ENQUIRY

free thought and discourse



In This Issue . . .

1. *Stand for Fulbright*

2. *Response to "An American Amendment"*

VOL. V .... No. 17
CLINTON, N.Y.
4/4/2018

A publication of the AHI Undergraduate Fellows

Stand for Fulbright

By **ALLISON ZUCKERMAN**
STAFF WRITER

For many, spring is the season of emerging flowers and pastel colors. For some Hamilton College seniors, it means anticipating decisions from the Fulbright Commission on their applications for one of the approximately 1,900 research, study, and teaching grants for recent American college graduates and graduate students. Receiving a grant is an incredible accomplishment, and Hamilton boasts numerous Fulbright scholars among its alumni.

The Fulbright Program is the largest U.S. international exchange program and awards about 8,000 grants annually to people in more than 160 countries. It is a key institution in the creation of a global community because it sends so many people across the world to learn different languages, experience new cultures, and develop ties with unfamiliar communities. Fulbright alumni become heads of state, leading government officials, recipients of the Nobel Prize, and accomplished professionals in a wide range of disciplines including STEM fields, the arts, athletics, and education.

Yet despite these credentials and bipartisan congressional support for the Fulbright Program, the Trump administration is proposing to cut 71 percent of its bureau's funding in the 2019 budget. The program's primary source of funding is the U.S. State Department's Bureau of Educational and Cultural Affairs. A 71 percent cut to its budget would destroy the program, causing a devastating loss to globalization and diplomacy.

In the wake of World War II, Congress created the Fulbright Program after Senator J. William Fulbright introduced a bill that would use leftover war property to fund "the promotion of international good will through the exchange of students in the fields of education, culture, and science." It was forged in the spirit of internationalism and was intended to develop bilateral relationships between citizens and governments across different cultures.

Gutting the program financially would signal the end of much of America's commitment to cooperate and interact with an increasingly interconnected global culture. It would create a vacuum in the U.S. international exchange program and eliminate invaluable opportunities for American citizens to engage with the world.

. . . despite these credentials and bipartisan congressional support for the Fulbright Program, the Trump administration is proposing to cut 71 percent of its bureau's funding in the 2019 budget.

Obliterating the Fulbright Program has nothing to do with the administration's "America First" policy goals. President Trump complains of unfair trade deals and the demise of American hegemony, but isolating America from intercultural exchange does nothing to help his goals in these areas. As U.S. allies threaten to economically abandon the United States over such decisions as provoking an impending trade war with China, destroying an international exchange program that encourages global cooperation would be foolish and irresponsible.

The current administration should not rob the world of the ample opportunities the Fulbright Program provides to engage with, and learn from, citizens of other nations. In response to the threatened cuts, organizations like the Fulbright Association (alumni of the program) are urging the restoration of funding. They encourage anyone who believes it should survive to contact their congressional representative, and to support the social media campaign using the hashtag #Standforfulbright.

Response to "An American Amendment"

By **LANDRY FREI**
GUEST CONTRIBUTOR

In her recent article, Ms. Zuckerman contends that "the Second Amendment and the right of an individual to own guns are two distinct ideas" and thus that the Constitution does not guarantee an individual right to firearm ownership. This, however, simply is not borne out by the weight of contemporaneous statements, assumptions, and acts at the time it was adopted.

Proponents of the "collective right" theory of the Second Amendment usually begin their attacks on the "individual right" theory by noting the seemingly clunky and confusing wording of the amendment itself. The fact that its prefatory clause ("A well regulated militia …") mentions the necessity of a well-regulated militia is proof, to some, that the amendment's operative clause ("the right of the people to keep and bear arms …") is uniquely connected to the execution of the prefatory clause—to the existence of a militia. That the right to bear arms extends no further than the right to do so while participating in a militia.

The Second Amendment, though perhaps not as clearly written as our modern ears would prefer, clearly guarantees an individual right to bear arms.

Justice Scalia, however, quickly and correctly refuted this interpretation in his opinion in *D.C. v. Heller* (2008). As Scalia notes, the text clearly states that it is the right of "*the people*" to keep and bear arms, not the right of the militia. The identical phrase, "the right of the people," appears twice more in the Bill of Rights, in the First and Third Amendments: "*the right of the people* peaceably to assemble ..." and

continued on back

"*the right of the people* to be secure in their persons ..." Certainly the authors intended for the rights inscribed in the First and Third Amendments to apply to individual citizens, not to any sort of collective body. Why then should we believe that the very same phrase, when used in the Second Amendment, means something entirely different? The Second Amendment, though perhaps not as clearly written as our modern ears would prefer, clearly guarantees an individual right to bear arms.

Other texts from the time further bolster the view that the framers considered the right to bear arms an individual right. When ratifying the Constitution, several states included with their ratification proclamations lists of rights they wanted added to it. The proclamations of New York, North Carolina, Virginia, and Rhode Island all contain provisions with identical wording: "That the people have a right to keep and bear arms; that a well regulated militia composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state." Here, what would later be the Second Amendment's language is reversed: the right of the people to keep and bear arms is stated before the necessity of maintaining a well-regulated militia, and a semi-colon serves to separate the two ideas. New Hampshire's proclamation included even more forceful language: "Congress shall never disarm any Citizen unless such as are or have been in Actual Rebellion." The disarming of *citizens* can only occur if the right to be armed is guaranteed to individual citizens in the first place. Even Hamilton, who opposed the addition of the Bill of Rights, spoke positively of an armed *citizenry* in Federalist Paper No. 29:

> " … if circumstances should at any time oblige the government to form an army of any magnitude that army can never be formidable to the liberties of the people while there is a large body of citizens, little, if at all, inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow-citizens."

Certainly Hamilton expected that this "large body of citizens" would be well-armed and well- practiced in the use of arms if they should act as a bulwark against a rogue army. This cannot refer exclusively to the militia, since in the federal constitution it is Congress that is empowered to call forth the militia and the President who is to command it. The militia cannot act as a check upon despotic government power if it is controlled by that same power. The right to keep and bear arms, therefore, must exist independently of service in organized militias.

The militia cannot act as a check upon despotic government power if it is controlled by that same power. The right to keep and bear arms, therefore, must exist independently of service in organized militias.

Finally, let's examine several state constitutions that were drafted and ratified after the separation of the colonies from Britain. These constitutions specifically include the right to bear arms, and do so in a manner that dispels any suggestion that this is anything but an individual right. The constitutions of Pennsylvania (1776) and Vermont (1777) both contain provisions saying: "That the people have a right to bear arms for the defence of themselves and the State." If free men are expected to have a right to be armed for their own personal defense, then certainly this cannot be achieved by a collective right, limited to the militia.

. . . we can continue to debate the role of firearms in modern America . . .

We also find ample commentary on the Second Amendment and the right to bear arms in the legal profession going back to the early republic. When updating Blackstone's *Commentaries* in 1803, St. George Tucker, a law professor and federal judge, wrote that "the right of the people to keep and bear arms shall not be infringed . . . and this without any qualification as to their condition or degree, as is the case in the British government," and that the United States "may reasonably hope that the people will never cease to regard the right of keeping and bearing arms as the surest pledge of their liberty."

In his work *Commentaries on the Constitution* (1833), Supreme Court Justice Story said: "the right of the citizens to keep and bear arms has justly been considered, as the palladium of the liberties of a republic; since it offers a strong moral check against the usurpations and arbitrary power of rulers; and it will generally, even if these are successful in the first instance, enable the people to resist and triumph over them." The ability of "the people" to "resist and triumph" over despotic rule through use of arms would be greatly diminished, if not nullified, if they did not actually possess this right as individuals.

Jeffrey Toobin may claim that the Second Amendment understood as an individual right was only recently discovered by the likes of the NRA, but a thorough reading of American legal history demonstrates that it has always been viewed as an individual right.

The nature of colonial-era militias also deserves a brief look. Militias were made up of private citizens who, unlike army regulars, were not paid for their service and had no formal contracts of service. Also in contrast to the army, militiamen were expected to provide their own basic supplies and their own firearms. When the militias dispersed, their members did not leave their private firearms in the care of the militia or state authorities, as a collective right to arms would suggest, but rather returned to their homes with them.

While we can continue to debate the role of firearms in modern America, the idea that the Second Amendment does not actually guarantee an individual right to keep and bear arms is patently false. Claims to the contrary do not stand up to careful scrutiny and wither away when met with historical facts.

ENQUIRY *vol. V*

Sam Benevelli
Editor-in-Chief

Claire Anastasia Kitz
Andrew Juchno
Associate Editors

Helen Sternberg
Layout Editor

STAFF WRITERS

Julia Dupuis
Eric Fischer
Elza Harb
Grant Kiefaber
Michael LaPorte
Fred Pollevick
Montana Sprague
Allison Zuckerman

The opinions expressed in these articles are the views of their authors and do not represent the views of Enquiry or the Alexander Hamilton Institute.

Enquiry accepts articles of 500 to 800 words at sbenevel@hamilton.edu. Please be aware that we do not accept anonymous submissions.

CONTINUE THE CONVERSATION

1. *Stand for Fulbright*
#StandForFulbright

2. *Response to "An American Amendment"*
#AmericanAmendment Response