



In their own words

"I can tell you anecdotally we're seeing a number of shootings involving concealed-carry permit holders – many of whom have extensive criminal records." Milwaukee Police Chief Edward Flynn in an interview in USA Today

"This anti-gun liberal is doing what liberals do best. Blame the law-abiding citizen for incidents of violent crime. He knows no shame as he manufacturers fake news about concealed-carry permit holders." Milwaukee County Sheriff David Clarke, responding to Chief Flynn's interview.

"If you ask me where has been the one area where I feel that I've been most frustrated and most stymied, it is the fact that the United States of America is the one advanced nation on earth in which we do not have sufficient common-sense gun safety laws." Former President Obama talking about his failure to pass new guns laws as the biggest failure of his presidency.

"If you start banning semi-automatic weapons you've really banned the essence of gun ownership today. ... I just don't see how you can constitutionally or rationally expect semi-automatic weapons to go away, and I'm not going to be supportive." Then Senator Jeff Sessions, (R) AL, in an interview in the Decatur Daily.

Another Court Attacks the Second Amendment

If you're a firm supporter of Second Amendment rights, then you may want to avoid living in Maryland. On 21 February, the Fourth Circuit Court of Appeals upheld a Maryland law banning so-called assault weapons and "high capacity" (read: standard capacity) magazines. The ruling reversed a lower court decision

maintaining that the law violates the Second Amendment. The lower court was right.

In its ruling, the Fourth Circuit Court referenced *District of Columbia v. Heller*, in which the Supreme Court declared weapons that could be classified as "dangerous and unusual" do not fall under the protections of the Second Amendment. In other words, the Supreme Court ruled that fully automatic weapons fall outside the purview of the Second Amendment — or at least these firearms and magazines can be heavily regulated without running afoul of the Constitution. Never mind that the Armed Forces have never issued AR-15s.

For SCOTUS, the concern was primarily the function, not the form. The justices weighed it based on the type of firing system — semi-auto vs. fully automatic. The Fourth Circuit Courts deliberately conflated this distinction. **If it looks like a military grade weapon, then it must be one** (my emphasis), seems to have been the "logic" employed by the erudite Fourth Circuit judges. The Maryland law also bans folding stocks, flash suppressors and grenade/flare launchers — items that may make a rifle look menacing but do not make it functionally any more dangerous or unusual. Besides, if semiautomatic rifles are "unusual," then we don't know what constitutes "usual." The AR-15 is the most popular rifle type in America.

Judge William Traxler wrote in his blistering dissent, "The majority has gone to greater lengths than any other court to eviscerate the constitutionally guaranteed right to keep and bear arms." They did this by inventing a new test: whether a weapon is "most useful in military service." We hope this case makes it to the Supreme Court so the justices can finish what they start-

(continued on page 5)

ed with Heller — that is, protect the Second Amendment. Until then, Maryland can trample constitutional freedom, and appellate courts will be left to defiantly dismantle Heller one ruling at a time. <https://patriotpost.us/posts/47611>

During a conversation with Mark Levin, Sen. Ted Cruz (R-Texas), pointed out the hypocrisy of the Fourth Circuit Court of Appeals decision on Maryland's "assault weapons" ban, which keeps a list of "assault weapons" out of the hands of the law-abiding gun owners.

"The Fourth Circuit Court of Appeals has invented this new test for the Second Amendment. Here's what their test said: the Second Amendment doesn't protect a weapon if it would be useful in a military context."

"This test isn't just sort of questionable. It isn't just a little bit out there. It is nuts!" Cruz exclaimed. **"The Second Amendment was designed explicitly to protect weapons used in a military context** (my emphasis in bold).

www.bearingarms.com/beth-b/2017/02/23/sen-ted-explains-flaw-in-circuit-court-ruling/

Knoxville News Sentinel running "Fake News" that Constitutional Carry Legislation is "dangerous" and "irresponsible."

The Tennessee Firearms Association is a strong supporter of the Constitution which means, obviously, TFA supports Constitutional Carry. TFA supports public officials who support our constitutional rights and TFA works to expose public officials who claim to do so but break their promises.

The Knoxville News Sentinel is running a column, written by Frank Cagle, which asserts without any data that constitutional carry legislation by Sen. Mark Green (and Rep. Andy Holt) this year is both "dangerous" and "irresponsible." While that is at most a matter of opinion rather than fact, it is clear is that running columns such as this is allowed under the 1st Amendment even if some might find that it is nothing more than an opinion masquerading as news.

So, let's look at real facts.

1) The 2nd Amendment says that the right to keep and bear arms "shall not be infringed." Article I, Section 26 of the Tennes-

see constitution (1870) likewise notes the rights to keep, bear and also to "wear" arms.

2) The Supreme Court has held in the Heller case that the 2nd Amendment protects an individual right that existed prior to the constitution's adoption. The 2nd Amendment does not create the right; it protects a right that is independent of the constitution.

3) The Supreme Court held in the McDonald case that the 2nd Amendment, by operation of the 14th Amendment, prohibits states from infringing the individual's right to keep and bear arms.

The term Constitutional Carry means that anyone who is legally eligible to possess a firearm is legally able to carry it, openly or concealed, without begging permission from government bureaucrats. This is exactly how many of us grew up with pocket knives and it is how Vermont's law has been since it became a state in the 1700s.

Constitutional Carry is now law in 12 states. As of 1 January 2017, Alaska, Arizona, Arkansas, Idaho, Kansas, Maine, Mississippi, Missouri, Puerto Rico, Vermont, West Virginia and Wyoming do not require a permit to carry a firearm, openly or concealed, for any person of age (usually 21 and older; 18 in Missouri) who is not prohibited from owning a firearm. Permitless carry in Idaho and Wyoming is applicable to residents only. All aforementioned jurisdictions do not require a permit to openly carry either except for certain localities in Missouri. As of February 2017, New Hampshire has joined the states as soon as that law goes into effect there which will bring the number to 13.

There are a few instances where constitutional carry is allowed in parts of other states or only under certain limits. Thus, some states have a form of permitless carry which is restricted based on one or more of the following: a person's location, the loaded/unloaded state of the firearm, or the specific persons who may carry without a permit. As of mid-2016, these states were Montana, New Hampshire, New Mexico, and Oklahoma.

Then, there are 30 states; again with slight deviations depending on how you count that allow citizens to carry firearms openly without any background checks, training or permits. Every state that touches Tennessee, with the exception of Georgia, allows the permitless open carry of firearms. That is SIXTY PER-

(continued on page 6)

CENT of the states, and by land mass a greater percentage, than that which allow citizens to carry without government "infringement".

If you search for credible reports that address whether the risk of being accidentally shot or injured by a civilian who is otherwise legally carrying a firearm in one of these 30+ states that have some form of Constitutional Carry, you will not find evidence that imposing training requirements, background checks or "fees" has any causal connection to making states such as Tennessee - which imposes all of those infringements - a venue where someone is materially less likely to be accidentally shot by an otherwise legally carrying citizen. That's right, there are no credible reports that the training, fees or background checks actually make us safer. Yet, from 2008 to 2014, Tennessee "taxed" its citizens who desired to carry firearms by more than \$50 million dollars to impose such restrictions.

But let's temporarily set aside the constitutional question regarding whether a state should be able to infringe a fundamental right with fees, background checks, or training requirements. Even if it is argued that the constitution does not prohibit the equivalent of a "poll tax" on the 2nd Amendment guarantee, is there evidence that doing so actually makes the population at large safer? **The answer is that there is no credible evidence that imposing these state restrictions has a direct causal effect on making the citizens safer from accidental injury by citizens who do chose to exercise the right**

to carry (my emphasis).

Yet, the Knoxville News Sentinel and Mr. Cagle leap to the conclusion that the very idea of adopting constitutional carry is "irresponsible." But based on what - personal opinion or prejudice?

Where is the data that shows that restricting a citizen's constitutional rights on whether they have paid a "tax" of \$100 or more, paid for a state approved training course and undergone yet another background check is the ONLY responsible way for a state to deal with the desire of 10% or more of its citizens to carry firearms for self-defense? Feb 15 email from John Harris, Executive Director, TN Firearms Association.

The UN Small Arms Treaty

As you might remember the Obama Administration became a signatory to this Second Amendment crushing treaty. This was done by executive order and the treaty was submitted by Obama to the Senate for ratification in the waning days of the Obama term in office.

Why hasn't the Trump Administration created an executive action stating emphatically that the U.S. will no longer be a signatory to the treaty? This treaty is not only a threat to our Second Amendment; it is also an attack on American sovereignty. We should voice our opinion to our legislators.

Richard Stouder – *Oakridger48@msn.com*



THE RIGHT TO KEEP AND BEAR ARMS

The Right to Keep and Bear Arms (RKBA) column is now available each month on the ORSAONLINE web site at (www.orsaonline.org/rkba.asp). From time to time, the RKBA column will be included in the printed version which is mailed to members' homes when space permits.

Please remember that each edition of the Rangefinder is also available online at ORSAONLINE (www.orsaonline.org/newsletters.asp) and is normally available before the edition arrives by mail.