Lessons of The Gun Decision

by Phyllis Schlafly July 9, 2008

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The liberals are trying to spin the Supreme Court's dramatic decision in the gun case as creating a "new" constitutional right. They couldn't be more wrong; the Supreme Court simply restated the individual right that the Founding Fathers wrote in the Second Amendment which has been part of the Constitution since December 15, 1791.

The decision in District of Columbia v. Heller was a victory for the view (often expressed by Justice Antonin Scalia) that the Constitution means what it says. The liberals, who believe that the Supreme Court can invent new rights, seem to think that a right stated in the Constitution doesn't exist until the Supreme Court ratifies it.

The Heller decision was a victory for our written Constitution over the blathering by activist judges who pretend that the Constitution is a "living" document which they can reinterpret according to their personal biases about "evolving standards." It was also a victory for the active advocacy of private citizens who understand the Constitution and can effectively refute judicial heresies.

For the first century and a half of our country's existence, the right of individuals to own firearms was generally accepted. The militia referred to in the Second

Amendment consisted of all able-bodied men, and they were expected to possess and use their own firearms.

James Madison wrote in the Federalist Papers, No. 46: Americans have "the advantage of being armed" — unlike the citizens of other countries where "the governments are afraid to trust the people with arms." During Virginia's Convention to ratify the Constitution, Patrick Henry said: "The great objective is that every man be armed. . . . Everyone who is able may have a gun."

In the middle of the 20th century, when the liberals began to restrict our liberties and propagate the notion that government knows better than individuals how to run our lives and spend our money, proposals for gun control became politically correct. From about 1950 to about 1990, law professors and judges who wanted to be P.C. adopted the erroneous view that the Second Amendment has nothing to do with an individual's right to own a gun and that the "militia" refers only to government-appointed law enforcement groups.

One academic's prize-winning book claimed that guns were not widely owned by individuals at the time of the American Revolution, but his book was exposed as a fake. By 2001, the United Nations tried to demonize the private ownership of guns and get governments to confiscate all privately owned guns.

Fortunately, the United States not only enjoys widespread gun ownership, we also have large numbers of citizens who understand the Constitution and are willing to speak out for their rights.

Gun rights advocates, working entirely outside the legal profession, actively promoted the common-sense truth about the plain meaning and historical context of the Second Amendment by publishing articles in gun magazines, law reviews and other journals. At first, the legal community scoffed at these people as ignorant "gun nuts," but eventually, the weight of their logic and historical evidence became overwhelming.

Then came a couple of breakthroughs. On May 17, 2001, Attorney General John Ashcroft issued a statement that read in part, "Let me state unequivocally my view that the text and the original intent of the Second Amendment clearly protect the right of individuals to keep and bear firearms.... This view of the text comports with the all but unanimous understanding of the Founding Fathers."

Ashcroft cited many writings by the Founding Fathers as well as Supreme Court decisions from the early years. He concluded, "In light of this vast body of evidence, I believe it is clear that the Constitution protects the private ownership of firearms for lawful purposes."

On October 16, 2001, the Fifth Circuit ruled in U.S. v. Emerson that "It appears clear that 'the people,' as used in the Constitution, including the Second Amendment, refers to individual Americans." Yes, it is clear; but the liberals had been pretending otherwise.

The Democrats then had a great awakening about why Al Gore lost the presidency to George W. Bush in November 2000. Gore lost three traditionally Democratic states, Tennessee (Gore's own state), Arkansas and West Virginia primarily because Gore was a gun-control advocate and those states have lots of voters whom Barack Obama has insulted by saying they "cling" to their guns because they are supposedly "bitter."

Obama is now backpedaling all over the place to try to defuse the gun issue. He hopes people will forget that he originally defended the DC gun control law that the Supreme Court knocked out in the Heller case.

The Supreme Court is still a major problem because four liberal justices are diehard supremacists who believe they have the right to repeal the Second Amendment. The biggest issue in the upcoming election is whether the newly

elected President will fill court vacancies with supremacist or constitutional justices.