



PENNSYLVANIA SHERIFFS' ASSOCIATION

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NEWS YOU CAN USE

The keystones of the United States Constitution

The foundation of our country and the governing document of our Republic is the United States Constitution. This document, signed into being in 1791 would originally have 10 Amendments to be adhered to by this fledgling country that had just defeated the most powerful army at that time. Although every amendment has significant value, the first two amendments are vital to the other 8 and the additional 17 that have been added since that time.

The first 10 amendments are also known as the Bill of Rights and they are vital in preserving our country as we move forward in history.

The Constitution Guides Our Way by Speaker Bryan Cutler (R-Peach Bottom)

There is no way to accurately describe what so many families have experienced in the past year. For too many, the loss of loved ones will leave a hole in hearts that will never be filled, and I continue to pray for those impacted in our community.

I hear from constituents daily on the impact of the last 12 months as we all continue to recognize the lasting impacts of what we are all experiencing.

Sadly, I am sure that nearly all Pennsylvanians can name at least one business near their home that has permanently closed, or know friends and family searching for work. Our children face constant uncertainty over how and where they will be educated.

Government, at all levels, has made irreversible, life-altering decisions with profound effects on our lives, in the interest of public health.

However, as we work through the many challenges facing our Commonwealth, one thing that must remain is our fidelity to the Constitution – that beautiful charter that promises all our citizens life, liberty and the pursuit of happiness.

The greatest democracy the world has ever known was born and built here in Pennsylvania. The Constitution serves as a beacon to people all over the world showing the quality of life that can be achieved by a self-governed society.

The foresight of our founding fathers never ceases to astound me. The ability to recognize the documents they signed to give our new nation rules to live by, but also room to grow, is something that as a legislator, I am in awe of.

They recognized times will change, and new issues will arise, and for that reason allowed for the Constitution to be amended.

But more impressive, was their willingness to put their own political agendas to the side and recognize that certain rights are more important than any political victories.

The 1st and 2nd amendments are the keystones of our Constitutions. Ensuring the voices of the people are always heard, and that the rights of civilians can never be oppressed by a Governmental regime.

I can only imagine the arguing and debates over the nuances of these issues at the time. But here we are, more than 240 years later, and freedoms of speech, assembly, religion, the press and the right to bear arms continue to define what our Republic has evolved into today.

William Penn saw our Commonwealth as a perfect experiment for the challenges facing the world in his time. His words, along with our state and federal Constitutions haven't failed us yet, and that is precisely why the oath of office requires us to, "support, obey and defend" the Constitution.

However, if you look at the last year, there are many voices inviting us to abandon the structure the Constitution creates.

Our roles in government are clearly established and defined in those documents. An open and transparent system of checks and balances keeps executive, legislative and judicial powers properly separated so that authority never abuses liberty.

Unfortunately, in 2020, the extraordinary power grab by some branches of our state government (continued on page 2)

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First Amendment: *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

When those seeking freedom from oppression first came to America, the colonies were governed by the laws of Britain. This became too onerous on the colonists as they felt they had no say and they were being taxed on everything vital to their existence. This led to war and the eventual victory of our United States.

We wanted something different than the old laws and it had to work for all the peoples. All voices needed to be heard and respected. Our founding fathers wanted to ensure that no one could be singled out for the practice of their religion, their thoughts and beliefs. They wanted every person to be able to protest peacefully, regulations, practices and what they might consider unfair and unjust laws and have the ability to bring their concerns to those who would govern over us. Without this right, all other amendments would have little to no value as the peoples' voices would not be allowed to be heard. Cancel culture is strangling our right to freedom of speech. College campuses and other venues are limiting your rights to freedom of speech and expression by forcing you into "Free Speech Zones" as if this is the only place you are allowed to have this freedom. Our Founding Fathers should be turning over in their graves at this shut down of what is enshrined in our Constitution.

Thomas Jefferson said, "Our liberty depends on Freedom of the Press and that cannot be limited without being lost." Yet even now, there are those who want to proclaim that media outlets should be banned and shut down or limited in what they can say because they do not conform to the so called party line or what the moguls of social media determine to be correct speech.

"It is not the responsibility of government to limit speech in the public square in order to protect citizens from controversial views; rather, it is the prerogative of citizens to discern for themselves what they want to listen to, read, research, and believe. The First Amendment was written to restrain government, not the people." (*Excerpt from [www.http://www.campaignforliberty.org/defending-first-amendment](http://www.campaignforliberty.org/defending-first-amendment)*)

If we don't defend our rights we will most definitely lose those rights.

The Constitution Guides Our Way(*continued*)

would make William Penn accuse some of tyranny.

Courts writing laws, an executive making decisions behind closed doors to suspend statutes, write new rules and direct all of the affairs of our people, businesses and institutions have happened while the elected voices of the Representatives and Senators in the General Assembly are silenced in the name of "emergencies."

Regardless of your political leanings, your location or your personal beliefs, the "new normal" of living outside of the Constitution's requirements should alarm you.

Our Republic's creation, through the Constitution, can only be sustained if we are faithful to its design. The makers of this majestic form of government rightly knew that power is a direct threat to liberty, which is entirely why they made sure no Executive could make decisions without the Legislature, and why no Court should rewrite our laws because they disagree with a policy choice.

In order for us to meet the serious issues facing our people, we have to immediately restore the delicate, but very necessary balance, between our branches of government.

Our Constitution is not just an outdated parchment promise. It is the Peoples' Law, divinely inspired and masterfully crafted for all generations, through good and bad times.

Someone once said that we have a "Republic, if you can keep it."

How true.



Second 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.*

COMMON INTERPRETATION Second Amendment by Nelson Lund, University Professor at George Mason University University Antonin Scalia School of Law , and Adam Winkler, Professor of Law at University of California Los Angeles Law School

Modern debates about the Second Amendment have focused on whether it protects a private right of individuals to keep and bear arms, or a right that can be exercised only through militia organizations like the National Guard. This question, however, was not even raised until long after the Bill of Rights was adopted.

Many in the Founding generation believed that governments are prone to use soldiers to oppress the people. English history suggested that this risk could be controlled by permitting the government to raise armies (consisting of full-time paid troops) only when needed to fight foreign adversaries. For other purposes, such as responding to sudden invasions or other emergencies, the government could rely on a militia that consisted of ordinary civilians who supplied their own weapons and received some part-time, unpaid military training.

The onset of war does not always allow time to raise and train an army, and the Revolutionary War showed that militia forces could not be relied on for national defense. The Constitutional Convention therefore decided that the federal government should have almost unfettered authority to establish peacetime standing armies and to regulate the militia.

This massive shift of power from the states to the federal government generated one of the chief objections to the proposed Constitution. Anti-Federalists argued that the proposed Constitution would take from the states their principal means of defense against federal usurpation. The Federalists responded that fears of federal oppression were overblown, in part because the American people were armed and would be almost impossible to subdue through military force.

Implicit in the debate between Federalists and Anti-Federalists were two shared assumptions. First, that the proposed new Constitution gave the federal government almost total legal authority over the army and militia. Second, that the federal government should not have any authority at all to disarm the citizenry. They disagreed only about whether an armed populace could adequately deter federal oppression.

The Second Amendment conceded nothing to the Anti-Federalists' desire to sharply curtail the military power of the federal government, which would have required substantial changes in the original Constitution. Yet the Amendment was easily accepted because of widespread agreement that the federal government should not have the power to infringe the right of the people to keep and bear arms, any more than it should have the power to abridge the freedom of speech or prohibit the free exercise of religion.

Much has changed since 1791. The traditional militia fell into desuetude, and state-based militia organizations were eventually incorporated into the federal military structure. The nation's military establishment has become enormously more powerful than eighteenth century armies. We still hear political rhetoric about federal tyranny, but most Americans do not fear the nation's armed forces and virtually no one thinks that an armed populace could defeat those forces in battle. Furthermore, eighteenth century civilians routinely kept at home the very same weapons they would need if called to serve in the militia, while modern soldiers are equipped with weapons that differ significantly from those generally thought appropriate for civilian uses. Civilians no longer expect to use their household weapons for militia duty, although they still keep and bear arms to defend against common criminals (as well as for hunting and other forms of recreation).

The law has also changed. While states in the Founding era regulated guns—blacks were often prohibited from possessing firearms and militia weapons were frequently registered on government rolls—gun laws today are more extensive and controversial. Another important legal development was the adoption of the Fourteenth Amendment. The Second Amendment originally applied only to the federal government, leaving the states to regulate weapons as they saw fit. Although there is substantial evidence that the Privileges or Immunities Clause of the Fourteenth Amendment was meant to protect the right of individuals to keep and bear arms from infringement by the states, the Supreme Court rejected this interpretation in [*United States v. Cruikshank*](#) (1876).

Until recently, the judiciary treated the Second Amendment almost as a dead letter. (continued on page 4)

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In *District of Columbia vs. Heller* (2008), however, the Supreme Court invalidated a federal law that forbade nearly all civilian handguns in the nation's capital. A 5–4 majority ruled that the language and history of the Second Amendment showed that it protects a private right of individuals to have arms for their own defense, not a right of the states to maintain a militia.

The dissenters disagreed. They concluded that the Second Amendment protects a nominally individual right, though one that protects only “the right of the people of each of the several States to maintain a well-regulated militia.” They also argued that even if the Second Amendment did protect an individual right to have arms for self-defense, it should be interpreted to allow the government to ban handguns in high-crime urban areas.

Two years later, in *McDonald v. City of Chicago* (2010), the Court struck down a similar handgun ban at the state level, again by a 5–4 vote. Four Justices relied on judicial precedents under the Fourteenth Amendment's Due Process Clause. Justice Thomas rejected those precedents in favor of reliance on the Privileges or Immunities Clause, but all five members of the majority concluded that the Fourteenth Amendment protects against state infringement of the same individual right that is protected from federal infringement by the Second Amendment.

Notwithstanding the lengthy opinions in *Heller* and *McDonald*, they technically ruled only that government may not ban the possession of handguns by civilians in their homes. *Heller* tentatively suggested a list of “presumptively lawful” regulations, including bans on the possession of firearms by felons and the mentally ill, bans on carrying firearms in “sensitive places” such as schools and government buildings, laws restricting the commercial sale of arms, bans on the concealed carry of firearms, and bans on weapons “not typically possessed by law-abiding citizens for lawful purposes.” Many issues remain open, and the lower courts have disagreed with one another about some of them, including important questions involving restrictions on carrying weapons in public.

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