How 2nd Amendment Distortions Kill

Exclusive: The Las Vegas massacre underscores the intellectual dishonesty of the “gun rights” lobby, which falsifies Second Amendment history and pretends armed citizens could shoot back to stop slaughters, writes Robert Parry.

By Robert Parry

Many politicians, especially those on the Right, pretend they are strictly adhering to the U.S. Constitution when they often are just making the founding document mean whatever they want — but perhaps nowhere is that as dangerous as with their make-believe Second Amendment.

In the wake of Sunday’s mass shooting in Las Vegas — where one individual firing from a high-rise hotel murdered 58 people and wounded more than 500 at a country music festival — we are told that the reason the United States can’t do anything to stop this sort of carnage is the Second Amendment’s “right to bear arms.”

“Gun rights” advocates insist that pretty much any gun control violates the design of the Constitution’s Framers and thus can’t be enacted no matter how many innocent people die.

Some on the Right, as well as some on the Left, even claim that the Founders, as revolutionaries themselves, wanted an armed population so the people could rebel against the Republic, which the U.S. Constitution created. But the Constitution’s Framers in 1787 and the authors of the Bill of Rights in the First Congress in 1789 had no such intent.

Arguably other individuals disconnected from the drafting of those documents may have harbored such radical attitudes (at least rhetorically), but the authors didn’t. In fact, their intent was the opposite.

The goal of the Second Amendment was to promote state militias for the maintenance of order at a time of political unrest, potential slave revolts and simmering hostilities with both European powers and Native Americans on the frontiers. Indeed, the amendment’s defined purpose was to achieve state “security” against disruptions to the country’s new republican form of government.

The Second Amendment reads: “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.”

In other words, if read in context, it’s clear that the Second Amendment was
enacted so each state would have the specific right to form “a well-regulated militia” to maintain “security,” i.e., to put down armed disorder and protect its citizens.

In the late Eighteenth Century, the meaning of “bearing” arms also referred to a citizen being part of a militia or army. It didn’t mean that an individual had the right to possess whatever number of high-capacity killing machines that he or she might want. Indeed, the most lethal weapon that early Americans owned was a slow-loading, single-fired musket or rifle.

No Anarchists

Further to the point, both the Constitution and the Bill of Rights were the work of the Federalists, who – at the time – counted James Madison among their ranks.

And whatever one thinks about the Federalists, who often are criticized as elitists, they were the principal constitutional Framers and the leaders of the First Congress. They constituted the early national establishment, people such as George Washington, Alexander Hamilton, Gouverneur Morris and Madison.

The Federalists feared that their new creation, a constitutional republic in an age of monarchies, was threatened by the potential for violent chaos, which is what European aristocrats predicted for the new United States. Democracy was a largely untested concept that was believed likely to fall victim to demagoguery and factionalism.

So, the Framers sought a political system that reflected the will of the citizens (the House of Representatives) but within a framework that constrained public passions (the Senate and other checks and balances). In other words, the Constitution sought to channel political disputes into non-violent competition among various interests, not into armed rebellions against the government.

The Framers also recognized how fragile the nation’s independence was and how domestic rebellions could be exploited by European powers. Indeed, one of the crises that led to the Constitutional Convention in the summer of 1787 was the inability of the old system under the Articles of Confederation to put down Shays’s Rebellion in western Massachusetts in 1786-87. Washington saw the possible hand of British agents.

So, the Federalists were seeking a structure that would ensure “domestic Tranquility,” as they explained in the Constitution’s Preamble. They did not want endless civil strife.

The whole idea of the Constitution – with its mix of voting (at least by some white male citizens), elected and appointed representatives, and checks and
balances—was to create a political structure that made violence unnecessary.

So, it should be obvious even without knowing all the history that the Framers weren’t encouraging violent uprisings against the Republic that they were founding. To the contrary, they characterized violence against the constitutional system as “treason” in Article III, Section 3. They also committed the federal government to protect each state from “domestic Violence,” in Article IV, Section 4.

Putting Down Rebellion

One of the first uses of the new state militias formed under the Second Amendment and the Militia Acts, which required able-bodied men to report for duty with their own muskets, was for President Washington to lead a federalized force of militiamen against the Whiskey Rebellion, a tax revolt in western Pennsylvania in 1794.

In the South, one of the principal reasons for a militia was to rally armed whites to put down slave uprisings. On the frontier, militias fought against Native Americans over land. Militias also were called up to fight the British in the War of 1812.

But you don’t have to like or dislike how the Second Amendment and the Militia Acts were used to recognize how the Framers intended these legislative provisions to be used.

The Second Amendment was meant to maintain public order, even an unjust order, rather than to empower the oppressed to take up arms against the government. That latter idea was a modern reinterpretation, a distortion of the history.

The revisionists who have transformed the meaning of the Second Amendment love to cite provocative comments by Thomas Jefferson, such as a quote from a 1787 letter criticizing the Constitution for its commander-in-chief provisions.

Jefferson argued that violence, like Shays’s Rebellion, should be welcomed. He wrote, “The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its [sic] natural manure.”

Jefferson, of course, was a world-class hypocrite who rarely believed what he was saying or writing. He crafted noble words, like “all men are created equal, ... endowed, by their Creator, with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness,” but he was a major slaveholder who raped at least one and likely more slave girls and had slave boys whipped.

He also was never willing to risk his own blood as that “natural manure” of
During the Revolutionary War when Benedict Arnold led a force of Loyalists against Richmond, Jefferson, who was then Virginia’s governor, fled the capital. Later, when British cavalry approached Charlottesville and his home of Monticello, Gov. Jefferson again took flight.

But more to the point, Jefferson was not a delegate to the Constitutional Convention, nor was he in the First Congress, which produced the Second Amendment. In other words, it’s a historical error to cite Jefferson in any way as speaking authoritatively about what the Framers intended with the Constitution and the Bill of Rights. He was not directly involved in either.

A Collective Right

The real history of the Second Amendment was well understood both by citizens and courts in the generations after the Constitution and Bill of Rights were enacted. For most of the years of the Republic, the U.S. Supreme Court interpreted the Second Amendment as a collective right, allowing Americans to participate in a “well-regulated Militia,” not an individual right to buy the latest weaponry at a gun show or stockpile a military-style arsenal in the basement.

It’s true that many Americans owned a musket or rifle in those early years especially on the frontier, but regulations on munitions were still common in cities where storing of gunpowder, for instance, represented a threat to the public safety.

As the nation spread westward, so did common-sense restrictions on gun violence. Sheriffs in some of the wildest of Wild West towns enforced gun bans that today would prompt a recall election financed by the National Rifle Association.

However, in recent decades – understanding the power of narrative on the human imagination – a resurgent American Right (and some on the Left) rewrote the history of the Founding era, dispatching “researchers” to cherry-pick or fabricate quotes from Revolutionary War leaders to create politically convenient illusions. [See, for instance, Steven Krulik’s compilation of apocryphal or out-of-context gun quotes.]

That bogus history gave rise to the image of the Framers as wild-eyed radicals – Leon Trotskys of the Eighteenth Century – encouraging armed rebellion against their own Republic. Rather than people who believed in the rule of law and social order, the Framers were contorted into crazies who wanted citizens to be empowered to shoot American police, soldiers, elected representatives and government officials as agents of “tyranny.”

This false history was advanced particularly by the American Right in the last
half of the Twentieth Century as a kind of neo-Confederate call to arms, with the goal of rallying whites into a near-insurrectionary fury particularly in the South but also in rural areas of the North and West.

In the 1950s and 1960s, some white Southerners fancied themselves an armed resistance against the tyrannical federal government as it enforced laws on racial integration and other supposed infringements on “states’ rights.” In the 1990s, armed “citizens militias” began to pop up in reaction to the election of Democrat Bill Clinton, culminating in the Oklahoma City bombing of 1994.

While designed primarily for the weak-minded, the Right’s faux Founding history also had an impact on right-wing “intellectuals” including Republican lawyers who worked their way up through the federal judiciary under Ronald Reagan, George H.W. Bush, George W. Bush, and now Donald Trump.

By 2008, these right-wing jurists held a majority on the U.S. Supreme Court and could thus overturn generations of legal precedents and declare that the Second Amendment established an individual right for Americans to own guns. Though even these five right-wing justices accepted society’s right to protect the general welfare of the population through some gun control, the Supreme Court’s ruling effectively “validated” the Right’s made-up history.

The ruling created a political dynamic to which even liberals in national politics — the likes of Barack Obama and Joe Biden — had to genuflect, the supposed Second Amendment right of Americans to parade around in public with guns on their hips and high-powered semi-automatic rifles slung over their shoulders.

**What the Framers Wanted?**

As guns-right activists struck down gun regulations in Congress and in statehouses across the nation, their dominant argument was that the Second Amendment offered no leeway for restrictions on gun ownership; it’s what the Framers wanted.

So, pretty much any unstable person could load up with a vast killing capacity and slouch off to a bar, to a work place, to a church, to a school or to a high-rise Las Vegas hotel and treat fellow Americans as targets in a real-life violent video game. Somehow, the right to life, liberty and the pursuit of happiness was overtaken by the “right” to own an AR-15 with a 30-or-100-bullet magazine.

When right-wing politicians talk about the Second Amendment now, they don’t even bother to include the preamble that explains the point of the amendment. The entire amendment is only 26 words. But the likes of Sen. Ted Cruz, R-Texas, find...
the preamble inconvenient because it would undercut their false storyline. So they just lop off the first 12 words.

Nor do they explain what the Framers meant by “bear arms.” The phrase reflected the reasoning in the Second Amendment’s preamble that the whole point was to create “well-regulated” state militias to maintain “security,” not to free up anybody with a beef to kill government officials or citizens of a disapproved race or creed or just random folks.

So, even after the massacre of 20 first-graders and six educators in Newtown, Connecticut, in December 2012, Fox News personality Andrew Napolitano declared: “The historical reality of the Second Amendment’s protection of the right to keep and bear arms is not that it protects the right to shoot deer. It protects the right to shoot tyrants, and it protects the right to shoot at them effectively, with the same instruments they would use upon us.”

At the time, the clear message from the Right was that armed Americans must confront the “tyrannical” Barack Obama, the twice-elected President of the United States (and the first African-American to hold that office) especially if he pressed ahead seeking common-sense gun restrictions. But Napolitano was simply wrong on the history.

Another dubious argument from the gun-rights lobby was that armed citizens could take down a gunman and thus stop a mass shooting before it became a full-fledged massacre.

But a gunfight among largely untrained civilians would likely add to the slaughter, not stop it. For instance, a 2012 mass shooting occurred in a darkened theater in Aurora, Colorado. Does anyone logically think that a bunch of terrified gun carriers exchanging fire in such a situation – not knowing who the original shooter was – would solve the problem?

And how about Sunday’s massacre in Las Vegas where the shooter positioned himself on the 32nd floor of the Mandalay Bay Hotel and fired down on a packed concert venue, a substantial distance away?

Assuming that the concertgoers were armed and tried to defend themselves, they would likely have ended up shooting other innocent concertgoers because of the initial confusion as to where the shooter was positioned. That would have further complicated the challenge to police who could have mistakenly opened fire on armed people in the crowd rather than locate and stop the original killer as he kept firing from his sniper’s perch. In other words, the horrific death toll could have been even higher.

To pretend that such carnage was the intent of the Constitution’s Framers, who
wrote about achieving “domestic Tranquility,” or the goal of the First Congress, which drafted the Second Amendment to promote “the security of a free State,” is intellectually dishonest and a true threat to the lives of American citizens.

Investigative reporter Robert Parry broke many of the Iran-Contra stories for The Associated Press and Newsweek in the 1980s. You can buy his latest book, America’s Stolen Narrative, either in print here or as an e-book (from Amazon and barnesandnoble.com).