interpretation that asserts the Constitution should be interpreted based on the original meaning of its text as understood at the time it was adopted. The Republican Party argues that the Constitution is a fixed legal document with a specific meaning that should not change over time based on evolving societal values or circumstances. They believe that the original meaning of the Constitution should guide judicial decisions, adhering to the historical context in which it was written. The problem with originalism is that the Constitution was written by white men centuries ago. Not all of the specific viewpoints in the document can still apply to society today. Society has changed- African Americans and women, among others, hold some rights, therefore applying a document that was not created for them does not make sense. As society changes, so should how we interpret the Constitution. However, those who believe in originalism believe that this is unacceptable because it allows those creating the laws to insert their own person beliefs rather than following the rule of law. With how much they mix their moral beliefs into the legal decisions they make, one would assume they had no problem mixing their personal opinions with legal decisions. Still today however, originalism is an ongoing debate.

The Right's vs. the Left's View

The left-wing and right-wing have different views on the Second Amendment. As we know, the Second Amendment says that "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." Two words in specific stand out, and essentially define the politically opposing positions of this amendment. Those two words are "militia" and "people." The word "people" focuses on the individual, and their right to bear arms. On the other hand, the word "militia" highlights the rights of the state/country, and it's right to organize a militia to protect itself. When the conservatives (right-wing) read the Second Amendment, they interpret it to mean that individuals can possess guns because they need to protect their personal property. But when liberals (left-wing) read the Second Amendment, they view things on a corporate level. They believe that it protects the right of the state to organize a well-armed army should it ever go to war, not specifically the right for every individual person to own guns. These two conflicting opinions are one of the reasons why we see different gun laws and restrictions in liberal versus conservative states, even though both operate under the same Second Amendment. How we read and interpret documents can drastically affect our world views.

Parable Methodology and the Second Amendment

Our views of the Second Amendment are fundamentally different from that of the Left and Right because we use parable methodology. As we saw previously, there are two subjects in the amendment: the "people" and the "militia". The idea of a militia is not a point of contention: the state has a right to defend itself, and in this context that is with guns. Adding the word "people" makes the amendment more complicated. But if we see this as a fractal then it is clearer. The "people" are smaller versions of the "militia", so just like the militia can use guns to defend their state, the people can use guns to defend their property. Along with that, the underlying point of this amendment is self-defense. People can and should defend themselves, it is a part of their (lower) nature that they cannot change. Self-defense is a part of our fast brain and that is what takes over in dangerous situations. So, it ultimately doesn't matter what you use - you still should defend yourself and your property. Through this lens we can see that the Second Amendment's approval of bearing arms should also apply to the "people". Therefore, when we look through parable methodology, we can see that according to the Second Amendment it is lawful for ordinary people to bear arms.

In summary:

The United States Constitution and the Bill of Rights

Important Amendments

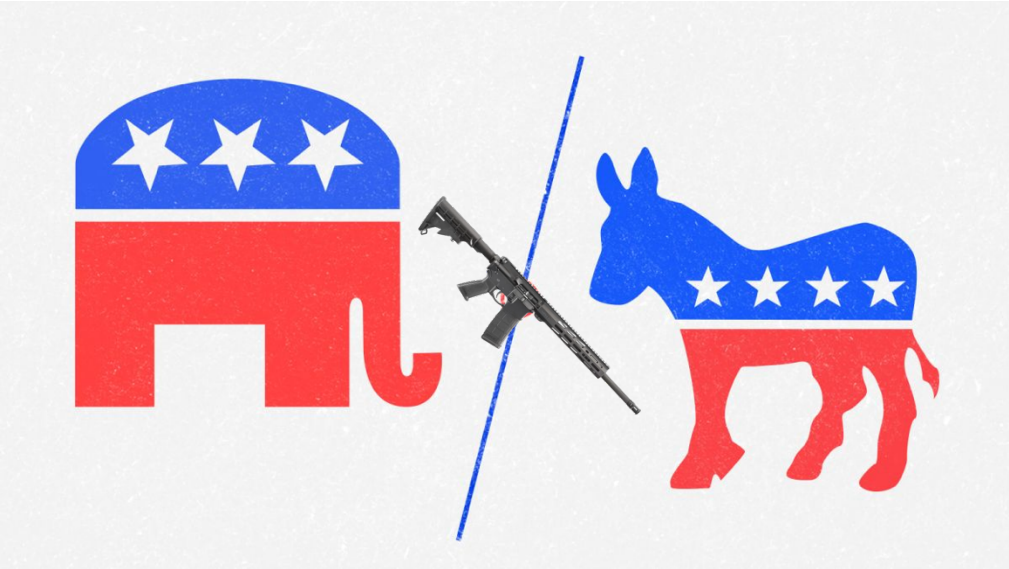
14th Amendment

19th Amendment

"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."

What is Originalism?

Republicans vs. Democratics



Parable methodology

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Link to YPG Zoom meetings which are at 10:00am Pacific Time on the 1st Sunday of the month:
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