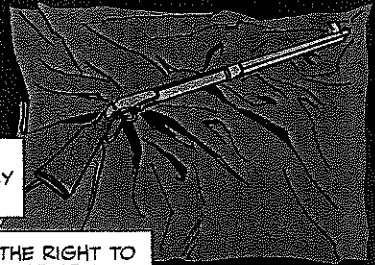


the 2nd AMENDMENT



THE SECOND AMENDMENT—ONE THAT OFTEN SPARKS CONTROVERSY—ACTUALLY DEALS WITH TWO SEPARATE IDEAS...

...THE MILITIA AND...

...THE RIGHT TO BEAR ARMS.

AS WE HAVE SEEN, BEFORE THERE WERE POLICE FORCES OR A MILITARY...



...THE MILITIA WAS AN INSTITUTION IN SOCIETY. ITS MEMBERS ORGANIZED TO PROTECT THEIR FARMS AND TOWNS. THEY WERE NOT VIGILANTES.



THEY WERE ARMED CIVILIANS WITH VESTED INTERESTS IN THEIR COMMUNITIES.

WHAT AMERICANS (AND BRITISH SUBJECTS BEFORE THEM) DISTRUSTED MOST WERE *MERCENARIES*, GUNS FOR HIRE WITH NO COMMUNITY TIES AND NO LOYALTY TO ANYONE BUT THOSE WHO PAID THEM.



THEY DID NOT REPRESENT THE PEOPLE.

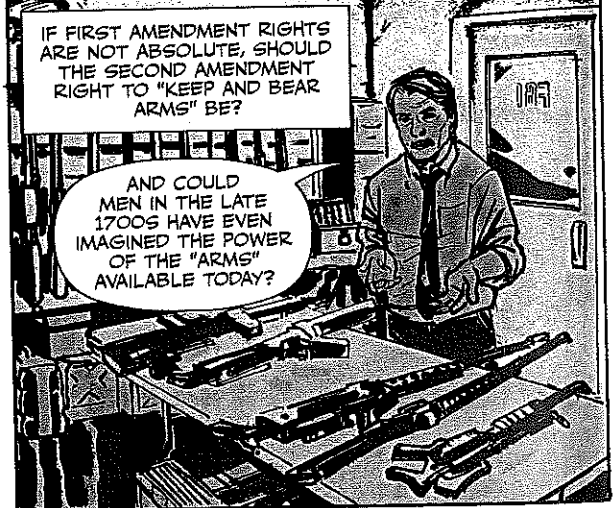
TO ANTI-FEDERALISTS, AN ARMED PEOPLE WERE A CHECK ON GOVERNMENT POWER. THEY SOUGHT ASSURANCES THE GOVERNMENT WOULD NOT PUT A MERCENARY FORCE BETWEEN ITSELF AND THE PEOPLE...



...OR TAKE AWAY THEIR WEAPONS IF IT DID.

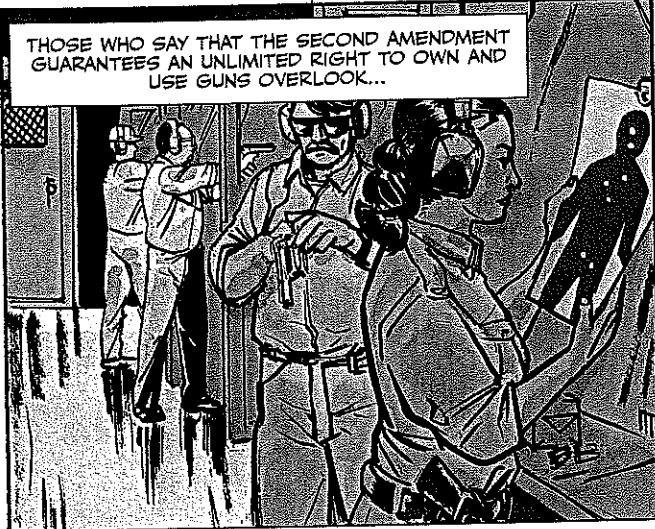
Article the fourth... A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

THE SECOND AMENDMENT DELIVERED ON BOTH COUNTS. WITH ITS OPENING CLAUSE, IT CERTIFIES THAT THE MILITIA IS LEGITIMATE. IT GOES ON TO CONFIRM THAT THE PEOPLE RETAIN THE RIGHT TO POSSESS AND USE FIREARMS FOR SELF-DEFENSE, FOR HUNTING GAME, FOR SPORT, AND AS A BULWARK AGAINST TYRANNY. IN THE MILITIA'S HEYDAY, GUNS WERE A CRUCIAL PART OF DAILY LIFE. SOME STATES HAD LAWS REQUIRING MEN TO OWN GUNS. VIRTUALLY ALL THE FRAMERS OWNED THEM. MILITAMEN HAD FOUGHT IN THE REVOLUTION, AND THE 1792 U.S. MILITIA ACT OBLIGATED MEN 18-45 TO ENROLL IN THEIR LOCAL MILITIAS. STILL, THERE WERE ALWAYS LAWS REGULATING THE USE OF FIREARMS—FOR EXAMPLE, ORDINANCES AGAINST SHOOTING THEM NEAR BARN OR BUILDINGS.



IF FIRST AMENDMENT RIGHTS ARE NOT ABSOLUTE, SHOULD THE SECOND AMENDMENT RIGHT TO "KEEP AND BEAR ARMS" BE?

AND COULD MEN IN THE LATE 1700S HAVE EVEN IMAGINED THE POWER OF THE "ARMS" AVAILABLE TODAY?



THOSE WHO SAY THAT THE SECOND AMENDMENT GUARANTEES AN UNLIMITED RIGHT TO OWN AND USE GUNS OVERLOOK...

People
≠
Persons

... THAT THE WORDS "PEOPLE" AND "PERSONS" ARGUABLY DO NOT MEAN THE SAME THING.

IN THE 18TH-CENTURY LANGUAGE OF THE CONSTITUTION AND ITS FIRST TEN AMENDMENTS, "PERSONS" ARE EVERYONE, EVEN SLAVES.



"PEOPLE" ARE THOSE WHO QUALIFY FOR POLITICAL RIGHTS: TO VOTE, HOLD PUBLIC OFFICE, SERVE ON JURIES AND IN THE MILITIA.



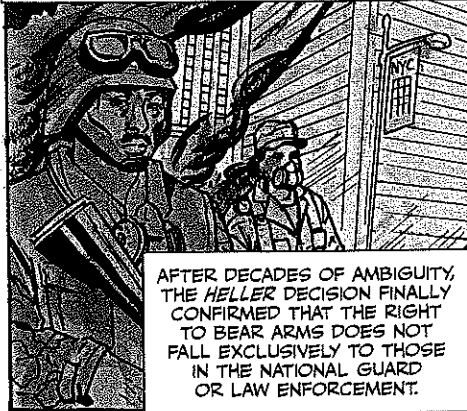
NO LEGAL RACE- OR GENDER-BASED SECOND CLASS EXISTS TODAY. STILL, SOME "PERSONS" CANNOT VOTE OR SERVE ON JURIES: CHILDREN, THE MENTALLY ILL, AND, IN MOST STATES, FELONS IN PRISON, ON PROBATION, OR ON PAROLE.

SO, IF "PEOPLE" HAVE THE RIGHT TO BEAR ARMS, GOVERNMENT HAS THE POWER TO IMPOSE FAIR QUALIFICATIONS ON THAT RIGHT.



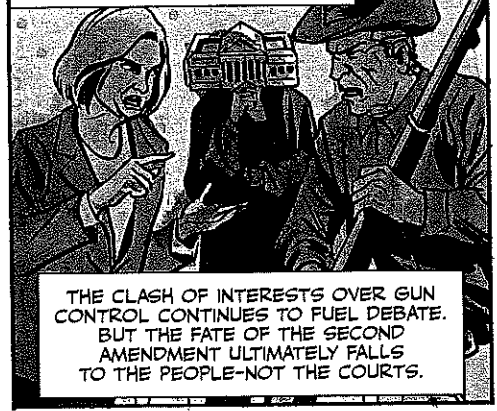
AMONG THESE QUALIFICATIONS, *DISTRICT OF COLUMBIA V. HELLER* (2008) SPECIFIED THAT THE TYPES OF ARMS THE SECOND AMENDMENT PROTECTS ARE THOSE "TYPICALLY POSSESSED BY LAW-ABIDING CITIZENS FOR LAWFUL PURPOSES."

IT ALSO LET STAND THE PRACTICE OF KEEPING GUNS OUT OF THE HANDS OF FELONS AND THE MENTALLY ILL, AND REQUIRING FIREARMS TO BE REGISTERED AND LICENSED.



AFTER DECADES OF AMBIGUITY, THE *HELLER* DECISION FINALLY CONFIRMED THAT THE RIGHT TO BEAR ARMS DOES NOT FALL EXCLUSIVELY TO THOSE IN THE NATIONAL GUARD OR LAW ENFORCEMENT.

YET FEW AMERICANS WOULD DISAVOW THE PROBLEMS OF VIOLENT CRIMES AND HARMFUL ACCIDENTS INVOLVING GUNS.



THE CLASH OF INTERESTS OVER GUN CONTROL CONTINUES TO FUEL DEBATE. BUT THE FATE OF THE SECOND AMENDMENT ULTIMATELY FALLS TO THE PEOPLE-NOT THE COURTS.