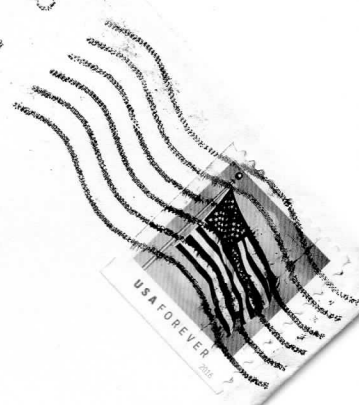


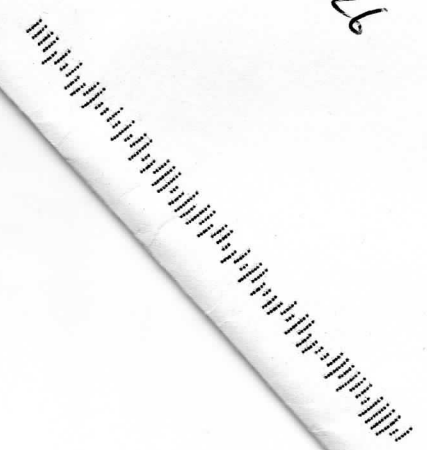
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Forney, TX 75126

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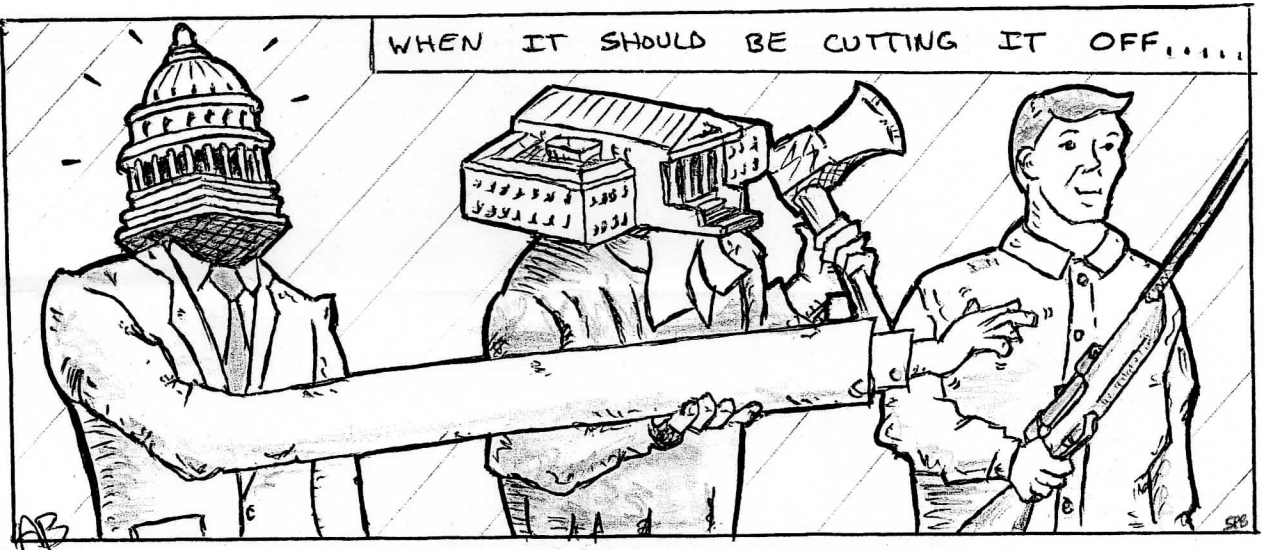
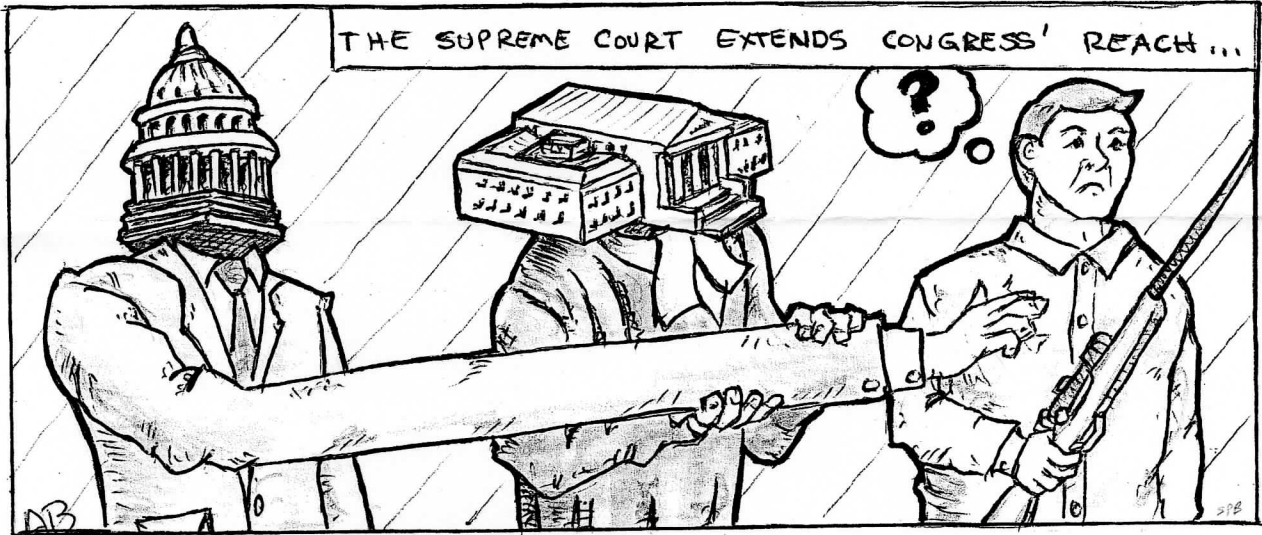
4A NEWS

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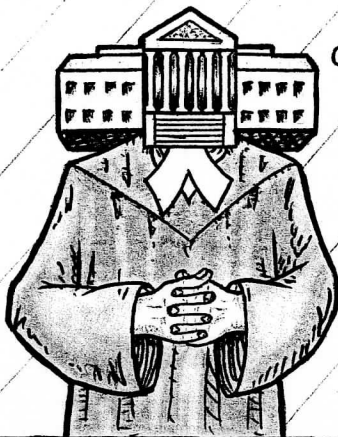
News from across the USA

ALABAMA Montgomery: Alabama Corrections Commissioner Jeff Dunn says the risk in the state's crowded prisons is growing each day. Dunn addressed a panel of state lawmakers last week in an effort to build support for an \$800 million prison construction bond issue. Gov. Robert Bentley has proposed three new mega-prisons.





SUPREME COURT SAYS:



"THE FACT THAT RAICH DID NOT HERSELF AFFECT INTERSTATE COMMERCE WAS OF NO MOMENT; WHEN CONGRESS MAKES AN INTERSTATE OMELET, IT IS ENTITLED TO BREAK A FEW INTRASTATE EGGS."

GONZALES v. RAICH, 545 US 1

HOWEVER...

ACCORDING TO THE BILL OF RIGHTS, SOME EGGS CANNOT BE CRACKED



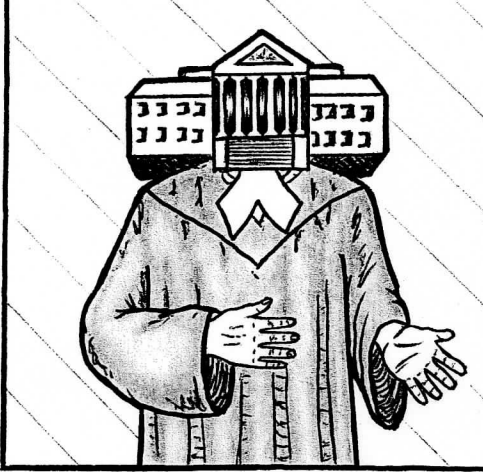
HOWEVER AGAIN...



THE SUPREME COURT SAYS WHAT IT WANTS BECAUSE IT IS THE SUPREME COURT AND IT MAKES THE SUPREME LAW AND BECAUSE IT IS PART OF THE SUPREME GOVERNMENT OF THE WORLD AND YOU ONLY HAVE THE RIGHTS THEY SAY YOU HAVE BECAUSE...

SUPREMECY!

FOR EXAMPLE



REFERENCING THE SIXTH CIRCUIT COURT OF APPEALS' OPINION IN THE SUPREME COURT'S UNITED STATES V. LANIER, 520 US 259, CASE, THE COURT SAID "THE EN BANC COURT EXPRESSED THE VIEW THAT (1) CRIMINAL LIABILITY MAY BE IMPOSED, UNDER §242, ONLY IF THE CONSTITUTIONAL RIGHT SAID TO HAVE BEEN VIOLATED (a) IS FIRST IDENTIFIED IN A DECISION OF THE UNITED STATES SUPREME COURT..."

OR ANOTHER EXAMPLE



THE SUPREME COURT SAID: "LIKE MOST RIGHTS, THE RIGHT SECURED BY THE SECOND AMENDMENT IS NOT UNLIMITED [AND] IS NOT A RIGHT TO KEEP AND CARRY ANY WEAPON WHATSOEVER IN ANY MANNER WHATSOEVER AND FOR WHATEVER PURPOSE." DISTRICT OF COLUMBIA V. HELLER, 554 U.S. at 626



OF THE THREE BRANCHES OF THE FEDERAL GOVERNMENT, THE JUDICIAL IS SHIELDED FROM THE POLITICS OF THE OTHER TWO. JUDGES ARE NOT ELECTED AND THUS NOT ACCOUNTABLE TO CONSTITUENTS - WE, THE PEOPLE

SPB FDC 3/17

Schuyler Barbeau

Ban on Assault Weapons, Large Magazines Held Constitutional

Assault weapons and large-capacity magazines are akin to weapons of war unprotected by the Second Amendment, the U.S. Court of Appeals for the Fourth Circuit held Feb. 21 (*Kolbe v. Hogan*, 2017 BL 51971, 4th Cir. en banc, No. 14-1945, 2/21/17).

A Maryland law banning such weapons is therefore constitutional, Judge Robert B. King wrote for the en banc court. The decision noted the large number of mass shootings perpetrated by such "military-style" weapons.

The panel opinion in this case had created a circuit split in requiring strict scrutiny for restrictions on the Second Amendment's right to bear arms.

But the full court held that intermediate scrutiny was the correct analysis. The restrictions therefore must be reasonably adapted to a substantial government interest, instead of being narrowly tailored to achieve a compelling government interest.

Where Did That Come From? The opinion "restricts the ability of citizens to possess a gun in common use," James B. Astrachan, Astrachan Gunst & Thomas PC, Baltimore, who represented a number of amici supporting the plaintiffs, told Bloomberg BNA.

Astrachan also noted that the Fourth Circuit held that the AR-15 isn't protected by the Second Amendment, because it's "M16 like." But all the other courts that have addressed the issue "have ruled that these guns are protected but that the challenges to the constitutionality of the bans do not survive intermediate scrutiny," he said.

But amici supporting Maryland have long argued that guns like the AR-15 rifle "aren't within the ambit of the Second Amendment," their counsel Jonathan Klee Baum of Katten Muchin & Rosenman LLP, Chicago, told Bloomberg BNA.

Heller Controls. The U.S. Supreme Court recognized an individual right for citizens to bear arms for protection in their homes, in *District of Columbia v. Heller*, 554 U.S. 570 (2008). But "weapons that are most useful in military service" are outside the scope of that Second Amendment right, it said.

Maryland's ban on AR-15 rifles and detachable large-capacity magazines fell under *Heller's* exception, the Fourth Circuit held.

The court has "no power to extend Second Amendment protection to the weapons of war that the *Heller* decision explicitly excluded from such coverage."

If such weapons are entitled to Second Amendment protection, however, the ban would be constitutional under an intermediate scrutiny analysis, the court said.

Reasonable Restrictions Allowed. *Heller* is often misread to say that the government can't restrict gun possession, but it actually makes clear that reasonable restrictions are allowed, Baum said. The Fourth Circuit's opinion is consistent with *Heller*, he added.

Astrachan disagreed. Instead, he said the opinion is "so far out in front of the pack as to be lost from sight." No other court has held that the guns at issue aren't protected by the Second Amendment because they "are like machine guns, or military rifles," he said. They have generally said that assault weapons are protected by the Second Amendment but don't withstand intermediate scrutiny, he said.

In any case, Baum said that bans like Maryland's pass intermediate scrutiny because they are a reasonable fit for protecting public safety.

Right to Bear Arms 'Eviscerated.' Dissenting Judge William B. Traxler Jr., joined by Judges Paul V. Niemeyer, Dennis W. Shedd and G. Steven Agee, complained that the majority "eviscerate[d] the constitutionally guaranteed right to keep and bear arms."

He also contended that Maryland's ban be analyzed using strict scrutiny standard. He wrote the original panel opinion, and was joined in part by Agee.

Bradley Arant Boult Cummings LLP represented the plaintiffs. Maryland Attorney General's Office represented the state.

By BERNIE PAZANOWSKI

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Full text at <http://src.bna.com/mm4>.

FRIENDS TO THE REPUBLIC AND LIBERTY

THIS IS VERY DISHEARTENING. HERE IS ANOTHER BLATENT DISREGARD FOR OUR INDIVIDUAL LIBERTY AND OUR BILL OF RIGHTS. HERE IS ANOTHER EXAMPLE OF THE TYRANNY OF THE COURTS. OUR OLD FRIENDS OF THE OLD REPUBLIC FEARED THE NEW EXECUTIVE BRANCH OF THE NEWLY FORMED NATIONAL GOVERNMENT BECAUSE THE PRESIDENT, IN CHARGE OF THE MILITARY, COULD TAKE OVER AS A NEW MONARCH, REPLACING THE BRITISH TYRANNY FOR AN AMERICAN TYRANNY. WELL, THOSE FEARS HAVE NEVER REALLY MANIFESTED. THERE IS A WORSE ENEMY TO LIBERTY- THE JUDICIAL BRANCH. THEY ARE NOT ELECTED LIKE OUR OTHER PUBLIC MASTERS(servants) AND NOT ACCOUNTABLE TO CONSTITUENTS, LEAVING THEM ABLE TO BE UNBIASED, UNCORRUPTABLE BY CAMPAIGN FINANCING, OR CORPORATE LOBBYING. BUT AT THE SAME TIME, THEY ARE LEFT TO THEIR OWN DEVICES, TO TAKE AWAY OUR RIGHTS BY JUDICIAL DECISION ONE BITE OUT OF THE LIBERTY COOKIE AT A TIME. IN A REPUBLIC, RIGHTS ARE NEVER UP FOR A VOTE. IN A REPUBLIC, RIGHTS CAN NEVER BE SACRIFICED FOR PUBLIC SAFETY, OR THIS INFAMOUS "COMPELLING" OR "SUBSTANTIAL GOVERNMENT INTEREST".

THE COURT SAID IT HAS NO POWER TO EXTEND SECOND AMENDMENT PROTECTION TO THE WEAPONS OF WAR THAT THE HELLER DECISION EXPLICITLY EXCLUDED FROM SUCH COVERAGE, BUT SOMEHOW THE SUPREME COURT IN HELLER HAS THE POWER TO SAY WHAT THE SECOND AMENDMENT DOESN'T PROTECT? HMM, THAT'S INTERESTING CAUSE I DON'T SEE THAT POWER LISTED IN ARTICLE III OF THE CONSTITUTION. HMM, I'M PRETTY SURE THE FRAMERS SAID THOSE RIGHTS WERE UNALIENABLE.

THE 4TH CIRCUIT HAS NOW SAID SECOND AMENDMENT DOESN'T PROTECT OUR AR-15'S, OTHER COURTS WILL FOLLOW. STATE COURTS WILL FOLLOW. THEN IT'LL BE ALL "ASSAULT WEAPONS". THEN WHAT? ALL SEMI-AUTO FIREARMS? THE COURTS ARE RENDERING THE MILITIA-ALL ABLE BODIED CITIZENS- COMPLETELY INEFFECTIVE BECAUSE THE COURTS ARE DETERMINING THAT OUR MOST EFFECTIVE WEAPONS ARE NOT PROTECTED. HOW ARE WE SUPPOSED TO DEFEND LIBERTY? HOW MANY BITES OF THE LIBERTY COOKIE ARE LEFT?

The Winter Soldier

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Full text at <http://src.bna.com/mm4>.

Gun law upheld: A federal appeals court upheld Maryland's ban on assault rifles, concluding that the powerful military-style guns outlawed by the measure are not entitled to protection under the Second Amendment. The 10-4 ruling, issued by the entire Fourth Circuit Court of Appeals in Richmond, Va., reverses a decision by a smaller panel of judges from the court last year that called the law's constitutionality into question. The bill was passed in 2013 in the wake of the deadly shooting at Sandy Hook Elementary School in Connecticut.

FRIENDS OF LIBERTY IN MARYLAND

THIS IS VERY DISHEARTENING. HERE IS ANOTHER EXAMPLE OF WHAT I HAVE BEEN SAYING FOR A WHILE. THE STATE LEGISLATED AWAY ITS CITIZEN'S SECOND AMENDMENT RIGHTS AND THE COURTS GO AND UPHOLD IT. IT SEEMS THERE IS A COLLUSION BETWEEN THE LEGISLATIVE AND JUDICIAL BRANCHES OF THE STATE GOVERNMENTS AND MAYBE A COLLUSION BETWEEN THE STATE GOVERNMENT AND THE FEDERAL GOVERNMENT. "COLLUSION" IS DEFINED IN BLACKS LAW DICTIONARY 10th EDITION AS: AN AGREEMENT TO DEFRAUD OR TO DO SOMETHING FORBIDDEN BY LAW. MAYBE THERE WASN'T A HANDSHAKE AGREEMENT BETWEEN THE BRANCHES, BUT JUST A PROVERBIAL NOD TO THE LEGISLATURE THAT "i got your back on this" WHEN THE CASE COMES TO MY COURT. 2ND AMENDMENT SAYS SHALL NOT BE INFRINGED - TO THE GOVERNMENT - SO TO BAN CERTAIN GUNS IS TO DO WHAT IS FORBIDDEN BY THE LAW, THE SUPREME LAW. HOW MANY LICKS TO THE CENTER OF THE LOLLIPOP? MARYLAND, WHY DO YOU LET YOUR LEGISLATURE TAKE YOUR LOLLIPOP???

The Winter Soldier

Firearms

Florida Ban on Openly Carrying Guns Doesn't Violate Second Amendment

Florida's ban on openly carrying guns in the state is constitutional, the Florida Supreme Court held March 2 (*Norman v. Florida*, 2017 BL 65827, Fla., No. SC15-650, 3/2/17).

The Second Amendment right to bear arms for self defense is subject to intermediate scrutiny, which means it must reasonably be related to an important governmental interest, the court's opinion by Justice Barbara J. Pariente said.

The law's sponsor in the state legislature said that it was needed to make Florida "a safe place for individuals to live, and an excellent place for people to visit."

But the Sunshine State's gun-control scheme also requires it to liberally issue concealed weapon permits.

The open carry ban is a reasonable fit to protect the state's critical interest in public safety because an individual can still protect himself by carrying a concealed weapon, the court said.

Justices Charles T. Canady and Ricky Polston argued in dissent that the open-carry ban "is unjustified on any ground that can withstand even intermediate scrutiny."

Room for Improvement. From a policy standpoint, Florida's gun-control law has room for improvement, Hannah Shearer, staff attorney with the Law Center to Prevent Gun Violence, San Francisco, told Bloomberg BNA.

Noting the state's liberal policy to issue conceal-carry permits, she said a lot of people are slipping through the cracks. Those who shouldn't be getting permits, such as convicted felons, are getting them, she said.

Even so, Shearer said the opinion is important because it shows that states can regulate firearms with public safety in mind, and the regulations will be consistent with the Second Amendment. Where guns are taken out of the home, public safety becomes that much more important, she said.

Second Amendment Applies? The Florida Supreme Court accepted that the Second Amendment applies to the right to carry a firearm in public. That question, however, is debatable and is the subject of a petition before the U.S. Supreme Court.

In *Peruta v. California*, cert. filed, 85 U.S.L.W. 3363 (U.S. Jan. 24, 2017) (No. 16-894), the question is whether "the Second Amendment entitles ordinary law-abiding citizens to carry handguns outside the home for self-defense in some manner, including concealed carry when open carry is forbidden by state law."

Whether the right to bear arms protected by the Second Amendment extends outside the home is a question left open by *District of Columbia v. Heller*, 554 U.S. 570 (2008), UCLA School of Law Constitutional Law Professor Adam Winkler told Bloomberg BNA. *Heller* established an individual's right to have a firearm for self defense but "only involved handguns in the home," he said.

Lower courts are "split on whether there is right to carry guns in public," Winkler said. But the Second Amendment "refers to the right to 'keep and bear arms,' the most natural reading of which means a right to have and to carry arms," he said.

Since *Heller*, "most courts that have considered whether the right to bear arms extends outside the home have either assumed or decided that it does," Dan Peterson, an attorney in Fairfax, Va., who practices firearms law, told Bloomberg BNA. "Only a handful" of courts "have concluded that there is no right to bear arms outside the home," he said.

The Second Amendment "codified a pre-existing right to self-defense," Peterson said. When the amendment was ratified, there was no suggestion that right "was limited to the home," he said.

Even so, "there is a long tradition of state and local regulation of who can carry and under what circumstances," Winkler said.

Though the Supreme Court has had "several opportunities to take a public carry case," it has declined all of them, Winkler said. "Perhaps the justices will clarify the issue in *Peruta*," he added.

Eric J. Friday, Fletcher & Phillips, Jacksonville, Fla., represented the petitioner. Florida Attorney General Pamela Jo Bondi represented the state.

By BERNIE PAZANOWSKI

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Full text at <http://src.bna.com/mHb>.

FRIENDS OF LIBERTY IN FLORIDA

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The Winter Soldier

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FRIENDS TO THE CONSTITUTION AND LIBERTY

UGH, NO SOONER DO I PERFORM THE LAST KEYSTROKE FOR MY LAST ARTICLE ON THIS ISSUE, AND ANOTHER BITE IS TAKEN OUT OF THE LIBERTY COOKIE. NO SOONER! THIS TIME BY FLORIDA'S SUPREME COURT AND THEY TOOK A BIG BITE BY MY ESTIMATES.

JUST AS THE PREVIOUS "LAW REPORTER" ARTICLE I WROTE ABOUT, HERE AGAIN IS ANOTHER EXAMPLE OF BLATENT DISREGARD FOR OUR OUR INDIVIDUAL LIBERTY AND BILL OF RIGHTS. HERE, AGAIN, IS ANOTHER EXAMPLE OF THE TYRANNY OF THE COURTS.

HERE, AGAIN, WE SEE SEE THE LANGUAGE THE PERVERTERS OF OUR CONSTITUTION. THAT LANGUAGE IS THESE WORDS: "IMPORTANT GOVERNMENTAL INTEREST. OTHER VARIATIONS INCLUDE:

"COMPELLING" OR "SUBSTANTIAL GOVERNMENTAL INTEREST." THE LEGISLATIVE BRANCHES CAN SLAP THAT LABEL ON ANY BILL AND THE COURTS WILL ALWAYS FIND IT CONSTITUTIONAL WHEN IT COMES TO GUN LAWS. IF THE STATE BANS OPEN CARRY, THEY CAN CONTROL WHO CAN CARRY GUNS OFF THEIR OWN PROPERTY THROUGH CONCEALED CARRY PERMITTING.

LIKE WE ALL KNOW, KEEPING AND BEARING ARMS SHALL NOT BE INFRINGED, BUT WHAT IS IT THAT THE GOVERNMENT DOESN'T UNDERSTAND ABOUT THAT WORD "INFRINGED"? THE LIBERTY COOKIE IS NEARLY GONE. "THE TWO ENEMIES OF THE PEOPLE ARE CRIMINALS AND GOVERNMENT, SO LET US TIE THE SECOND DOWN WITH THE CHAINS OF THE CONSTITUTION SO THE SECOND WILL NOT BECOME THE LEGALIZED VERSION OF THE FIRST." - THOMAS JEFFERSON. BUT WHAT DO WE DO WHEN THE BEAST LOOSENS ITS CHAINS AND BEGINS DEVOURING?

The Winter Soldier