

Gun grabbers finally admit it

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By Terry A. Hurlbut

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An astonishing development happened yesterday morning, from the office of Gov. Gavin Newsom (D-Calif.). Gov. Newsom, one of America's most notorious gun grabbers, finally admitted what every freedom-loving American knows about the Constitution. Simply put, the Constitution does indeed support the right of any person to own any sort of gun he can carry, subject only to forfeiture of that right upon conviction of a violent crime, through due process of law. For that reason, he is not even bothering with the silly proposal to enlarge the United States Supreme Court. Instead he has proposed a Constitutional amendment to weaken the Second and set limits on it. To make matters more interesting, he is presumably asking the California legislature to *apply to Congress for an Article V Convention* to submit his amendment to the States.

Current state of gun control

The Second Amendment to the Constitution of the United States reads in relevant part:

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.

Current Supreme Court case law, and Federal and State statutes, are a mixed bag in this regard. We have the National Firearms Act of 1934, passed no doubt in the wake of the Saint Valentine's Day Massacre. We also have United States v. Miller, the Supreme Court case Constitutionalizing federal gun control. Then in 1968, a Jordanian militant, seeking to avenge the victory of Israel in the Six-day War, assassinated Sen. Robert F. Kennedy (D-N.Y.) in a California hotel. Seizing upon this tragedy, his brother Ted (D-Mass.) introduced the Gun Control Act of 1968.

At State level we have, in some States, severe restrictions on who many even own a firearm. Two different kinds of State exist today. *Shall-issue* States direct their sheriffs to issue firearms permits to anyone who asks, subject to judicial injunction. *May-issue* States vest absolute discretion in the sheriff to issue a permit – or not – in any given case.

But in 2008 the United States Supreme Court decided the case of *District of Columbia v. Heller*. In that case, the Supreme Court held that the Second Amendment covers, *not* a general body called “the people,” but *every member of it*. Two years later (*McDonald v. City of Chicago*) the Court made that good at State and local level as well as federal. Years later, an angry Justice John Paul Stevens called for a Constitutional amendment to invalidate these decisions.

The Bruen case

Last year, Justice Clarence Thomas made abundantly plain what too many States sought to ignore – or just plain flout. In *New York State Rifle and Pistol Association v. Bruen*, Thomas, writing for the Court, held that a State may impose *only* the sort of restrictions on firearm possession that governments might have imposed immediately after ratification of the Second Amendment. (And all the rest of the Bill of Rights.) In so ruling, Thomas invalidated a New York may-issue law that had stood since 1909. New York State *still* defies the Supreme Court in this matter. No doubt the New York State Rifle and Pistol Association, or another plaintiff, will have to sue their State again.

In the meantime, the loose “court packing” talk began. Scarcely a week passes without someone lamenting the current distribution of voting opinion on the present Court. Their solution is to add six members – and to hurry up and create those vacancies so that Biden can appoint more Justices Jackson, Kagan, and Sotomayor.

The last President to ask Congress to do any such thing was Franklin D. Roosevelt. The National Labor Relations or Wagner Act was at issue then. Roosevelt at first argued that nine Justices couldn’t handle its caseload and supervise the Circuit Courts of Appeals. When that argument failed, Roosevelt argued directly on the real issue.

Then Justice Owen J. Roberts abruptly started voting with his liberal colleagues to, among other things, sustain the Wagner Act. All talk of enlarging the Court then ceased.

The Newsom Amendment

Yesterday Gov. Newsom seemed to take up Justice Stevens’ challenge, and tweeted out his bare-bones proposal for a Constitutional amendment.

NEW: I'm proposing the 28th Amendment to the United States Constitution to help end our nation's gun violence crisis.

The American people are sick of Congress' inaction.

The 28th will enshrine 4 widely supported gun safety freedoms — while leaving the 2nd Amendment intact:

1)... pic.twitter.com/ZJ7fyfH0Cf

— Gavin Newsom (@GavinNewsom) June 8, 2023

Notice that he *did not* propose a section to repeal the Second Amendment. In fact his amendment does not even have a finished text. So, except for raising the minimum age to purchase any firearm to 21, we have no definitions for any terms. How would “universal background checks” work – and how “universal” is “universal?” How long must one wait to buy a gun to satisfy Newsom's idea of “the reasonable”? And *what is an assault weapon?* Never once has anyone defined such a weapon, other than by arbitrarily listing specific models. Nor does any modern case appear to have arisen involving either:

1. A civilian trying to buy a military-grade semiautomatic or fully automatic rifle or pistol, or
2. An honorably discharged armed services veteran trying to retain his military government-issue rifle.

The debate has centered on weapons, that gun makers make for civilians, that are one step below their infantry models. Case in point: the Armalite AR-15, one step below the Armalite AR-18 that they make for the infantry.

Of course, no one has yet argued in court that a civilian has the right to arm himself at least as well as, if not better than, an infantry soldier. That's probably because no one has ever found himself in either of the two situations listed above.

Article V Convention?

Fox News specifically reported that Newsom wants an Article V Convention of States to write and submit his amendment. Chris Pandolfo, writing for Fox, suggests Newsom will soon ask his legislature to apply to Congress for such a convention. Newsom is already promising to lobby other State legislatures to make similar application.

According to Article V, Congress “shall” call such a convention when two-thirds of the States apply to it. Any amendments such a convention proposes, go to the States for ratification. Three-fourths of the States must ratify any amendment to make it valid.

But Article V gives no guideline as to how such a convention will run, or who shall choose its delegates. The John Birch Society, and lay scholars like “The Publius Huldah,” have warned that such a convention could “run away.” In fact, “Publius Huldah” told your editor in 2016 that such a convention would be *plenipotentiary*. The Constitutional Convention of 1787 was also plenipotentiary – and systematically violated its original limiting instructions. That is how we got the Constitution we have today. Furthermore, the Convention ordered that the Constitution, after receiving nine ratifications, would take force and effect among those nine. A modern Article V Convention could do likewise, and at minimum, divide the country between *two* Constitutions.

For that reason, CNAV has always opposed an Article V Convention for any purpose. Simply put, no institution can survive a second exposure to the process that created it.

He admits gun control is unconstitutional

Proposal methods aside, Gavin Newsom, by making *any* such proposal, admits that the Constitution forbids these kinds of gun control. That means, of course, that he admits that none of the gun control statutes now in force are Constitutional. Of course he does *not* admit that gun control can never be workable. “If guns are outlawed,” the proverb says, “only outlaws will have guns.” That is an undeniable fact. All the schools where the mass shootings he so decries have occurred, have been gun-free zones. If he really wanted to stop people from invading schools and shooting people, he could take a cue from Utah. In that State, anyone in good-enough standing to own a gun, even a handgun, can take it anywhere. That includes taking it into school. As CNAV has said before, some accidents have happened. But a mass shooting has *not* happened.

(In fact, only *five* mass shootings of any kind have happened in Utah. One of these happened toward the end of the Second World War. A prisoner-of-war camp guard evidently decided that his duties included summary execution of the inmates on his own authority. As distasteful as that episode is, it illustrates the value of a well-armed populace against all kinds of bad actors.)

So why did he do it?

Why did Gavin Newsom do it? Steve Crowder’s Web administrator thinks he knows. Gavin Newsom, he says, wants to run for President in the Democratic primaries. Maybe he doesn’t expect Joe Biden even to *survive* to seek a second term. He also might suppose that Gov. Ron DeSantis (R-Fla.) will take the Republican nomination. Pollsters that consistently show Donald Trump the runaway majority favorite in a crowded field would beg to differ. But a Gavin Newsom would not pay them a bit of attention.

So he holds forth with an outlandish proposal to amend the Constitution – and an *equally* outlandish proposal to call an Article V Convention to get it in front of the States – perhaps knowing that it can never succeed. (Though someone might argue that all applications for an Article V Convention, with whatever instruction, can “add up” to two-thirds and force a convention having *no* clear instructions. That this would not be a winning argument, is far from clear.)

And he does it for his fifteen minutes – with apologies to Andy Warhol. He won't get his “commonsense gun regulation amendment” through, but he *will* get the Democrats thinking. Then, as he might be calculating, Biden dies, and the Democrats cry out, “Who shall carry our banner?” he will pop up like a Jack-in-the-box and shout, “Here I am!”

Reaction and analysis

Reaction is predictable, though so far strictly on Party lines. Both the National Rifle Association and Gun Owners of America condemn the proposal, according to Fox. The NRA reminds everyone that Newsom's soft-on-crime policies are responsible for the violence in his State. (San Francisco is the saddest case in point, but not the only one.) GOA's senior vice-president says the ultimate goal of all who oppose gun rights is to abolish the Second Amendment completely.

And on Twitter itself, several gun-rights organizations and other commenters quickly condemned the proposal. The back-and-forth arguments, however, were much the same as any *CNAV* has seen.

GOA is likely correct. Compared to what the political left must *really* want, Newsom's proposed amendment looks weak. Even that would never pass through the conventional route – a Congressional Joint Resolution needing two-thirds of both chambers.

But an Article V Convention is a greater danger than the opponents of this measure realize. Over thirty States already have applications for an Article V convention pending. Those applications give different instructions, but no one has ever called such a convention before. So we cannot know whether Congress can call a convention when it receives thirty-four applications with *any* instructions. And when that convention meets, it can *set aside* all instructions and vote what Klaus Schwab and George Soros want. Which would be a “North American Charter” denying *all* the rights American citizens enjoy. And also mandating allowances for which some, but not others, would have to pay.

From gun control to people control

In fact, gun control always assumes that the people must necessarily divide into the trustworthy and the untrustworthy. That is how oligarchs think. (It is also how monarchs and dictators think, but even they can never govern effectively alone. They lead at the pleasure of

de jure or *de facto* governing councils.) The Democratic Party today is a party that pretends to stand for the great mass of people, but is actually an oligarchy. And as such it has its own notions of whom they will trust, and whom they will not trust. Only the trustworthy, in their vision, will have guns.

The result will be what we now see in microcosm, or perhaps meso-cosm, in too many American cities. In those cities, the oligarchs on the one hand, and the criminal element on the other, have all the guns. Life in those cities is an open war, with mild-mannered city residents caught in the middle.

On the other hand, the *republic* – which says, after Thomas Paine, that “the law is king” – makes no such distinctions. The republic is *multi-level government*, with heads of households at the lowest level. In that system, *everyone* should be armed. The result would be the near cessation of crime, for the law-abiding would vastly outnumber the criminals.

For those reasons, proposals like Newsoms will never be appropriate. And Article V Convention applications are best withdrawn, or never made.

| A republic, if you can keep it.

| *Benjamin Franklin*