■ The Second Amendment to the U.S. Constitution

Authors: James Madison
Date: 1791
Genre: Constitutional amendment

Summary Overview

The Second Amendment is part of the Bill of Rights, a group of ten provisions added to the U.S. Constitution to protect that the basic rights of Americans—in this case, to own and bear firearms. As such, it parallels such basic rights as freedom of speech, assembly, the press, and religion; protection from unlawful searches and seizures; the right to a jury trial, and protection from cruel and unusual punishments for crimes. The Second Amendment states that "the right of the people to keep and bear Arms, shall not be infringed," but since the amendment became part of the Constitution, sharp disagreement has existed over what right, specifically, it protects and who is protected, for the first clause of the amendment makes reference to a "well regulated Militia," suggesting that the amendment was meant to apply only to the statewide military units that existed at the time and not to individual citizens. The meaning and applicability of the Second Amendment lies at the heart of the ongoing debate over gun control. The debate rages in the twenty-first century in light of a number of highly publicized mass shootings, some of them in schools, at the hands of disturbed people who possessed an arsenal of firearms that would likely never be used for such legitimate purposes as hunting or target shooting—and that the framers of the Constitution could never have envisioned.

Defining Moment

From May 25 to September 17, 1787, the Constitutional Convention met in Philadelphia, Pennsylvania, with the initial purpose of revising the 1781 Articles of Confederation. In the end, the framers scrapped the articles in favor of a new Constitution, one that strengthened the nation by giving the federal government more sway. At the conclusion of the convention, the Constitution was submitted to the delegates for signing, then to the states. The Constitution was ratified on June 21, 1788, when New Hampshire became the ninth state to ratify it.

During the convention, on September 12, George Mason of Virginia, who had been a primary author of the Virginia Bill of Rights, proposed adding a bill of rights to the U.S. Constitution, but his proposal was unanimously defeated. It was not until later that the framers added the Bill of Rights, in large part to appease Antifederalists—figures such as Thomas Jefferson, who feared a strong central government and its potential for tyranny. The Constitution's supporters believed that the promise of a Bill of Rights would boost the likelihood that Antifederalists would support ratification. They were right, and it is highly likely that the Constitution would not have been ratified without the expectation that a bill of rights would be appended.

Accordingly, on June 8, 1789, Representative James Madison introduced nine amendments in the House of Representatives; these amendments were initially intended to be incorporated into the main text of the Constitution. After debate, on September 24, the ten amendments that would make up the Bill of Rights passed in the House; the following day the proposal passed in the Senate. The Bill of Rights was ratified on December 15, 1791, when Virginia was the eleventh state to ratify it. Oddly, it was not until 1939 that Connecticut, Georgia, and Massachusetts ratified the amendments.

Author Biography

James Madison, who later became the fourth president of the United States, is regarded as the "father" of the

As John H. Kagi and A. D. Stevens entered the bridge, as ordered in the fifth charge, the watchman, being at the other end, came toward them with a lantern in his hand. When up to them, they told him he was their prisoner, and detained him a few minutes, when he asked them to spare his life. They replied, they did not intend to harm him; the object was to free the slaves, and he would have to submit to them for a time, in order that the purpose might be carried out.

Captain Brown now entered the bridge in his wagon, followed by the rest of us, until we reached that part where Kagi and Stevens held their prisoner, when he ordered Watson Brown and Stewart Taylor to take the positions assigned them in order sixth, and the rest of us to proceed to the engine house. We started for the engine house, taking the prisoner along with us. When we neared the gates of the engine-house yard, we found them locked, and the watchman on the inside. He was told to open the gates, but refused, and commenced to cry. The men were then ordered by Captain Brown to open the gates forcibly, which was done, and the watchman taken prisoner. The two prisoners were left in the custody of Jerry Anderson and Adolphus Thompson, and A. D. Stevens arranged the men to take possession of the Armory and rifle factory. About this time, there was apparently much excitement. People were passing back and forth in the town, and before we could do much, we had to take several prisoners. After the prisoners were secured, we passed to the opposite side of the street and took the Armory, and Albert Hazlett and Edwin Coppic were ordered to hold it for the time being.

The capture of the rifle factory was the next work to be done. When we went there, we told the watchman who was outside of the building our business, and asked him to go along with us, as we had come to take possession of the town, and make use of the Armory in carrying out our object. He obeyed the command without hesitation. John H. Kagi and John Copeland were placed in the Armory, and the prisoners taken to the engine house. Following the capture of the Armory, Oliver Brown and William Thompson were ordered to take possession of the bridge leading out of town, across the Shenandoah river, which they immediately did. These places were all taken, and the prisoners secured, without the snap of a gun, or any violence whatever.

The town being taken, Brown, Stevens, and the men who had no post in charge, returned to the engine house, where council was held, after which Captain Stevens, Tidd, Cook, Shields Green, Leary and myself went to the country. On the road, we met some colored men, to whom we made known our purpose, when they immediately agreed to join us. They said they had been long waiting for an opportunity of the kind. Stevens then asked them to go around among the colored people and circulate the news, when each started off in a different direction. The result was that many colored men gathered to the scene of action. The first prisoner taken by us was Colonel Lewis Washington. When we neared his house, Capt. Stevens placed Leary

have power to enforce this article by appropriate legislation. This is not merely a prohibition against the passage or enforcement of any law inflicting or establishing slavery or involuntary servitude, but it is a positive declaration that slavery shall not exist. It prohibits the thing. In the enforcement of this article, therefore, congress has to deal with the subject matter. If an amendment had been adopted that polygamy should not exist within the United States, and a similar power to enforce it had been given as in the case of slavery, congress would certainly have had the power to legislate for the suppression and punishment of polygamy. So, undoubtedly, by the 13th amendment congress has power to legislate for the entire eradication of slavery in the United States. This amendment had an affirmative operation the moment it was adopted. It enfranchised four millions of slaves, if, indeed, they had not previously been enfranchised by the operation of the Civil War. Congress, therefore, acquired the power not only to legislate for the eradication of slavery, but the power to give full effect to this bestowment of liberty on these millions of people. All this it essayed to do by the civil rights bill, passed April 9, 1866 *[14 Stat. 27]*, by which it was declared that all persons born in the United States, and not subject to a foreign power (except Indians, not taxed), should be citizens of the United States; and that such citizens, of every race and color, without any regard to any previous condition of slavery or involuntary servitude, should have the same right in every state and territory to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of persons and property, as is enjoyed by white citizens, and should be subject to like punishment, pains and penalties, and to none other, any law, etc., to the contrary notwithstanding.

It was supposed that the eradication of slavery and involuntary servitude of every form and description required that the slave should be made a citizen and placed on an entire equality before the law with the white citizen, and, therefore, that congress had the power, under the amendment, to declare and effectuate these objects. The form of doing this, by extending the right of citizenship and equality before the law to persons of every race and color (except Indians not taxed and, of course, excepting the white race, whose privileges were adopted as the standard), although it embraced many persons, free colored people and others, who were already citizens in several of the states, was necessary for the purpose of settling a point which had been raised by eminent authority, that none but the white race were entitled to the rights of citizenship in this country. As disability to be a citizen and enjoy equal rights was deemed one form or badge of servitude, it was supposed that congress had the power, under the amendment, to settle this point of doubt, and place the other races on the same plane of privilege as that occupied by the white race.

Conceding this to be true (which I think it is), congress then had the right to go further and to enforce its declaration by passing laws for the prosecution and punishment of those who should deprive, or attempt to deprive, any per-

land. An example of the passion that this case has generated was indicated to me in Youngstown a few weeks ago, when I attended services at a prominent church, and heard the well-educated minister of the congregation state that: "we Negroes lynch too easily and we must learn to resist with everything in our power if we would put a stop to this barbarous custom."

It is a well-known fact that the Negroes in Mississippi have formed an underground, and are determined to protest themselves by methods that, if used, can only lead to further terror and bloodshed.

On the other hand, a frightening power has been built in Mississippi by the anti-desegregation White Citizens Councils, and their principal method is one of economic terrorism. These Councils are fanning out throughout the South, and they have created a climate of fear and terrorism that holds the entire area in a vise.

As a member of the White House staff, I am sitting in the middle of this, and I have been accused of being cowardly for not bringing this situation to the attention of the Administration, and requesting the President to make some kind of observation on this unwholesome problem. My mail has been heavy and angry, and wherever I go, people have expressed disappointment that no word has come from the White House deploring this situation. I always point out, of course, that our Attorney General has followed this situation with interest and skill, and that he will act when and if Federal laws are violated. But this does not still the protestations. There is a clamor for some kind of statement from the White House that will indicate the Administration is aware of, and condemns with vigor, any kind of racist activity in the United States...

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Source: "Civil Rights—Emmett Till Case." Dwight D. Eisenhower Presidential Library, Digital Documents Project. http://www.eisenhower.archives.gov/dl/Civil_Rights_Emmett_Till_Case/EmmettTillCase.html.

Historical Document

A Chinese American Protest

To His Excellency Gov. Bigler,

Sir:—I am a Chinaman, a republican, and a lover of free institutions; am much attached to the principles of the Government of the United States, and therefore take the liberty of addressing you as the chief of the Government of this State. Your official position gives you a great opportunity of good or evil. Your opinions through a message to a legislative body have weight, and perhaps none more so with the people, for the effect of your late message has been thus far to prejudice the public mind against my people, to enable those who wait the opportunity to hunt them down, and rob them of the rewards of their toil. You may not have meant that this should be the case, but you can see what will be the result of your propositions.

I am not much acquainted with your logic, that by excluding population from this State you enhance its wealth. I have always considered that population was wealth; particularly a population of producers, of men who by the labor of their hands or intellect, enrich the warehouses or the granaries of the country with the products of nature and art. You are deeply convinced you say "that to enhance the prosperity and to preserve the tranquility of this State, Asiatic immigration must be checked." This, your Excellency, is but one step towards a retrograde movement of the Government, which, on reflection, you will discover; and which the citizens of this country ought never to tolerate. It was one of the principal causes of quarrel between you (when colonies) and England; when the latter pressed laws against emigration, you looked for immigration; it came, and immigration made you what you are—your nation what it is. It transferred you at once from childhood to manhood, and made you great and respectable throughout the nations of the earth. I am sure your Excellency cannot, if you would, prevent your being called the descendant of an immigrant, for I am sure you do not boast of being a descendant of the red men. But your further logic is more reprehensible. You argue that this is a republic of a particular race—that the constitution of the United States admits of no asylum to any other than the pale face. This proposition is false in the extreme; and you know it. The declaration of your independence, and all the acts of your government, your people, and your history, are against you.

It is true, you have degraded the negro because of your holding him in involuntary servitude, and because for the sake of union in some of your states such was tolerated, and amongst this class you would endeavor to place us; and no doubt it would be pleasing to some would-be freemen to mark the

FBI Background on Centennial Olympic Park Bomber

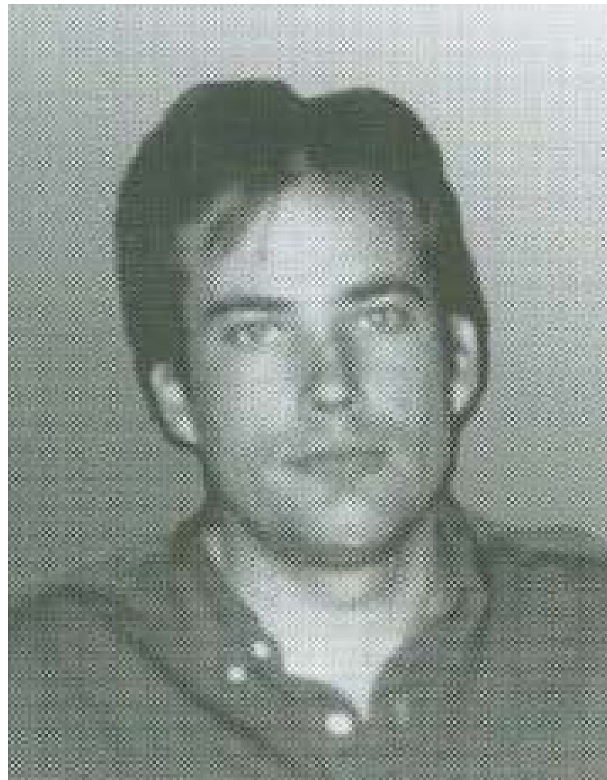
Date: After 2003; concerns events between 1996 and 1998
Author: Chris Swecker
Genre: interview

Summary Overview

The bomb that exploded at the 1996 Summer Olympics in Atlanta, Georgia, killed one person and wounded more than one hundred in Centennial Olympic Park. (A second victim died later as a result of a heart attack.) There was confusion about the bomber and no suspect was identified immediately. A 911 call from the bomber alerted authorities, and Richard Jewell (a security guard), found a backpack with explosives in time to usher many away from the site, saving lives. At first, local police and the Federal Bureau of Investigation (FBI) suspected Jewel of planting the bomb himself and the subsequent investigation obscured the identity of the true bomber, Erick Rudolph. Only after three additional bombings over the next two years, two at abortion clinics and one at a lesbian bar that killed one police officer, did Rudolph become a suspect. He was put on the FBI's Ten Most Wanted List in May 1998. Rudolph eluded capture for five years, living in the woods in North Carolina and using his survival skills to find food and shelter. Having vanished without a trace, Rudolph was presumed dead by some, although the FBI continued to suspect he was living somewhere in the mountains. Sometime after Rudolph's arrest in 2003, Chris Swecker, who headed the Charlotte, North Carolina, office of the FBI, was interviewed about the case.

Defining Moment

During an evening concert at the 1996 Summer Olympics in Atlanta, Georgia, a 911 operator received a call that a bomb would go off in thirty minutes. Security guard Richard Jewell located the bomb, an army field bag that contained three pipe bombs surrounded by masonry nails, that was propped up next to a sound tower. Jewell called an alert into the local branch of the Federal Bureau of Investigation (FBI) who immediately sent a bomb squad and began evacuating the area. Before the evacuation was complete, the bomb went off, causing one death, 111 injuries, and one later death from complications. The nails caused most of the human injuries. Although media attention initially focused on Jewell, he was found to be uninvolved in the bombing. President Bill Clinton called the bombing "an evil act of terror," but after conversation with athletes and officials, it was determined that the Olympic games should continue.



The bomber, Eric Rudolph shown in a photo released by the FBI. Photo via Wikimedia Commons. [Public domain]

the intent that such teaching and advocacy be of a rule or principle of action and by language reasonably and ordinarily calculated to incite persons to such action, all with the intent to cause the overthrow or destruction of the Government of the United States by force and violence as speedily as circumstances would permit.

If you are satisfied that the evidence establishes beyond a reasonable doubt that the defendants, or any of them, are guilty of a violation of the statute, as I have interpreted it to you, I find as matter of law that there is sufficient danger of a substantive evil that the Congress has a right to prevent to justify the application of the statute under the First Amendment of the Constitution.

This is matter of law about which you have no concern. It is a finding on a matter of law which I deem essential to support my ruling that the case should be submitted to you to pass upon the guilt or innocence of the defendants....

It is thus clear that he reserved the question of the existence of the danger for his own determination, and the question becomes whether the issue is of such a nature that it should have been submitted to the jury.

The first paragraph of the quoted instructions calls for the jury to find the facts essential to establish the substantive crime, violation of §§ 2(a)(1) and 2(a)(3) of the Smith Act, involved in the conspiracy charge. There can be no doubt that, if the jury found those facts against the petitioners, violation of the Act would be established. The argument that the action of the trial court is erroneous in declaring as a matter of law that such violation shows sufficient danger to justify the punishment despite the First Amendment rests on the theory that a jury must decide a question of the application of the First Amendment. We do not agree.

When facts are found that establish the violation of a statute, the protection against conviction afforded by the First Amendment is a matter of law. The doctrine that there must be a clear and present danger of a substantive evil that Congress has a right to prevent is a judicial rule to be applied as a matter of law by the courts. The guilt is established by proof of facts. Whether the First Amendment protects the activity which constitutes the violation of the statute must depend upon a judicial determination of the scope of the First Amendment applied to the circumstances of the case.

Petitioners' reliance upon Justice Brandeis' language in his concurrence in Whitney, supra, is misplaced. In that case, Justice Brandeis pointed out that the defendant could have made the existence of the requisite danger the important issue at her trial, but that she had not done so. In discussing this failure, he stated that the defendant could have had the issue determined by the