

It is a good day for Liberty.

President Trump has referred to members of the MS-13 gang as “animals.” I have read about MS-13 activities. Their catchphrase is “Kill, Rape, Control.” Animals don’t do those things. Some kill for food. Some fight for territory or position in the pack; these are rarely to the death. There is a debate in certain circles over whether chimpanzees have engaged in warfare. Some claim this is only due to loss of food resources but they do share 98% of human DNA. There are reports of wild dogs killing livestock seemingly for practice. Dogs have been around our campfires for a long time. We have been a bad influence.

I keep seeing T-shirts with a Second Amendment message over a skull. Please stop wearing these shirts. It links the Second Amendment with death. That is the message the opposition is trying to spread. Do not help the opposition. I know, the people wearing them think they are saying they will defend their rights to the death. That is not the message that is being received by the public.

Years ago I had a cartoon made which showed a lady knocked to the ground by a rapist. The lady is pointing a revolver and asking “How would you like a .38 vasectomy?” I thought it was a great message; but it was not popular.

A lawyer from Pennsylvania told me about a case he overheard. The defendant was charged after a search warrant was issued for his home. The basis for the search warrant was that he had seven (7) semi-automatic rifles. It was not illegal to have semi-automatic rifles in the jurisdiction but the police and prosecutor and judge believed that such a collection indicated some type of illegal activity. My informant buttonholed the defendant’s lawyer and advised him to get the warrant suppressed. The authorities were using legal activity as suspicion of criminal activity. The other lawyer refused. He thought it perfectly reasonable to search a home with such a collection of guns. The Fourth Amendment protects us from “unreasonable searches and seizures.” Some people have an odd idea of what is reasonable.

I’ve had another one of those upsetting cases. One I thought I could win, one that should never have been filed. But, my client has lost faith in the system of justice and instructed me to plead guilty. I’m told that I should not let these things upset me. On reflection, when these things no longer upset me, it is time to quit.

Two famous persons have committed suicide. Consequently the subject is in the papers. One correspondent wrote that two states enacted “red flag” laws allowing guns to be seized on minor evidence of danger to the person or others. The correspondent assures us that these states then enjoyed a reduction in “firearm” suicides. Notice the qualifier “firearm.” Suicides by any other means are not counted. I had a client who saw a car swerve out of its lane and speed head on into her pickup. This was clear suicide; which also severely injured the woman and her child. Dead is dead regardless of the weapon used. The usual suspects frequently lie with statistics by shifting definitions like this. If all they have done is move suicides to another weapon then all they have done is annoy a number of innocent persons. The usual suspects do not care and in fact annoying innocent parties may be their objective. Making guns inconvenient to own is their intermediate objective of making them rare and then illegal.

A lengthy article in the local tabloid presents Democratic candidates for governor as gun “moderates.” This means they only want to take away part of our rights; this time. The old story “I support the Second Amendment but . . .” They are a bunch of butts.

The usual suspects display an appalling ignorance of the area they intend to regulate. They say that normal-sized magazines turn guns into automatic weapons.

I did a legal seminar on firearms law. Some genius scheduled it to be in a hotel with prominent “No Guns” signs. The Holiday Hotel in Overland Park Kansas is willing to take money for an attorney seminar on our rights, but is not willing to respect those rights.

There is a movement to ban tobacco and another to legalize marijuana. This is America. Liberty does not have to make sense.

Reading through the Bill of Rights I notice that it seldom states absolutes. We are protected against “unreasonable” searches and seizure. Other amendments have exceptions. The Second Amendment states that it “shall not be infringed.” This is the most absolute of the rights. Even opponents of gun rights have admitted that this is the most absolute of the Bill of Rights. Yet, here we are protecting it from infringement and trying to recover it from many past infringements. The Supreme Court has not established a standard of review for Second Amendment cases. It has refused to take cases which government action clearly violates the Heller and McDonald decisions. Justice Thomas has complained in dissent that the Court treats the Second Amendment like a second-class right. The standard of review is critical. The two base standards are Strict Scrutiny, in which the government almost always loses, and Rational Basis, in which the government almost always wins. Appellate courts have been compromising our right with “Intermediate Scrutiny.” This is somewhere between the two. We have been losing these cases because this level of scrutiny can mean anything the judge wants. Some commentators say that we should wait for another originalist justice to be appointed before taking up a case. Right now there are four hard votes against us and four hard votes for us. Our right depends on what Justice Kennedy thinks it means. He has voted our way in the past but is considered a soft vote. It may be that Justice Scalia did not establish a standard of review is because he could not get five votes for the strict scrutiny standard he was clearly going for. To get another originalist justice we need a president who will appoint such a judge and a senate which will confirm him or her in the position. We need to work towards that end.

Attorney Andrew Branca has a weekly legal presentation every Wednesday at 3 PM (Central time) see www.lawofselfdefense.com. It covers a recent case illustrating a legal principle of self-defense. His moto is:

**YOU CARRY A GUN SO YOU’RE HARD TO KILL.
KNOW THE LAW SO YOU’RE HARD TO CONVICT.**

Well said.

We shall overcome.