

How Should We View The 2nd Amendment?

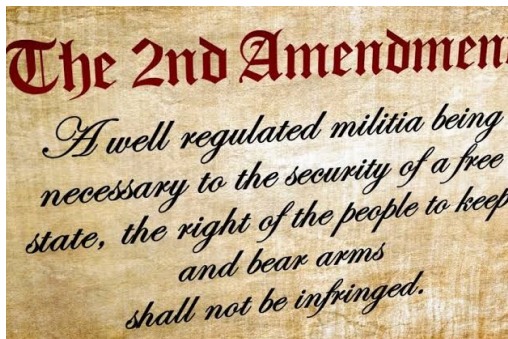
By Austin Reville



With the start of the Minnesota Legislative Session on February 12th, the Minnesota House and Senate will once again be looking to take up Laws that regulate firearms. When constitutional rights are being looked at for regulation, one should ask, what is the proper way to view that right? The 2nd Amendment is no exception.

Even in these divided times, most can agree our Founding Fathers of America were deliberate in what they did. They strived to create a “more perfect union” when devising our Constitution which was ratified in 1791. No amendment in the Constitution is without purpose, nor is it frivolous.

The 2nd Amendment is no exception. It 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.” This amendment is once again put in the spotlight by those who do not understand its meaning.



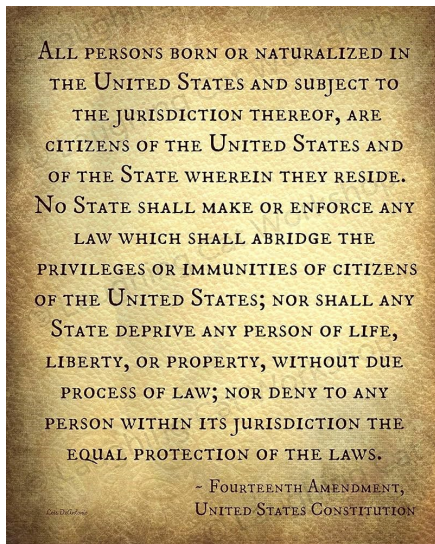
The Supreme Court has highlighted that meaning and given context to the Founder’s intentions opinions in *DC v. Heller* (2008) and *New York Rifle & Pistol Association v. Bruen* (2022). These two cases highlight the proper context the bases through which we must view ALL laws that will affect the 2nd Amendment.

These two Supreme Court decisions concisely explain the Founders intention for the 2nd Amendment. *Heller* (2008) states that we “the people” have a right to self-defense inside the home and that we “the people” are a part of the Militia. This is further born out by the Militia Act of 1792 that states the militia is “free able-bodied white male citizen” between the ages of 18 and 45.

The *Bruen* decision expounded upon *Heller* by stating the Founders clearly intended for this right to be beyond ones home as well or the Militia Act of 1792 would have been untenable as it also required you to provide your own. *Bruen* also states that all modern-day laws must be in the spirit of when that write was enshrined into law. In this case it would be the ratification of the Constitution in 1791.



In 1791 there were few gun laws and the ones that did exist were overtly racist intent on disarming slaves and natives (Gershman). This is the proper text in which to view the 2nd Amendment. This is because it is not intended for hunting, sport shooting, or even personal defense specifically. It was written to ensure the security of the Free States from the very tyranny the Founding Fathers had just removed in the American Revolution (Hamilton).



When it comes to the states, it gets even more difficult. The 14th Amendment of the Constitution mandates that ALL states in the union must adhere to Federal Rights and Laws. This was done in 1868 post Civil War due to Southern States ignoring Federal Civil Rights laws. This Amendment applies to all Constitutional Amendments and the States and directs the states to act within those boundaries.

This is further highlighted in the first paragraph of Federalist 29 by Alexander Hamilton (Hamilton) that the Federal government can force a state to have a militia. While this was written pre-14th Amendment, Alexander Hamilton clearly felt that the states had to swear an oath to the Constitution and its Bill of Rights. This would mean, clearly, that Gun Laws are of Federal purview, as highlighted in Heller and Bruen, and not the states.

In times of great uncertainty such as these, we would do well to head our Founder's intentions and Federal Constitution by viewing ALL laws through the lens of the Bill of rights. The 2nd Amendment should be viewed only in its historical meaning.

Our Founding Fathers clearly state that you and I are "*the people*" They entrusted us with the duty to keep this great nation free for all people. They wrote to the 2nd Amendment with the intent of providing us with the tools to accomplish that duty.

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