

*GUN FIGHT – The Battle Over The Right To Bear Arms In America*

Written by Adam Winkler & originally published in 2011 (revised in 2013)

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*Review by Margaret Campbell*

When people on opposite sides of a contentious issue—gun violence, for example—begin a discourse aimed toward finding common ground, and ultimately resolution, the one item most needed by both parties is enough good will to have a civil discourse.

That such a discussion requires much more than sound bites, tweets, slogans and acerbic comments is a given. Further, a discussion cannot be predicated on an either-or, for-or-against foundation. Public opinion polling aside, this topic—gun violence—like so many topics which today perplex us, has many nuanced facets which require that those who seek to discuss it possess not only good will but information and knowledge as well.

Nothing makes the complexity of dealing with gun violence more obvious than reading Mr. Winkler's extensive work: *GUN FIGHT*. The book begins and ends in 2008 with the Supreme Court decision: *District of Columbia v. Heller*. In between these scenes at the Supreme Court, the author takes the reader all the way back to the invention of guns themselves around 1200. The history which impacts our current thinking and feeling about guns includes the English Bill of Rights, the American Revolution, the writing of the United States Constitution, the Bill of Rights, the crime sprees of the "roaring twenties", the "wild west" and the influence of the frontier, the impact on individuals of America's participation in wars, particularly the American Civil War, WW II, and the Vietnam war, as well as the Civil Rights Movement and several presidential elections. To do Mr. Winkler's book justice one reader will need many days; a group studying the book will require several readers, each working on sections of the book and then reporting to the whole group.

The debate about guns in today's society is embedded in the larger milieu known as American Culture. Attempting to have a civil discussion on this topic is a tall order because, as Winkler says, "Guns are lightning rods of American culture...common ground is hard to find." He goes on to say that "The extremism that marks America's current gun debate reflects a larger polarization of American politics."

A place to begin a discussion may be to seriously consider three comments that Winkler makes early in his book. First, history in America shows that we can take a middle course on the topic of firearms. Second, both gun rights and gun control advocates can be unreasonable. Third, there are too many guns and too many gun owners in the United States for strict gun limits, such as are present in the UK, to be possible.

In addition, it's important for those who engage in a serious discussion of this topic to realize how ideas and policy positions have changed in the United States over the years. For example in the latter part of the 19th century, the NRA was founded to promote marksmanship training and shooting for recreation (target shooting). At the beginning the NRA supported some types of gun control legislation and had little focus on the lobbying activities we see today.

The country's founders seemed perfectly comfortable with balancing the need for guns to be used in militias and for personal self-defense, while at the same time recognizing public safety needs. The reality of life in the "wild west" during frontier days seems to be different from what has been portrayed in many movies. The need for guns for self-defense and hunting for those who lived in remote areas was clearly recognized but so was the need for some type of gun control. In the old west a ban on carrying a concealed weapon was very common. Contrast that segment of history with the January 2015 passage of a bill which allowed members of the New Hampshire House of Representatives to carry a concealed weapon onto the House floor.

The major thrust of Winkler's book is to review and explain the Court's decision in *District of Columbia v. Heller*. Prior to this decision, other court decisions as well as individual beliefs about the meaning of the Second Amendment had tended to one side or the other of a dichotomous split—either the Second Amendment spoke to the right of states to have armed militias or it spoke to the right of private individuals to own guns. Prior to the decision in 2008, the Supreme Court had not ruled on cases involving the 2nd Amendment for almost seventy years. In 1939 the Court had handed down a decision in *United States v. Miller* that said Congress could ban sawed off shotguns because these weapons had no role in state militias. This decision appeared to favor the viewpoint that the 2nd Amendment protected the right of gun ownership for use in state militias, not for personal use even though this position was not stated directly.

The *Heller* case grew out of the 1976 District of Columbia ban on private ownership of hand guns enacted in an attempt to deal with a serious crime problem in the district. The idea for the challenge to the District's gun law began around 2002, supported by many whose libertarian philosophy led them to the belief that the government should not have a monopoly on force but that a private citizen also had the right to bear arms for the defense of home and family.

The Supreme Court decision in *District of Columbia v. Heller*, handed down on June 26, 2008, contained a majority opinion written by Justice Antonin Scalia and a dissenting opinion written by Justice Stephen Breyer. The vote in this case was 5-4. The decision, in essence, held that the 2nd Amendment protects the right of an individual to own a firearm unconnected with service in a state militia. That firearm may be used for lawful purposes such as self-defense. Scalia's opinion also includes a statement, overlooked by some readers, which says, "Like most rights, the right secured by the Second Amendment is not unlimited." In this decision the Court held that many forms of gun control are constitutional.

Winkler's book ends on an optimistic note that the *Heller* decision is a balanced finding that affirms the right of individuals to own guns as well as the right of the larger society to impose proper controls on guns for the purposes of public safety. Our challenge as citizens is to engage in discourse and decision making which strikes a similar balance.