

Nation's framers gave no clear answer on gun control



THE SANDY Hook Elementary School massacre of 20 children and six adults by a mentally-deranged gunman has renewed the debate over the intent of the framers of the Constitution and the Second Amendment.

On one side is the National Rifle Association which opposes any meaningful gun control and argues that the amendment protects the personal right of an individual to keep and bear arms. On the other side are gun-control lobbyists who want Congress to pass an assault weapons ban and insist that the Second Amendment does not apply to individuals but simply recognizes the right of a state to arm its militia.

It's difficult to argue against either position because both are based on differing interpretations of the amendment rather than a definitive understanding of the framers' intent when it was drafted.

During the late eighteenth century, when the framers wrote the federal constitution and added the Second Amendment, they intended to create a strong central government that had the ability to put down an armed insurrection of citizens. The framers had already witnessed the danger of a weak central government under the Articles of Confederation, which lacked an army to defeat Shay's Rebellion, a popular uprising of veteran soldiers and farmers against Massachusetts government in 1786.

To this end, the framers established the Second Amendment, which called for the creation of a "well-regulated militia" to insure

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the "security of a free state." The amendment reinforced Article IV, Section 4 of the Constitution, which committed the federal government to protect each state from not only foreign invasion but "domestic violence."

Just as important, the framers did not believe in a standing army to put down an internal rebellion. Having suffered the costs and threat of a large British army stationed in the colonies prior to the outbreak of the Revolutionary War, they considered a militia made up of citizens a more attractive alternative.

Neither the NRA nor the gun control lobbyists disagree with this part of the Second Amendment. It's the last part – "the right of the people to keep and bear arms" – that causes controversy.

Gun-control advocates contend that the amendment does not apply to individuals, but rather to the right of a state to arm its militia. The NRA disagrees, insisting that the framers intended constitutional protection of the right of private citizens to carry arms for self-defense.

Both arguments are valid, depending upon the interpretation.

During the eighteenth century, the opening phrase of the amendment was considered an essential pre-condition for the main clause. Thus, the "right of the people to keep and bear arms" was intended as a collective – not individual – measure. That is, the right of a

people to maintain "a well-regulated militia." Such a strict interpretation of the constitution would favor gun control as it applies to individual owners.

However, a loose constructionist interpretation would contend that the opening phrase was meant as an exclusive example, or one of many reasons for the amendment. This interpretation defends the NRA's position that the framers' intended to protect an individual's right to own and bear arms.

At the same time, the framers recognized the impossibility of predicting the future. They understood that the changing moral conventions and improving technology of society would require an amendable constitution, one that could adapt to future circumstances as well as the future needs and security of the American people.

When the Second Amendment was written single-shot, muzzle-loaded rifles were the common weapons of the period; not military-style assault weapons, which are much more dangerous because they're able to fire multiple bullets with one pull of the trigger. These are the weapons that were used at the Newton, Connecticut, massacre of schoolchildren and those some in Congress are seeking to ban.

Under these circumstances, it's difficult to believe that the framers, who placed a high priority on preserving "life, liberty and property for future posterity," would reject any legislation protecting our children from the threat of gun violence.

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