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SECOND AMENDMENT -- STILL 'THE PALLADIUM OF LIBERTIES'

> "The ultimate authority ... resides in the people alone. ... The advantage of being armed, which the Americans possess over the people of almost every other nation ... forms a barrier against the enterprises of ambition." --James Madison

James Madison's words regarding the "ultimate authority" for defending liberty (Federalist No. 46) ring as true today as in 1787, when he penned them.

Likewise, so do the words of his appointee to the Supreme Court, Justice Joseph Story, who wrote in his 1833 "Commentaries on the Constitution," "The right of the citizens to keep and bear arms has justly been considered as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers; and will generally, even if these are successful in the first instance, enable the people to resist and triumph over them."

In recent decades, the "enterprises of ambition" and "usurpation and arbitrary power" among Leftist politicians and their corrupt judicial lap dogs have become malignant, eating away at our Essential Liberty and our constitutional Rule of Law. This has never been more so than since the charlatan Barack Hussein Obama duped 67 million Americans into seating him in the executive branch.

Now more than ever, armed Patriots must stand ready, in the words of Patrick Henry, to "Guard with jealous attention the public liberty. Suspect every one who approaches that jewel."

In June 2008, the Supreme Court, by a narrow 5-4 vote (Scalia, Alito, Roberts, Thomas and Kennedy), reaffirmed, in District of Columbia v. Heller, that the people's inherent right to keep and bear arms is plainly enumerated in our Constitution. The Court ruled that the Second Amendment ensures an individual right, that DC could not ban handguns, and that operable guns may be maintained in the homes of law-abiding DC residents.

This was an important decision affirming the plain language of our Second Amendment and its proscription against government infringement on "the right of the people to keep and bear arms."

However, Heller pertained to a federal district, and while our Bill of Rights has primacy over state and municipal firearm restrictions, a Supreme Court case to give judicial precedent to that primacy has yet to be decided.

In his dissenting opinion in Heller, 89-year-old Justice John Paul Stevens expressed concern that the case "may well be just the first of an unknown number of dominoes to be knocked off the table," should "the reality that the need to defend oneself may suddenly arise in a host of locations outside the home."

One might only hope!

This week, the Supreme Court heard arguments in McDonald v. Chicago, the next test case for the Second Amendment, which will determine if Chicago's onerous gun restrictions are in violation of

the Constitution's plain language prohibition of such regulations by states and municipalities.

Otis McDonald, the 76-year-old plaintiff in this case, is challenging Chicago regulations that make it unlawful for him to keep a handgun in his home for self-defense.

My colleague Dave Hardy, a scholar of constitutional law, particularly the Second Amendment, summarized the arguments as follows: "McDonald v. Chicago illustrated the dichotomy between a government of laws and a government of men. One wing of the Court (perhaps the majority) looked to the essential enumeration of the right to arms; the other seemed to argue that since they, as powerful individuals, did not care for the right, or thought it was one of the Framers' bad ideas, they could disregard it."

That is an apt summary of how all cases are handled by the federal judiciary.

Typical of Leftmedia summations, The New York Times opined, "At least five justices appeared poised to expand the scope of the Second Amendment's protection of the right to bear arms."

Expand?

Only the most uninformed opinion would suggest that asserting the right of law-abiding citizens to keep and bear arms in Chicago is an expansion of the Second Amendment's scope. But considering the source...

Mr. McDonald's lawyers insist that the 14th Amendment's "privileges or immunities" clause ("no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States") is grounds for overturning Chicago's gun restrictions, and those of other states and municipalities across the our great nation.

Unfortunately, trying to establish a 14th Amendment precedent in and of itself undermines the authority of our Constitution's Bill of Rights.

Recall that there was great debate among our Founders concerning the need for any Bill of Rights. It was argued that such a specific enumeration of rights was redundant and unnecessary to the Constitution and that listed (and unlisted) rights might then be construed as malleable rather than unalienable, as amendable rather than "endowed by our Creator" as noted in the Constitution's supreme guidance, the Declaration of Independence."

To that end, Alexander Hamilton wrote in Federalist No. 84, "I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. *... For why declare that things shall not be done which there is no power to do?*"

Madison prevailed, however, and for clarity he introduced a preamble to the Bill of Rights: "The Conventions of a number of the States having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best insure the beneficent ends of its institution..."

In other words, the Bill of Rights was enumerated to ensure against encroachment on our inherent rights. Read in context, the Bill of Rights is both an affirmation of innate individual rights (as noted by Thomas Jefferson: "The God who gave us life gave us liberty at the same time..."), and a clear delineation of constraints upon the government.

Note that Unlike the First Amendment which expressly limits Congress ("Congress shall make no law ..."), the Second sets no limit, and asserting plainly that "the right of the people to keep and bear Arms shall not be infringed." Thus, there is no 14th Amendment "incorporation" required.

Further, the Second Amendment is unique in the Bill of Rights in that it expressly asserts this "right of the

people" is "necessary," more so than just important, to sustain a "free state."

But as feared by those who argued such rights should not be recorded, the "despotic branch," as Jefferson presciently dubbed the judiciary, has endeavored to limit those enumerated rights by way of convoluted and fraudulent precedents.

Likewise, citing the 14th Amendment's "privileges or immunities" clause suggests the Second Amendment was and remains amendable. That, of course, is an egregious affront to Essential Liberty -- but that's the way the game is played today.

Currently, 41 states issue concealed handgun carry permits, or don't require them at all, for law-abiding citizens. Seven other states allow local municipalities to determine gun restrictions; Illinois and Wisconsin do not even allow that option.

Much of the debate about the need to infringe upon the right to bear arms is framed in terms of safety. Gun-control advocates argue that more guns equal more crime. Those advocating for more lenient gun laws argue that more guns equal less crime. Only one of these diametrically opposed views can be true.

While the latter group is factually and demonstrably correct, basing Second Amendment arguments on the issue of safety is as fallacious as attempting to assert the 14th Amendment argument.

In an editorial this week, the conservative Washington Times opined, "The year after the Supreme Court struck down the District of Columbia's handgun ban and gun-lock requirements, the capital city's murder rate plummeted 25 percent. The high court should keep that in mind..."

No, they should not.

After all, violence is a cultural problem, not a gun problem, and certainly not a Second Amendment problem.

What each member of the Supreme Court must only keep in mind is the plain language of the Constitution, the Second Amendment and the First Principle of his or her oath: "To support and defend our Constitution," as should everyone who has taken that oath.

Accordingly, the High Court should find that the gun restrictions in Chicago, and by extension, those in any other state, are in direct violation of the inherent rights of the people "to keep and bear arms."