

AN UNDISCLOSED LOCATION

February 15, 2018

Mr. Nicholas Kristof
c/o *The New York Times*
620 Eighth Avenue
New York, New York 10018

Mr. Kristof:

My last letter to you (of October 2, 2017) opened with words I'll repeat here, with one slight edit:

"I apologize for not posting this in the comments, but comment sections nauseate me with their general tenor of pettiness. In these times, doing things the old ways with stamps and envelopes gives dignity to what would otherwise be a vulgar brawl.¹

I'm writing in response to your [recent] column. I should make my background clear: I'm a firearms owner (including an AR-15 and a Kalashnikov) and have been shooting for thirty-four years. I hold concealed handgun permits in Virginia, New Hampshire, and Utah. I volunteer with an outfit that provides high-quality firearms training to novice shooters, with a particular eye towards safety and conflict de-escalation. I am not a Second Amendment absolutist, but I am regularly outraged by what well-meaning people say without thinking about the consequences. I also aim to be a civilized individual and to restore some shred of dignity to the idea of the Virginia Gentleman. I hope that you'll find this letter forceful, but also polite and constructive.

For ease of reading, I'll divide this letter into sections."

Further: after my last letter, you asked a *Times* intern, Ms. Zoe Greenberg, to reach out to me. Should you have any questions about my prior letter you may wish to speak with her, as we had a brief back-and-forth in email and I'm sure she's retained those records. (I've also enclosed a \$10 Starbucks gift card for her. If she's going to be fielding hate mail from outraged Second Amendment zealots, I hope she'll also remember there was one in the mix who was polite and bought her a latte. It's when others are behaving badly that it's most important we behave like civilized people. If the *Times'* ethics code prohibits such gifts, I encourage you to give it to someone who could use a random act of kindness.)

Now, on with the sections.

¹ "Artillery gives dignity to what would otherwise be a vulgar brawl." – Frederick II of Prussia, apocryphally. (Footnote in original letter. Yes, I'm eccentric.)

Where I Saw Improvement

Please permit me to preface this by saying I have no illusions that my previous letter changed your mind on anything. But, there were a small number of ways in which your policies have evolved more towards the facts, and I would be a churl to not recognize this. (And, I admit, from time to time I feed my vanity and let it think maybe I did influence your thinking.)

First, I was heartened to see that you changed your support for smart guns (which do not exist in any useful form today) to support for research into smart guns. As an engineer I have my doubts such a weapon could even be defined, but I've been astonished by emerging technologies enough times that I'm not going to prejudge this one.²

I also notice that you're no longer claiming to support the rights of hunters. I pointed out that it was not logically possible to both support hunting while also forbidding the sale of deer rifles to 18, 19, and 20-year-old deer hunters. I was hoping you would choose to abandon the "no firearms sales to anyone under 21" argument, but instead you seem to have abandoned the "I support hunters" claim. I think you chose poorly (for reasons I'll explain below, dealing with blackletter Constitutional issues), but I recognize that when confronted with a logical impossibility you elected to resolve it. It's a painful thing to sacrifice part of one's *weltanschauung* for the logical consistency of one's position, and I immensely respect your willingness to do it.

Unfortunately, there were a couple of raging howlers in your editorial, things which a bright high school student should have caught.

Age limits

One of your policy proposals is, "A ban on people under 21 purchasing firearms (this is already the case in many states)."

As I alluded to above, sir, this is clearly an infringement on young hunters. A 17-year-old isn't allowed to own a rifle: legally, the parent or guardian is the owner. A young woman given a deer rifle on her sixteenth birthday³ would then be required to give the weapon back to her father on her eighteenth birthday, and could only receive it again on her twenty-first birthday.

"Ah," one might say, "but that's different. She already owned it; there is no purchase involved." But no, she did not. When a minor is "bought" a firearm by an adult, it is really the adult who fills out

² A lesson I wish the *Times* editorial board had learned: a generation ago during Reagan's era the *Times* proclaimed the technological impossibility of anti-ballistic missile defense, and just a couple of weeks ago ran an editorial condemning our current ABM defense projects for "only" being about fifty percent effective. Fifty percent effectiveness from a weapon system the *Times* flatly declared could not work, period, is success heartening enough I'd like to give those fellows more money to see if we could hit eighty or ninety percent.

³ My mother was given a 12-gauge Remington 878 semiautomatic shotgun by her father on her sixteenth birthday. Young people being given lethal arms is not as far-fetched as it may sound to city dwellers.

the ATF Form 4473, the adult who undergoes the NICS check, the adult who buys and receives the weapon. The adult legally owns it, and on the child's eighteenth birthday it is legally transferred to the child. (*Mostly*. I'll come back to this at the close of this section.)

The other escape hatch would be to say that receiving a weapon is different from purchasing one. Using that escape hatch forces one to make a truly distasteful argument: those who grow up hunting are entitled to privileges not available to urbanites.⁴

In addition to the hunting issue, there is the self-defense issue. Ever since *Heller* was decided in 2008 it has been blackletter law the Second Amendment of the Constitution exists to protect an individual's right to defend themselves.⁵ We have, as a society, decided to fully vest Constitutional rights at age eighteen. What you are saying is, in effect, "a twenty-year-old woman living on her own in an apartment, paying her taxes, voting her conscience, and fully engaged in all the civic life of an adult, should be forbidden the right to buy a shotgun for her defense of her dwelling, based on nothing other than her age."

I wish you luck selling that to a judge, Mr. Kristof, especially in light of *Heller's* holding that it is in our homes that our Second Amendment rights are at their strongest.

(In the interests of intellectual integrity, I must point out that some states draw a line between the purchase of a firearm and the possession of a firearm. I must confess, I don't understand the legal reasoning they use: to say one may have someone *give* you a firearm, but prohibit you from *buying* a firearm, requires shadings of logic that are beyond me. It is tempting to write these off as inane and ill-informed laws which will not survive a *Heller* challenge, but I must admit the possibility that I'm just not able to see something here.)

"Safe Storage" Laws

Sir, your proposal that "safe storage" laws ought be enacted ("[t]hese include trigger locks as well as guns and ammunition stored separately") is offensive. There is no other way to say it than that. It is as offensive as if I were to blithely say that Congress ought enact laws prohibiting abortion. If I were to say that you would write me off as a poltroon who was unaware the Supreme Court considered *exactly this* question in a famous case, and if I'd done five minutes of research I'd have known I was cheerfully talking about enacting an unconstitutional law that encroached on the Fourth Amendment.

Sir, I refer you to *Heller* once more. One of the (many) laws Dick Heller was contesting was the safe storage laws of the District of Columbia. Quoting the Supreme Court: "We must also address the District's requirement (as applied to respondent's handgun) that firearms in the home be rendered

⁴ For instance, a seventeen-year-old is given a deer rifle and receives possession when they're eighteen. Two years later, a co-worker asks, "I've never been hunting before and I'd like to see what it's all about. May I join you?" Now we have two twenty-year-olds, one of whom is allowed to own a deer rifle because a parent passed it down, and one of whom isn't because of growing up in a gun-free household. I can't think of any coherent legal argument that would allow one of these to own a deer rifle and prohibit the other.

⁵ "the inherent right of self-defense has been central to the Second Amendment right" is I think *Heller's* clearest pronouncement.

and kept inoperable at all times. This makes it impossible for citizens to use them for the core lawful purpose of self-defense and is hence unconstitutional.”

Sir, I can respect honest differences of opinion. But if you expect me to respect *Roe v Wade* (which I do: I may disagree with it, but I’ve read the whole of the opinion, acknowledge it to be the law of the land, and fully respect it), I absolutely insist you respect *Heller*.

“Safe storage” laws have been considered by the Court and found to be unconstitutional violations of the Second Amendment. Your research should’ve turned that up, and your readers deserved to know you were advocating flatly unlawful measures.

In your last firearms column you also advocated this measure, but you did not specify exactly what you meant. Had I known you were advocating unconstitutional measures, my criticism of that clause would’ve been much more forceful.

Questionable Historical Accuracy

Since your last column I’ve been inquiring of my friends as to whether they’re aware of any childproof firearms of the last century. Twice now you’ve made this claim but you’ve never actually named the firearm in question or provided the ad.

I’m an amateur firearms historian, and through that hobby I have some friends who are genuine fonts of accurate knowledge regarding firearms history. None of us has ever even heard of a childproof firearm. We are, however, aware of some flat-out deceitful advertising copy of yesteryear. The Smith & Wesson Safety Hammerless⁶ revolver was marketed as childproof due to its grip safety and double-action trigger, but my historian friend who owns and shoots the Safety Hammerless says it is not in any meaningful way childproof. (I have held, but not fired, the Safety Hammerless. I agree with his judgment, although that should count for little as his opinion is vastly more informed than mine.)

Sir, it is not my intent to claim you are either a liar or that you’ve been deceived, but you have not provided me enough information to be able to check the accuracy of your claim. I would very much like to, and I hope you will do me the favor of sharing the make, model, and manufacture date of the weapon in question. I am simply not aware of any weapon which matches your claim.

Constitutional Rights

I also note that nowhere in your editorial did you recognize there is a Constitutional right to keep and bear arms. In fact, it seems to me you tried your best to obscure that. “No, but automobiles are actually a model for the public health approach I’m suggesting.”

I am terrified that you mean this, and that you are teaching your readers that their Constitutional rights are entitled to no more protection than their Audis. This is not the case. Automobile regulations are examined by the courts under the rules of rational-basis review, whereas

⁶ Also called the “Smith & Wesson New Departure”, or colloquially as the “Lemon Squeezer”

Constitutional rights are *never* examined under those rules. (Most are examined under strict-scrutiny review; some are examined under intermediate-scrutiny review.)

The idea that firearms can be regulated like automobiles is popular. It is also blisteringly uninformed. The *Times* would never consent to its cherished First Amendment rights being “regulated” away in the interests of “public health”. It would instead draw a moat around the rights of the free press and dare the government to encroach them under anything other than the rules of Constitutional review.

Why, then, ought I consent to you doing the same for my Second Amendment rights?

Why am I expected to defend the *Times*’ Constitutional rights when it will not defend mine?

Conclusion

I began this letter by quoting my original beginning. I hope you’ll forgive me for likewise recycling my original ending, with minor edits:

“Mr. Kristof, thank you for your time and consideration in reading this. Should you wish to reply, I encourage you to email me: rob@hansen.engineering – there’s no ‘.com’, ‘.org’, or anything else at the end.

I wish you[, Ms. Greenberg,] and your famil[ies] peace.”

Respectfully,

Robert J. Hansen