ES. to the NEWS

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GUN CONTROL LEGISLATION

When Congress recesses for campaigning this year, among the bills that will be left in the circular file are the gun control bills. Letters from the American people run 18-to-l against such legislation and the issue is too hot to touch in an election year.

Proponents of gun control are fond of trotti.ng out a battery of statistics to justify their creati"ve interpretation of the s·econd Amendment to the U.S. Constitution. The banning or registration of firearms is needed, they say, because "studies show" that such laws lead to a reduced crime rate.

There is no hard evidence to support that hypothesis. A massive 1975 University of Wisconsin study concluded that gun control laws have "no individual or collective effect in reducing the rate of crime." The study compared homicide rates to rates of handgun ownershi , state by state, and found no correlation.

Last year, GMA Research Corporation surveyed police officials and found that they place little faith in additional gun control laws as a means of reducing crime. More than 80 percent of the 6,000 respondents felt that existing gun control legislation has no effect on crime in their area.

A 1977 national poll by Decision Making Information, a respected national opinion survey firm, showed that 67 percent of the American people believe that additional gun controls are not an effective means to control crime.

Many experts believe that the unrestricted availability of guns:. actually helps in preventing crime. St. Louis University Law School professor Don Kates, Jr., points out that armed shopkeepers often foil robberies. His data show that armed civilians capture, wound, kill or scare off criminals in 75 percent of reported confrontations, while the police success rate is only 61 percent.

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Above and beyond any empirical evidence about the use of guns for good and bad purposes is the constitutional argument for the right of American citizens to own firearms. The Second Amendment states simply: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms, sha11 not be infringed."

The gun control advocates try to argue that the right of the people to keep and bear arms is not an individual right, but a collective right which pertains only to the state militia. For authority they cite the 1939 U.S. Supreme Court opinion in United States v. Miller, which appears to support this view.

Many lawyer however, believe that this decision has such major defects that it cannot be considered binding on this point. For example, the defendant Miller was not represented before the Supreme Court: Since the essential adversarial element was absent, major legal and factual arguments were never considered.

The legislative history of the Second Amendment shows that it was passed only after the Congress dectsively rejected a motion to insert the words "for the common defense" after the words "to bear arms." This demonstrates a clear intent by the Founding Fathers not to limit the right to bear arms to the common defense.

The first ten amendments to the Constitu ion all guarantee individu l rights, and there is no reason to believe that the Second Amendment is uniquely different. Many of the original states also provided for the right to keep and bear arms in their state constitutions at the time our Union was formed.

The gun control advocates have high motives but, as Justice Brandeis once wrote, "Experience should teach us to be most on our guard to protect liberty when the government ıs purposes are beneficent. ... The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

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