

# MONTANA SECRETARY OF STATE

*Brad Johnson*



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February 15, 2008

Editor  
The Washington Times  
3600 New York Ave NE  
Washington, DC 20002-1947

Dear Sir;

Overturing *Heller* Could Breach Statehood Contracts.

The U.S. Supreme Court will soon decide *D.C. v. Heller*, the first case in over 60 years in which the Court will confront the meaning of the Second Amendment to the U.S. Constitution. Although *Heller* is about the constitutionality of the D.C. handgun ban, the Court's decision will have impact far beyond D.C.

The Court must decide in *Heller* whether the Second Amendment secures a right for individuals to keep and bear arms, or it merely grants states the power to arm their militias, the National Guard. This latter view is called the "collective rights" theory.

A collective rights decision by the Court would violate the contract by which Montana entered into statehood, called the Compact with the United States and archived at Article I of the Montana Constitution. When this bilateral contract was entered into by Montana and the U.S. in 1889, the U.S. approved the right to bear arms in the Montana Constitution, guaranteeing the right of "any person" to bear arms, clearly an individual right.

There was no assertion in 1889 that the Second Amendment was susceptible to a collective rights interpretation, and the parties to the contract understood the Second Amendment to be consistent with the declared Montana constitutional right of "any person" to bear arms.

As a bedrock principle of law, a contract must be honored so as to give effect to the intent of the contracting parties. A collective rights decision by the Court in *Heller* would invoke an era of unilaterally revisable contracts by violating the statehood contract between the U.S. and Montana, and many other states.

Numerous Montana lawmakers have concurred in a Resolution, posted at *progunleaders.org*, raising this contract violation issue. The U.S. would do well to keep its contractual promise to the states that the Second Amendment secures an individual right now as it did upon execution of the statehood contract.

Sincerely,

A handwritten signature in blue ink that reads "Brad Johnson". The signature is fluid and cursive, with a long horizontal stroke at the end.

BRAD JOHNSON,  
Montana Secretary of State