



An unambiguous right

2nd Amendment bars regulation of people's ability to bear arms.

By Herbert W. Titus and William J. Olson

Compelled to take up arms to regain their liberties as Englishmen, America's Founders knew that even the constitutional republic they had established could threaten the freedoms for which they had fought. In the First Amendment, they established a first line of defense — the freedoms of religion, speech, press, assembly and petition.

Knowing that words and parchment barriers alone would prove inadequate to restrain those elected as servants from becoming tyrants, they added the Second Amendment to secure "the right of the people to keep and bear Arms" — not to protect deer hunters and skeet shooters, but to guarantee to themselves and their posterity the blessings of "a free State."

Their foremost concern was the precipitating events of the American Revolution, wherein British troops in Massachusetts and Virginia seized American muskets, cannon and powder — actions the Declaration of Independence calls "a design to reduce (the colonists) under absolute Despotism."

Entrusting the nation's sovereignty to the people, the amendment breaks the government's military monopoly, guaranteeing to the people such firearms as would be necessary to defend against the sort of government abuse of their inalienable rights the British had committed.

Thus, the amendment's "well regulated Militia" encompasses all citizens who constitute the polity of the nation with the right to form their own government. The amendment's "keep and bear Arms" secures the right to possess firearms such as fully-automatic rifles, which are both the "lineal descendant(s) of ... founding-era weapon(s)" (applying a 2007 court of appeals' test), and "ordinary military equipment" (applying a 1939 Supreme Court standard).

No government deprives its citizens of rights without asserting that its actions are "reasonable" and "necessary" for high-sounding reasons such as "public safety." A right that can be regulated is no right at all, only a temporary privilege dependent upon the good will of the very government officials that such right is designed to constrain.

Herbert W. Titus and William J. Olson are attorneys for Gun Owners of America, which filed a brief in the Second Amendment case the Supreme Court heard Tuesday.

