



Remington Arms Company, the Supreme Court & the Right to Keep and Bear Arms

By John R. Hendrickson

This year Remington Arms Company will celebrate its historic 200 year anniversary. “Each day as I drive to work, I pinch myself that I get to do what I do —working at Remington. We guard this legacy every day,” noted Tommy Millner, who serves as Chief Executive Officer for Remington.¹ Remington is just one of the many historic names in the firearms industry. Others include Winchester, Colt, Browning, Smith & Wesson, and others that have and continue to play a significant role in the great American experiment. Individuals such as John Browning, probably the most famous gunsmith in American history, designed the firearms that made the 20th Century the American Century. At the center of all this history is the Second Amendment, the right to keep and bear arms, which has served the Nation as the capstone of liberty. On Tuesday, March 18, 2008, the United States Supreme Court is scheduled to hear *District of Columbia v. Heller*, and on this historic day the Court will take up the question of whether or not an individual has the right to keep and bear arms.

In 2001, then Attorney General John Ashcroft wrote that “the text and the original intent of the Second Amendment clearly protect the right of individuals to keep and bear firearms.”² The debate surrounding the Second Amendment centers around whether the right to keep and bear firearms is an individual right or a collective right, meaning only for militias.

Recently a series of rulings originating from the federal court system have ruled in favor of the original intent view of the Second Amendment, which supports the textual reading that individuals do have a right to keep and bear arms. Two of these cases are *Shelly Parker et al v. District of Columbia*, which is the *Heller* case to be heard in March, and *United States v. Emerson*.³

District of Columbia v. Heller is an appeal of the *Parker* case which struck down the District of Columbia’s law banning handguns. In *Parker*, Judge Laurence H. Silberman of the District of Columbia Court of Appeals wrote the majority opinion, which defended the individual right to keep and bear arms. In his opinion, Judge Silberman concluded that “the Second Amendment protects an individual right to keep and bear arms. That right existed prior to the formation of the new government under the Constitution and was premised on the private use of arms for activities such as hunting and self-defense.”⁴

In *United States v. Emerson*, Judge Sam R. Cummings of the U.S. District Court for the Northern District of Texas and Judge William L. Garwood of the Fifth Circuit Court of Appeals, which upheld *Emerson*, both provided strong intellectual defense of the original intent of the Second Amendment. In his District Court opinion, Judge Cummings wrote that “a historical examination of the right to keep and bear arms, from English antecedents to the drafting of the Second Amendment, bears proof that the right to bear arms has consistently been, and should be, construed as an individual right.”⁵

“We find that the history of the Second Amendment reinforces the plain meaning of its text, namely that it protects individual Americans in their right to keep and bear arms whether or not they are a member of a

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select militia or performing active military service or training,” wrote Judge Garwood in his Fifth Circuit opinion.⁶ In addition, Attorney General Ashcroft noted that “like the First and Fourth Amendments, the Second Amendment protects the rights of ‘the people’ which the Supreme Court has noted is a term of art that should be interpreted consistently throughout the Bill of Rights.”⁷

Chris W. Cox, Executive Director of National Rifle Association-Institute for Legislative Action, has suggested that the “Supreme Court’s decision in *Heller* may be limited to the following question: ‘Whether Washington, D.C.’s bans [on handguns, on having guns in operable condition in the home, and on carrying guns within the home] violate the Second Amendment rights of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes.’”⁸

The decision reached by the High Court in *Heller* will certainly be substantial to the legal precedent and standing of the Second Amendment. In fact, Cox noted that because of the limited question of the *Heller* case, the debate over the Second Amendment will not be settled by its outcome, but “a Supreme Court ruling that there is an individual right, and that these three D.C. laws violate that right, would be a milestone for freedom in America.”⁹

When oral arguments are heard in March, the Justices on the High Court will only need to look toward history and the original intent of the Second Amendment to make a clear and concise decision in supporting an individual right to keep and bear arms. On the other hand, constitutional history is filled with numerous examples of judicial misreading of the Constitution.

It is ironic that in 2008 Remington will celebrate its 200th anniversary while in the same year the Supreme Court will be ruling on the constitutional amendment that has allowed Remington to be a service not only to individuals, but law enforcement and the military. Remington’s anniversary is a rich symbol of the importance that firearms play in our history, society, and the enduring values that indeed make the United States a shining city on a hill. Justices will have to decide themselves whether or not 200 years of history can be overlooked and tossed aside for a false sense of security.

(Endnotes)

¹Laurie Lee Dovey, “In Remington Country,” *America’s 1st Freedom*, February 2008, p. 52.

²John Ashcroft, letter to James Jay Baker, May 17, 2001, <<http://www.nraila.org/images/Ashcroft.pdf>> (January 27, 2008).

³For more information on these cases please read *INSTITUTE BRIEFS* “Protecting an Enduring Right: The Second Amendment During Times of Emergency” and “Do Citizens Have the Right to Keep and Bear Arms? Original Intent Says Yes” found at www.limitedgovernment.org.

⁴Judge Laurence H. Silberman, Majority Opinion in *Shelly Parker et al v. District of Columbia*, p. 46 <<http://pacer.cadc.uscourts.gov/docs/common/opinions/200703/04-7041a.pdf>> (January 27, 2008).

⁵Judge Sam R. Cummings, “Written Opinion in *United States v. Emerson*,” <http://www.txnd.uscourts.gov/pdf/Notablecases/emerson_2.pdf> (January 27, 2008).

⁶Judge William L. Garwood, “Written Opinion in *United States v. Emerson*,” <<http://www.ca5.uscourts.gov/opinions/pub/99/99-10331.cro.wpd.pdf>> (January 27, 2008).

⁷Ashcroft.

⁸Chris W. Cox, “*District of Columbia v. Heller*,” *America’s 1st Freedom*, February 2008, p. 45.

⁹*Ibid.*

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