

[Appendix 3]

# A Supreme Court justice's solution to gun violence: Repeal Second Amendment

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Four years ago, when — as now — the nation was reeling from the horror of a mass school shooting, a retired Supreme Court justice suggested a radical solution: getting rid of the Second Amendment.

John Paul Stevens issued the call after 17 people were killed at Marjory Stoneman Douglas High School in Parkland, Fla., in February 2018. The attack prompted hundreds of thousands to demand action the next month to end gun violence at the [March for Our Lives](#).

In a March 27, 2018, [New York Times op-ed](#), Stevens praised the protesters and their call for stricter gun control laws. “But the demonstrators should seek more effective and more lasting reform,” he wrote, about a year before his [death at 99](#). “They should demand a repeal of the Second Amendment.”

Stevens said the amendment was adopted out of concern that a national standing army might pose a threat to the security of the states. “Today that concern is a relic of the 18th century,” he wrote.

He called repeal a “simple but dramatic action [that] would move Saturday’s marchers closer to their objective than any other possible reform” and would make schoolchildren safer.

But Stevens didn’t acknowledge the herculean challenge that his proposal entailed, as there was (and remains) zero chance that gun control advocates would get anywhere close to the two-thirds majority in both houses of Congress and ratification by three-fourths of the states needed for repeal.

Stevens’s proposal didn’t generate a lot of momentum, but it did get pushback from some fellow liberals.

“I admire Justice Stevens but his supposedly ‘simple but dramatic’ step of repealing the 2d Am is AWFUL advice,” [tweeted Laurence Tribe](#), a Harvard law professor. “The obstacle to

strong gun laws is political, not legal. Urging a politically impossible effort just strengthens opponents of achievable reform.”

Tribe expanded on his argument in a Washington Post op-ed, headlined “[The Second Amendment isn’t the problem](#).” “The NRA’s strongest rallying cry has been: ‘They’re coming for our beloved Second Amendment,’” he wrote. “Enter Stevens, stage left, boldly calling for the amendment’s demise, thereby giving aid and comfort to the gun lobby’s favorite argument.”

In his op-ed, Stevens wrote that repeal was necessary to overturn the Supreme Court’s 2008 *District of Columbia v. Heller* ruling that Americans had an individual right to bear arms. He was one of four dissenters in that case.

“For over 200 years after the adoption of the Second Amendment, it was uniformly understood as not placing any limit on either federal or state authority to enact gun control legislation,” Stevens wrote in the op-ed.

Republican President Gerald Ford nominated Stevens to the court in 1975, at a time when Supreme Court nominations were not as politicized as they are today. Stevens eventually became one of its most liberal members. Although his 2018 proposal didn’t go anywhere, calls for repeal continue today.

“Who will say on this network or any other network in the next few days, ‘It’s time to repeal the Second Amendment?’” liberal filmmaker [Michael Moore challenged](#) during a feisty appearance on MSNBC’s “All In With Chris Hayes” this week.

“Look, I support all gun control legislation,” Moore said. “Not sensible gun control. We don’t need the sensible stuff. We need the hardcore stuff that’s going to protect ourselves and our children.”

[Writing in the New Republic](#) on Thursday, Walter Shapiro, a fellow at the Brennan Center for Justice at NYU School of Law and a lecturer in political science at Yale University, said that “the hard truth is that the core problem is the Second Amendment itself. And America is going to reel from one mass murder to another unless the Second Amendment is repealed or the Supreme Court drastically reduces its scope.”

“As a starting point,” he added, “Democrats should drop the mealy-mouthed formulation, ‘Nobody supports the Second Amendment more than I do, but still. ...’ Claiming fidelity to the Second Amendment has never convinced a single NRA supporter of a candidate’s sincerity, but it has stopped bold thinking about lasting solutions to America’s gun crisis.”

But repeal hasn’t been a mainstream cause. Just last month, [President Biden declared](#), “I support the Second Amendment,” although he said that didn’t mean people could get any gun they wanted. In the wake of this week’s Texas elementary school massacre that [killed](#)

[19 children and two teachers](#), the president [said](#) the Second Amendment is not absolute, and that common-sense gun control would not “negatively affect” it.

Stevens’s op-ed came just a few years after he issued a proposal to amend the Second Amendment, in his book [“Six Amendments: How and Why We Should Change the Constitution,”](#) which was excerpted in a 2014 [Washington Post opinion piece](#). Stevens suggested adding five words (in italics below) to the amendment: “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.”