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October 19, 1967

Miss Agnes Waldron
1701 Pennsylvania Avenue
Room 400
Washington, D.C.

Dear Agnes:

Enclosed is a copy of a comparative chart by the Library of Congress that I commissioned. It shows the latest Celler amendments to his original bill that he is now offering, in what he calls a "compromise" to the Biester approach. As you can see, it is very little different from the original ^{Celler} bill except that it provides a State veto from the provisions of his bill applicable to long guns (rifles, shotguns) only.

Mr. Biester has offered to amend his bill as I have marked in pencil on the analysis of H.R. 11887. This correction does not appear in the actual bill.

Also enclosed is a copy of a brief analysis prepared by the majority ^{Staff} of the Celler bill prior to his latest amendment.

Sincerely,



Donald E. Santarelli
Minority Counsel

P.S. The Celler "substitute" has not been introduced as a bill, and is informally pending in Sub 5.

DES:MJ
Enclosures

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COMPARISON OF MAJOR PROVISIONS OF H.R. 5384 (ADMINISTRATION FIREARMS CONTROL BILL),
H.R. 11887, AND THE "CELLER AMENDMENT" (AN AMENDMENT IN THE NATURE OF A SUBSTITUTE
FOR H.R. 5384)

H.R. 5384 - (Rep. Celler); S. Amendment no. 90 (Senator Dodd and others)	H.R. 11887 (Reps. Biester and Railsback)	Celler Amendment
Amends title 18, U.S. Code, by adding a new chapter (44) on firearms. Repeals the Federal Firearms Act (15 U.S.C. 901-909).	Same, but with respect to "destructive devices" amends the National Firearms Act (26 U.S.C. 5801-5862).	Same as H.R. 5384.
<u>Definitions</u>		
<u>"Sec. 921"</u>	<u>"Sec. 921"</u> (unless otherwise noted)	<u>"Sec. 925"</u>
Defines "firearm" to include destructive devices, mufflers, and silencers. [(a)(3)]	Limits definition of "firearm" to "any weapon...by whatsoever name known, which will or is designed to, or which may be readily converted to, expel a projectile or projectiles by the action of an explosive or the frame or receiver of any such weapon." [(a)(4)]	Maintains present Federal Firearms Act definition of "firearm," which is like that of H.R. 11887 except that it includes "any part or parts of such weapon," silencers, and mufflers. Does not include "destructive devices" within the definition of firearms, but provides separate definition. [(a)]
[Note: The inclusion of "destructive devices" in the definition of "firearm" makes all provisions of the proposed new chapter of title 18 applicable to such devices as well as to the kinds of weapons presently regulated by the Federal Firearms Act. In addition, the bill contains several provisions which apply only to destructive devices.	[Note: With respect to destructive devices, the pertinent provisions of the bill (Secs. 6-15) represent a formal approach different from that of H.R. 5384. Instead of including all such devices as	

Note: For the sake of clarity, most section references are to the proposed sections of the appropriate title of the Code and are indicated thus: "Sec. 2(a)". Citations not enclosed by quotation marks refer to sections of the bills themselves.

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It should be noted that a number of destructive devices, as defined in the bill, fall within the scope of the present Federal Firearms Act definition of "firearm." Such devices as mines, grenades, and bombs would not be covered by that definition, however.]

firearms which would be regulated under the proposed new chapter of title 18, H.R. 11887 would bring them under the provisions of the existing National Firearms Act (chapter 53 of title 26, U.S. Code) for the special controls provided by the act. However, it should be noted that any destructive device which falls within the definition of "firearm" as provided above would also be subject to the regulations contained in the proposed new chapter of title 18 - just as the weapons presently regulated under the National Firearms Act are also subject to provisions of the Federal Firearms Act.]

Specifically defines "destructive device" to mean:

- (1) any explosive, incendiary, or poison gas --
bomb,
grenade,
rocket,

Defines "destructive device" (in a section of the bill which would amend the National Firearms Act) to mean:

- (1) any explosive or incendiary --
bomb,
grenade,
rocket having a propellant charge
of more than four ounces,

Same as H.R. 5384 except for omission of reference to "poison gas." [(i)]

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missile,
mine, or
similar device;
or

- (2) any type of weapon which will or is designed to or may be readily converted to expel a projectile by the action of an explosive and having any barrel with a bore of one-half inch or more in diameter. [(a)(4)]

missile,
mine, or
similar device;
or

- (2) any type of weapon which will (or may be easily converted to) expel a projectile by the action of an explosive, the barrel or barrels of which have a bore of more than 0.78 inches in diameter;
or
(3) any combination of parts designed and intended for use in converting any device into a destructive device.
[Sec. 10(a)(3)]

Specifically excludes from the definition of "destructive device":

- (1) a device which is not designed or redesigned or used or intended for use as a weapon; or
- (2) any device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, linethrowing, safety or similar device; or

Similar provision except that also excluded are:

- (1) pyrotechnic devices,
- (2) any shotgun or rifle,

Similar excluding provisions to those of H.R. 5384 but simplified to read:

- (1) "a device which is not designed or redesigned or used or intended for use as a weapon";
- (2) "any shotgun or any rifle generally recognized as suitable for sporting purposes"; or

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- (3) any shotgun other than a short-barreled shotgun; or
- (4) any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game; or
- (5) surplus obsolete ordinance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of sections 4684(2), 4685, or 4686 of title 10, United States Code; or
- (6) any other device which the Secretary finds is not likely to be used as a weapon. [(b)(2)]

Defines "ammunition" as including only ammunition for a destructive device.
[(a)(16)]

- (3) any firearm designed for use with black powder, regardless of when manufactured,
- (4) any device which the Secretary of the Treasury finds is used exclusively by the United States or any department or agency thereof.
[Sec. 10(a)(3)]

No similar provision. Both H.R. 5384 and H.R. 11887 would lift all present Federal Firearms Act restrictions on the transporting, shipping, or receiving of ammunition (except destructive device ammunition, under H.R. 5385) in interstate or foreign commerce.

- (3) "any device the Secretary finds is not likely to be used as a weapon." [(i)]

Maintains present Federal Firearms Act definition of "ammunition," which includes only pistol or revolver ammunition. [(f)]
[Note: Although, like H.R. 5384 and H.R. 11887, the substitute amendment to H.R. 5384 would do away with the present Federal Firearms Act requirement that any manufacturer or dealer transporting, shipping or receiving ammunition in interstate commerce be Federally licensed, it would retain present restrictions against the sending or receiving of stolen ammunition and the sending of ammunition to or the receipt of ammunition by a person under indictment for or convicted of a crime punishable by imprisonment for a term exceeding one year, or a fugitive from justice.]

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Defines "short-barreled shotgun" and "short-barreled rifle" (to provide for special regulation). [(a)(6) and (a)(8)]	No similar definitions. Relies on the National Firearms Act for the special regulation of these weapons.	No similar definitions.
Defines "importer" specifically. [(a)(9)]	Includes the business of importing as an activity engaged in by a "manufacturer," as defined. [(a)(6)]	Same as H.R. 11887. ["Sec. 925(c)"]
Defines "pawnbroker" (to provide for special regulation). [(a)(12)]	Same, except - contains no reference to "ammunition." [(a)(8)]	No similar definition. Pawnbroker is covered by definition of "dealer" (Sec. 925 (d)").
Contains no "crime of violence" definition, as in H.R. 11887. In comparable sections of the Act, directs prohibitions against persons convicted of, under indictment for, or fleeing to avoid prosecution for "a crime punishable by imprisonment for a period of one year," but excludes such crimes as antitrust violations and unfair trade practices (see (b)(3)).	Defines "crime of violence" since certain transactions prohibited under the Act affect persons convicted of, under an indictment for, or fleeing to avoid prosecution for such a crime. [(a)(10)]	Same as H.R. 5384
Defines "antique firearm" as meaning any firearm (with certain exceptions) of a design used before the year 1870 or replica thereof (to provide for the exclusion of such firearms from the terms of the Act). [(a)(15)]	No similar provision, but defines "firearm" so that weapons manufactured prior to the year 1899 are excluded from the terms of the Act. [(a)(4)]	No similar provision.

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UNLAWFUL ACTS

Prohibits any person from engaging in the business of importing, manufacturing, or dealing in firearms or ammunition (for a destructive device) except a person licensed by the U.S. Secretary of the Treasury as required by the Act. Includes intrastate business as well as interstate. ["Sec. 922(a)" and "Sec. 923"]

Prohibits, as does existing law, any manufacturer or dealer except one licensed under the provisions of the Act from transporting, shipping, or receiving any firearm in interstate or foreign commerce. ["Sec. 922(a)"]

Same as H.R. 5384 except that reference to "ammunition" is omitted. ["Sec. 921(a)"]

Prohibits the interstate mail-order sale of all firearms through a ban on shipment and transportation to unlicensed individuals. ["Sec. 922(a)(2)"]

Regulates the interstate mail-order sale of handguns to unlicensed individuals. Requires, in the case of such transactions:

Along with other exceptions to the prohibition, includes shipment and transportation of a rifle or shotgun to an individual who in person upon the licensee's business premises purchases such rifle or shotgun. ["Sec. 922(a)(2)(C)"]

1) that the individual receiving the handgun be at least 21 years of age,

2) that written notice be submitted to the carrier transporting or shipping the handgun that such handgun is being transported or shipped,

Same as H.R. 5384 except that also exempt from the prohibition would be interstate mail-order sale of a long gun to a resident of any State which enacts a statute providing that notwithstanding the Federal prohibition, long guns may be shipped or transported to purchasers within that State. Provides that the Secretary of the Treasury must be notified of the enactment of any such statute and that such notification be published in the Federal Register. ["Sec. 921(d)(4)"]

3) that a sworn statement by the would-be recipient of the handgun be submitted to the manufacturer or dealer. Statement must contain the following information:

(a) that the would-be recipient is 21 years of age or older,

(b) that the would-be recipient is not a person prohibited by the Act from receiving a handgun in interstate commerce,

(c) that the would-be recipient is not and has not been at any time in the preceding 5 years an unlawful user of or addicted to -

marihuana,

any depressant or stimulant

drug (as defined in the Federal Food, Drug, and Cosmetic Act), or
a narcotic drug,

(d) that the would-be recipient has never been convicted of the unlawful sale, possession, or use of any of the above drugs,

(e) that the would-be recipient is not and has never been adjudicated in any court as a mental defective, and that he has never been committed under a court order to any mental institution.

(f) that there are no provisions of State or local law (in the would-be recipient's place of residence) which would be violated by the receipt or possession of a handgun,

(g) the title, name and official address of the principal law enforcement officer of the locality to which the handgun will be shipped.

4) that the individual receiving the handgun attach to the sworn statement:

(a) a true copy of any permit required by the State or locality of his residence,

(b) a statement made by the authority responsible for the issuing of a permit required by such State statute or published ordinance that the permit has been issued,

5) that prior to shipment, the manufacturer or dealer forward by registered or certified mail (return receipt requested) to (A) the local law enforcement officer named in the sworn statement, or (B) an official designated by the Governor of the State concerned, a description of the handgun to be shipped (including the manufacturer, the caliber, the model and type, but not including serial number identification), and one copy of the sworn statement; and that he, the licensee, receive a return receipt evidencing delivery of such letter or the returned letter with evidence of the law enforcement officer's refusal to accept it,

and

that a period of 7 days elapse from the time of delivery of such return receipt or notice of refusal before shipment is made, and

6) that copies of sworn statements and return receipts or notices of refusal be kept by licensees. ["Sec. 922(m)"]

[Also contains provisions permitting the Governor of any State to designate any official to receive the notification of shipment required above. Provides for certain administrative procedures in relation to this.]

Prohibits any person not licensed under the Act from transporting into or receiving in the State where he resides any firearm purchased or otherwise obtained by him outside that State except a rifle or a shotgun if it is not unlawful for him to purchase or possess a rifle or shotgun in the State, or political subdivision thereof, wherein he resides. ["Sec. 922(a)(3)"]

[Note: It apparently would not be unlawful to receive a rifle or shotgun sent in violation of the prohibition against

Prohibits, as does existing law, any person from receiving any firearm transported or shipped in interstate or foreign commerce by a manufacturer or dealer not licensed under the provisions of the Act. ["Sec. 922(b)"]

Prohibits any person from transporting into or receiving in the State where he resides a firearm purchased or otherwise obtained by him outside that State if it would be unlawful for him to possess such firearm in such State (or political subdivision thereof). ["Secs. 922(p) and (q)"]

Directs prohibition specifically to handguns instead of to "any firearm, other than a shotgun or rifle," theret excluding from coverage all National Firearms Act weapons unless possession of such weapons is prohibited by State or local law [see below: "Sec. 924(1)"]; and provides for exception in the case of transport, shipping or receipt of a handgun which is lawfully acquired as a gift, devise or bequest. ["Sec. 924(g)"] In separate subsection prohibits--as does H.R. 11887--any person from transporting or shipping into, or receiving in the State where he resides any firearm purchased or otherwise obtained by him outside that State if it would be unlawful for him to possess the firearm in that State or the political subdivision thereof wherein he resides. ["Sec. 924(i)"]

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mail-order shipment and transportation if no State or local law of the recipient's place of residence were violated--unless it be held that such receipt would constitute aiding and abetting in the commission of an offense against the United States, under 18 U.S.C. sec. 2.]

Prohibits transport in interstate or foreign commerce by unlicensed persons of any destructive device, machine gun, short-barreled rifle, or short-barreled shotgun, except as authorized specifically by the Secretary. ["Sec. 922(a)(4)"]

Prohibits - in an amendment to the National Firearms Act - any person from possessing in the State or locality where he resides any firearm as defined in that Act (which would include "destructive devices") purchased or otherwise obtained outside that State if it would be unlawful for him to possess the firearm in the State or locality. [Sec. 12(a)]

No similar provision.

Prohibits any person not licensed under the Act from transporting or shipping a destructive device in interstate commerce.

[Note: It apparently would not be unlawful to receive such a device unless it be held that such receipt would constitute aiding and abetting in the commission of an offense against the United States, under 18 U.S.C. sec. 2.]

Prohibits transport or shipping in interstate or foreign commerce of any destructive device (other than as authorized by regulations issued by the Secretary) but permits such transport or shipping by a person licensed under the Act to engage in business as a manufacturer of, or dealer in, destructive devices to another such licensee. ["Sec. 922(a)"]

[Note: The amendment contains no specific provisions for National Firearms Act weapons.]

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Prohibits any person from transferring, selling, trading, giving, transporting, or delivering to any non-resident (State), unlicensed person of any firearm - except a shotgun or rifle if it would not be unlawful for the transferee to purchase or possess such a shotgun or rifle in his own State of residence.
["Sec. 922(a)(5)"]

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Prohibits licensees from shipping or transporting handguns in interstate commerce to any unlicensed person unless they have received a sworn statement from the prospective recipient that he is not prohibited by Federal, State, or local law from receiving or possessing the handgun.
["Sec. 922(m)(1)"]

Prohibits licensees from shipping or transporting any firearm in interstate commerce to any person in any State where the receipt or possession of the firearm by such person would violate any statute of that State. ["Sec. 922(c)"]

Prohibits licensees from shipping or transporting any firearm in interstate commerce to any person in any political subdivision of a State where the receipt or possession of the firearm by such person would be in violation of any applicable ordinance of that subdivision which has been published in the Federal Register at least 6 months prior to the date of shipping or transporting. ["Sec. 922(d)"]

[Provides for certain administrative procedures with regard to the publication of a list of such ordinances]

Celler Amendment

Prohibits any person from shipping or transporting a handgun to a person in another State. Excludes from the prohibition:

- (1) shipment or transport by one licensee to another,
- (2) shipment or transport into his State of residence by a person who lawfully acquires the handgun by gift, devise, or bequest in another State.

["Sec. 924(j)"]

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in the Federal Register by the
Secretary of the Treasury and the
distribution of such list to
licensees.]

Similar provision. ["Sec. 922(o)"]

Similar provision. ["Sec. 923(a)"]

Prohibits, in connection with the
acquisition or attempted acquisition of
any firearm from a licensee, the making
of false statements or practice of any
kind of deceit (knowingly).
["Sec. 922(a)(6)"]

Prohibits licensees, in intrastate as
well as in interstate dealings, from:

1) Making an over-the-counter sale of any
firearm without identification (and
without keeping a record of such) of the
purchaser.

2) Selling handguns over-the-counter to
persons under 21 years of age.

3) Selling shotguns or rifles over-the-
counter to persons under 18 years of
age.

Requires that licensees identify non-
resident purchasers of handguns in
over-the-counter transactions (see
below).

No similar provision.

No similar provision.

Same as H.R. 5384, except:

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4) Selling any firearm, except a shotgun or rifle, to an unlicensed person not resident in the State wherein licensee's business is located.

Prohibits licensees from selling a handgun to an unlicensed person not resident in the State wherein a licensee's business is located unless:

1) a sworn statement is submitted by purchaser containing the same information required of the mail-order purchaser of a handgun,

2) the sworn statement is forwarded by registered or certified mail (return receipt requested) to the local law enforcement officer named therein, containing a full description (excluding serial number) of the handgun to be sold,

3) he, the licensee, has received a return receipt attesting to the delivery of the above letter or a letter itself with evidence that it was returned because of the refusal of the local law enforcement officer to accept it, and

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4) a period of 7 days has elapsed subsequent to delivery of the return receipt or notice of refusal.
["Sec. 922(n)"]

No similar provision.

5) Selling to an unlicensed person any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle unless he possesses a sworn statement executed by the principal law enforcement officer of his place of residence attesting to lawfulness of possession and of the purchaser's intentions. ["Sec. 922(b)"]

Prohibits licensees from selling or otherwise disposing of any firearm or ammunition to any person, knowing or having reasonable cause to believe that such person is:

Prohibits, under same circumstances except for difference noted below; only the shipment or transportation of a firearm in interstate commerce to such persons; but prohibition is general, not limited to licensees.

Substitutes "crime of violence" for "crime punishable by imprisonment for a term exceeding one year." ["Sec. 922(e)"]

1) a fugitive from justice,

2) under indictment, or

3) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year. ["Sec. 922(c)"]

contains no reference, as does H.R. 5384, to National Firearms Act weapons.

["Secs. 921(c)(5); 921(d)(1) and (2); 922(b)"]

Same as H.R. 5384.

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Prohibits any common or contract carrier from transporting or delivering in interstate commerce any firearm in violation of provisions of the Act (with knowledge or "reasonable cause"). ["Sec. 922(d)"]

Prohibits any person from shipping or transporting firearms or ammunition in interstate or foreign commerce, or receiving same if they have been shipped in interstate commerce, if he:

- 1) is a fugitive from justice,
- 2) is under indictment, or
- 3) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year. ["Sec. 922 (e) and (f)"]

Prohibits any person from (knowingly) transporting or shipping in interstate or foreign commerce any stolen firearm or ammunition. ["Sec. 922(g)"]

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Places specific burden on carriers only in the case of delivery of handguns, in interstate commerce, to persons under 21 years of age. General prohibitions on transporting would presumably apply also to carriers. ["Sec. 922(1)"]

Similar provisions pertaining to firearms, but substitutes "crime of violence" for "crime punishable by imprisonment" for a term exceeding one year. ["Secs. 922 (f) and (g)"]

Similar provision (firearms only). ["Sec. 922(h)"]

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Contains no provisions specially pertaining to common or contract carriers.

Same as H.R. 5384 except that "ammunition" does not include destructive device ammunition (most of which, however, would fall within the definition of "destructive device"). ["Sec. 924(a)(b)(c)"]

Same as H.R. 5384 except for above-noted qualification concerning ammunition. ["Sec. 924(d)"]

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Prohibits any person from (knowingly) receiving, concealing, storing, bartering, selling, or disposing of (or pledging or accepting as security for a loan) any stolen firearm or ammunition "moving as or which is a part of or which constitutes interstate or foreign commerce."
["Sec. 922(h)"]

Identical provision except for omission of reference to "ammunition." ["Sec. 922 (i)"]

Same as H.R. 5384 (see above qualification concerning ammunition). ["Sec 924(e)"]

Prohibits any person from (knowingly) transporting, shipping, or receiving in interstate or foreign commerce any firearm from which the importer's or manufacturer's serial number has been removed, obliterated, or altered.
["Sec. 922(i)"]

Identical provision except for omission of reference to "importer." ["Sec. 922 (j)"]

Same as H.R. 5384. ["Sec. 924(f)"]

No similar provision.

Prohibits manufacturers and dealers from (knowingly) delivering to any common or contract carrier, for transportation to persons other than licensees, any package in which there is a handgun without written notice to the carrier. ["Sec. 922 (k)"]

No similar provision.

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Prohibits any person from (knowingly) importing or bringing into the United States or any possession thereof any firearm or ammunition except as authorized by the Secretary of the Treasury, who may exempt from the prohibition certain kinds of firearms, such as unserviceable curios or museum pieces and firearms "generally recognized as particularly suitable for or readily adaptable to sporting purposes." The Secretary may also exempt firearms to be brought in for purposes such as scientific and research purposes, or a firearm which was previously taken out of the U.S. by the person who is bringing it in. ["Sec. 922(j)" and "Sec. 925(d)"]

No similar provision.

No similar provision.

Prohibits any person from (knowingly) receiving any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of provisions of the act. ["Sec. 922(j)"]

No similar provision.

No similar provision.

Prohibits licensees from falsifying the records required under the Act, and from failing to keep such records properly. ["Sec. 922(k)"]

Requires licensees to maintain records in accordance with regulations prescribed by the Secretary. ["Sec. 923(d)"]

Requires licensees to maintain records in accordance with regulations prescribed by the Secretary and provides a special penalty (see penalty section) for the making of any false statement or representation with respect to the information required to be kept in such records. ["Secs. 921(c)(2) and 923(a)"]

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LICENSING

Requires all persons engaging in business as firearms manufacturers, dealers, or importers to have a license issued by the Federal Government. ["Sec. 922 (a)(1)" and "Sec. 923(a)"]

Provides that application for license shall be in such form and contain such information as the Secretary of the Treasury may prescribe. ["Sec. 923(a)"]

Requires license fees as follows:

1) Manufacturer and importer -

a) of destructive devices and/or ammunition - \$1,000 per year;

b) of other firearms - \$500 per year.

Requires only those manufacturers or dealers who transport, ship, or receive firearms in interstate or foreign commerce to be Federally licensed. ["Sec. 923 (a)"]

Similar provision. ["Sec. 923(a)"]

No similar provision - but, by bringing "destructive devices" under controls of National Firearms Act, would require an occupational tax of \$500 per year.

\$50 per year.

Same as H.R. 5384. ["Sec. 921(a)"]

Similar provision. ["Sec. 921(a)"]

Same as H.R. 5384 except:

Contains no reference to ammunition. Most ammunition for destructive devices would per se fall within the definition of "destructive device." Definitions of "manufacturer" and "dealer" would include makers of, importers of, and dealers in pistol and revolver ammunition.

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2). Dealer -

- a) in destructive devices and/or ammunition - \$1,000 per year;

No similar provision - but, by bringing "destructive devices" under controls of National Firearms Act, would require an occupational tax of \$200 per year for a dealer and \$300 per year for a pawnbroker.

- b) if pawnbroker dealing in firearms other than destructive devices - \$250 per year;

\$50 per year.

contains no special provision relating to pawnbrokers.

- c) not dealing in destructive devices and not a pawnbroker - \$25 for the initial year and \$10 per year thereafter. ["Sec. 923(a)"]

Same.

\$10 per year, including initial year.

["Sec. 923(a)"]

["Sec. 921(a)"]

Requires that licensees:

- 1) be at least 21 years of age;

Same.

Same.

- 2) not be prohibited by the provisions of the Act from engaging in any form of interstate commerce relative to firearms, not be a person unlikely "to commence business operations during the term of the annual license applied for", and not be unlikely "to maintain operations in compliance with the provisions of the Act";

Does not make the second two stipulations; requires only that applicant not be a person prohibited by the provisions of the Act from engaging in any form of commerce relative to firearms.

Same as H.R. 5384.

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3) not be guilty of willfully violating any of the provisions of the Act or of regulations issued thereunder,	No similar provision.	No similar provision.
4) not be guilty of willfully failing to disclose any material information required, or of making a false statement as to any material fact in connection with the application, and	Same.	No similar provision, but provides penalty (see penalty section) for such acts.
5) not be a person who does not have, or does not intend to have or to maintain in a State or possession, business premises for the conduct of business. ["Sec. 923(c)"]	No similar provision.	No similar provision, but requires (see above) that the applicant be likely to commence business and to maintain such business operation in compliance with law.
Requires licensees to maintain such records of their transactions as the Secretary of the Treasury may by regulations prescribe and that they make these records available for inspection at all reasonable times, <u>and</u>	["Sec. 923(b)"]	["Sec. 921(b)"]
Provides that the Secretary may, upon request of any State, possession, or any political subdivision thereof, make available to the requester any information acquired by him as a result of the provisions of the Act with respect to identification of persons and description of firearms and ammunition. ["Sec. 923(d)"]	States only that licensees shall maintain such records of their transactions as the Secretary may by regulation prescribe. ["Sec. 923(d)"]	Similar to H.R. 5384.

H.R. 5384	H.R. 11887	Celler Amendment
Contains exempting provision, similar to that of H.R. 11887, under "Sec. 925(b)" but substitutes "crime punishable by imprisonment for a term exceeding one year" for "crime of violence."	Exempts licensees under indictment for a crime of violence from the prohibitions against shipping, transporting, or receiving firearms in interstate commerce, provided such licensees notify the Secretary within thirty days of indictment. ["Sec. 923(c)"]	Same as H.R. 5384.
Requires importers and manufacturers to identify, as the Secretary may prescribe, each firearm imported or manufactured. ["Sec. 923(f)"]	No similar provision.	Same as H.R. 5384.
No provision similar to that of H.R. 11887.	Prohibits - in an amendment to the National Firearms Act - possession by any person under 21 years of age of a firearm covered by the provisions of that act (which, as amended by H.R. 11887, would include destructive devices).	No similar provision.

H.R. 5384

H.R. 11887

Celler Amendment

PENALTIES

Provides penalties for violation of provisions of the Act of not more than \$5,000 and/or not more than 5 years imprisonment. ["Sec. 924(a)"]

Provides that whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that such an offense is to be committed therewith, ships, transports, or receives a firearm in interstate or foreign commerce, shall be fined not more than \$10,000 or imprisoned not more than ten years or both. ["Sec. 924(b)"]

Provides penalties of not more than \$10,000 and/or not more than 10 years imprisonment. ["Sec. 925 (a)"] Amends National Firearms Act to provide same penalties (\$10,000 and/or not more than 10 years imprisonment) for violation of that act (which would, as provided by H.R. 11887, include violations with respect to destructive devices). [Sec. 13]

No similar provision.

Provides penalties as follows:

- (1) For violation of provisions of the Act - not more than \$10,000 and/or not more than 5 years imprisonment. ["Sec. 923(b)"]
- (2) For knowingly making any false statement or representation with respect to the information required by the provisions of the Act to be kept in the records of a licensee, or in applying for any license or exemption or relief from disability - not more than \$5,000 and/or not more than 2 years imprisonment. ["Sec. 923(a)"]

Similar provision. ["Sec. 924(h) and 923(b)"]

H.R. 5384

Provides for seizure and forfeiture of any firearm involved in a violation of the provisions of the Act, or a rule or regulation promulgated thereunder. Also provides for same in the case of violation of "any criminal law of the United States." ["Sec. 924(c)"]

Provides that the Act shall not apply to transactions in which a firearm or ammunition is imported for, sold or shipped to, or issued for the use of the United States or any department or agency thereof; or any State or possession, or any department, agency, or political subdivision thereof. ["Sec. 925(a)"]

H.R. 11887

Similar provision, but does not include reference to "any other criminal law of the United States." ["Sec. 925(b)"]
(National Firearms Act presently has similar provision with respect to any firearm covered by that act which is involved in a violation of its provisions.)

EXCEPTIONS: RELIEF FROM DISABILITIES

Similar provision, but also includes, as excepted persons or groups:

- 1) duly commissioned officers or agents of the United States, a State, or political subdivision thereof,
- 2) any bank, common or contract carrier express company, or armored-truck company organized and operating in good faith for the transportation of money and valuables, which is granted an exemption by the Secretary; or
- 3) any research laboratory designated as such by the Secretary. ["Sec. 924(a)(1)"]

Celler Amendment

Same as H.R. 5384. ["Sec. 923(c)"]

Same as H.R. 11887. ["Sec. 926"]

H.R. 5384

H.R. 11887

Celler Amendment

Provisions similar to that of H.R. 11887 with respect to antique firearms, under "Sec. (b)(1)" of Definition section (excluding such firearms from the scope of the definition), and with respect to importation of unserviceable firearms, under "Sec. 925(d)(2)."

Provides that provisions of the Act concerning transportation, shipment, or receipt will not apply in the case of antique or unserviceable firearms possessed and held as curios or museum pieces. ["Sec. 924(a)(2)"]

Same as H.R. 11887. ["Sec. 926"]

No provision similar to that of H.R. 11887.

Provides that nothing in the Act shall be construed to prevent shipments of firearms to institutions, organizations, or persons to whom firearms may be lawfully delivered by the Secretary of Defense or his designee, nor to prevent the receipt or transportation of such firearms by their lawful possessors while they are engaged in military training or in competitions. ["Sec. 924(b)"]

Same as H.R. 11887. ["Sec. 926"]

Provides for procedures for removing disabilities in the case of persons convicted of a crime punishable by imprisonment for one year [other than a crime involving use of a firearm or other weapon or violation of (this) Act or of the National Firearms Act]. ["Sec. 925(c)"]

No similar provision.

Same as H.R. 5384. ["Sec. 928"]

H.R. 5384

H.R. 11887

Celler Amendment

- Provides the Secretary of the Treasury with authority to authorize importation of the following types of firearm into the U.S. or its possessions;

No similar provision.

No similar provision.

1) one being imported for scientific or research purposes or for use in connection with competition or training pursuant to chapter 401 of title 10 of the U.S. Code.

2) an unserviceable firearm (other than a machine gun) brought in as a curio or museum piece,

3) one which is generally recognized as particularly suitable for or readily adaptable to sporting purposes, and in the case of surplus military firearms as a rifle or shotgun, or

4) one which was previously taken out of the U.S. or possession by the person bringing in the firearm.

H.R. 5384

H.R. 11887

Celler AmendmentADDITIONAL AMENDMENTS TO THE NATIONAL FIREARMS ACT

No provision similar to that of
H.R. 11887.

Provides that the application form presently required by the National Firearms Act from any person seeking to obtain by transfer a firearm covered by the act shall include the applicant's age. [Sec. 7 (a)(2)]

No similar provisions.

"

Provides that one copy of the above application form must be sent to the purchaser's local police chief. [Sec. 7(a)(3)]

Provides that any person intending to make a firearm covered by the act shall include his age in the declaration he is presently required to submit to the Secretary of the Treasury. [Sec. 7 (b)(1)]

"

Provides that one copy of the above declaration must be sent to the would-be maker's local police chief. [Sec. 7(b)(2)]

"

Expands firearm identification provision of the act to include firearms not having serial numbers by requiring identification as the Secretary may prescribe. [Sec. 9]

H.R. 5384

H.R. 11887

Celler Amendment

"

Expands definition of "machine gun" to include weapons which can be readily restored to shoot automatically, machine gun frames or receivers, and parts for conversion of weapons to machine guns. [Sec. 10(a)(2)]

"

Amends both the definitions of "rifle" and "shotgun" to include their respective frames and receivers and any of the two weapons, respectively, which can readily be restored to firing condition. [Secs. 10(a)(4) and (5)]

"

Adds new section providing that nothing in the act shall be construed as modifying or otherwise affecting any provision of the proposed new chapter 44 of title 18, section 414 of the Mutual Security Act, or section 1715 of title 18 (relating to nonmailable firearms). [Sec. 11]

Harry Hogan
Education and Public Welfare Division
October 10, 1967

Prepared by Majority side

FACT SHEET

H.R. 5384

STATE FIREARMS CONTROL ASSISTANCE ACT OF 1967

WHAT THE BILL DOES:

The bill places controls on the business of buying, selling, and transporting hand guns and other firearms in interstate and foreign commerce. In essence, the bill applies to firearms importers, firearms manufacturers, and firearms dealers. H.R. 5384 requires these businessmen to obtain a license from the Secretary of the Treasury of the United States and to conduct their firearms activities in the manner established in the bill.

H.R. 5384 makes it unlawful:

1. For any person not licensed to engage in the business of importing, manufacturing or dealing in firearms or ammunition.
2. For any licensed importer, manufacturer or dealer to ship or transport firearms or ammunition to an unlicensed person, except (a) to return a firearm to a customer, (b) to mail a firearm to an eligible government enforcement official, and (c) to ship a rifle or shotgun to the residence of a customer who purchased in person at the licensee's place of business.
3. For any person not licensed to transport into or to receive in the State of residence (a) any firearm other than a rifle or shotgun, (b) any firearm which it would be unlawful to purchase or possess in the State of residence.
4. For any person not licensed to transport in commerce any destructive device, machine gun or short-barrelled rifle or shotgun.
5. For any person to transfer, sell, trade, give, transport or deliver to a person not licensed in another State; (a) any firearm other than a rifle or shotgun, (b) any firearm which would not be purchased or possessed lawfully in the State.
6. For any person knowingly to make false or fictitious oral or written statements to deceive a licensed manufacturer, importer or dealer in the sale or disposition of firearms.

H.R. 5384 makes it unlawful for licensed importers, manufacturers, or dealers to sell or deliver:

1. A firearm to anyone less than 21 years of age, except rifles or shotguns, which may be sold to 18 year-olds.
2. A firearm to any person who may not lawfully receive or possess it under State or local law.
3. A firearm to any person who does not reside in the State where the licensee's business is located, except rifles or shotguns.
4. To any person, any destructive device, machine gun, or short-barrelled rifle or shotgun that is not officially authorized in writing.
5. A firearm to any person unless he keeps records of the name, age and residence of the purchaser.
6. Firearms or ammunition to any person who is a fugitive from justice, or is under indictment or convicted of a crime punishable by imprisonment for more than one year.

H.R. 5384 also makes it unlawful:

1. For a common carrier to transport shipments of firearms that violate the Act.
2. For persons under indictment or convicted, or fugitives from justice, to transport or receive firearms in commerce.
3. For any person to transport in commerce, or to sell or receive, stolen firearms and ammunition.
4. For any person to transport in commerce firearms which have had the serial numbers removed, altered or obliterated.
5. For any person to import, or to receive imported, firearms and ammunition except as authorized by the Act.
6. For any licensed person to keep false records.

Licenses are to be granted by the Secretary of the Treasury. License fees range from \$10 per year for dealers and pawnbrokers, to \$1,000 per year for manufacturers of destructive devices.

Penalties for violations of the provisions of the bill, rules or regulations thereunder, or for false statements, include fines up to \$5,000 and 5 years imprisonment; penalties for transporting firearms in commerce with intent to commit therewith a felony include fines up to \$10,000 and 10 years imprisonment.

WHAT THE BILL DOES NOT DO:

H.R. 5384 does not:

1. Prevent or curtail the right of the individual to acquire or possess hand guns, rifles or shotguns for the purpose of sport, hunting or self-defense.
2. Require individuals to register, or acquire a permit for, their hand guns, rifles or shotguns.
3. Prohibit sportsmen from carrying their shotguns or rifles across State lines.

H.R. 5384 does not require the States or local governments to change their current gun control regulations. New regulations are not forced on States. States and local communities are free to decide what firearm gun control laws, if any, they want.

90TH CONGRESS
1ST SESSION

H. R. 11887

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1967

Mr. BIESTER (for himself and Mr. RAILSBACK) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide for control
of interstate traffic in firearms.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Firearms Control Act of
4 1967".

5 SEC. 2. Title 18, United States Code, is amended by
6 inserting after section 917 the following new chapter:

7 "Chapter 44.—FIREARMS

"Sec.

"921. Definitions.

"922. Unlawful acts.

"923. Licenses.

"924. Exceptions.

"925. Penalties.

1 "§ 921. Definitions

2 "(a) As used in this chapter—

3 "(1) The term 'person' includes an individual, part-
4 nership, association, or corporation.

5 "(2) The term 'State' includes each of the several
6 States, the District of Columbia, the Commonwealth of
7 Puerto Rico, Guam, the Virgin Islands, the Canal Zone,
8 and American Samoa.

9 "(3) The term 'interstate or foreign commerce'
10 means commerce between any State and any place out-
11 side thereof; or between points within the same State,
12 but through any place outside thereof; or within any
13 possession or the District of Columbia.

14 "(4) The term 'firearm', except when the context
15 otherwise requires, means (A) any weapon, manu-
16 factured after the year 1898, by whatsoever name
17 known, which will, or is designed to, or which may be
18 readily converted to, expel a projectile or projectiles by
19 the action of an explosive, or (B) the frame or receiver
20 of any such weapon.

21 "(5) The term 'handgun' means any pistol or re-
22 volver originally designed to be fired by the use of a
23 single hand and which is designed to fire or capable of
24 firing fixed cartridge ammunition, or any other firearm

1 originally designed to be fired by the use of a single
2 hand.

3 "(6) The term 'manufacturer' means any person
4 engaged in the business of manufacturing or importing
5 firearms for purposes of sale or distribution. The term
6 'licensed manufacturer' means any such person licensed
7 under the provisions of this chapter.

8 "(7) The term 'dealer' means any person engaged
9 in the business of selling firearms at wholesale or retail,
10 or any person engaged in the business of repairing such
11 firearms or of manufacturing or fitting barrels, stocks, or
12 trigger mechanisms to firearms, or any person who is a
13 pawnbroker. The term 'licensed dealer' means any dealer
14 who is licensed under the provisions of this chapter.

15 "(8) The term 'pawnbroker' means any person
16 whose business or occupation includes the taking or re-
17 ceiving by way of pledge or pawn, of any firearm as
18 security for the repayment of money loaned thereon.

19 "(9) The term 'Secretary' means the Secretary of
20 the Treasury or his designee.

21 "(10) The term 'crime of violence' includes volun-
22 tary manslaughter, murder, rape, mayhem, kidnaping,
23 robbery, burglary, housebreaking, assault with a dan-
24 gerous weapon, extortion accompanied by threats of

1 violence, assault with intent to commit any offense
2 punishable by imprisonment for more than one year,
3 arson punishable as a felony, or an attempt to commit
4 any of the foregoing offenses.

5 “(11) The term ‘indictment’ includes an indictment
6 or any information in any court of the United States or
7 in any court of any State under which a crime of vio-
8 lence may be prosecuted.

9 “(12) The term ‘fugitive from justice’ means any
10 person who has fled from any State to avoid prosecution
11 for a crime of violence or to avoid giving testimony in
12 any criminal proceeding.

13 “§ 922. Unlawful acts

14 “(a) It shall be unlawful for any manufacturer or
15 dealer, except a licensed manufacturer or licensed dealer, to
16 transport, ship, or receive any firearm in interstate or for-
17 eign commerce.

18 “(b) It shall be unlawful for any person to receive any
19 firearm transported or shipped in interstate or foreign com-
20 merce in violation of subsection (a) of this section, knowing
21 or having reasonable cause to believe such firearm to have
22 been transported or shipped in violation of such subsection.

23 “(c) It shall be unlawful for any licensed manufacturer
24 or licensed dealer to ship or transport, or cause to be shipped
25 or transported, any firearm in interstate or foreign commerce,

1 to any person in any State where the receipt or possession
2 by such a person of such firearm would be in violation of
3 any statute of such State, unless the licensed manufacturer
4 or licensed dealer establishes that he was unable to ascertain
5 with reasonable effort that the receipt or possession would be
6 in violation of such State law.

7 “(d) (1) It shall be unlawful for any licensed manu-
8 facturer or licensed dealer to ship or transport, or cause to
9 be shipped or transported, any firearm in interstate or
10 foreign commerce to any person in any political subdivision
11 of a State where the receipt or possession by such person of
12 such firearm would be in violation of any applicable ordi-
13 nance of such political subdivision which was published under
14 the provisions of paragraph (2) of this subsection in the
15 Federal Register at least six months prior to the date such
16 firearm was shipped or transported or caused to be shipped
17 or transported.

18 “(2) Upon the request of the principal governing body
19 of a political subdivision of a State (made in accordance with
20 such procedures as the Secretary may provide), the Secre-
21 tary shall publish in the Federal Register any ordinance of
22 such political subdivision which regulates the purchase, sale,
23 transfer, or possession of firearms. On or before January 31
24 of the second calendar year beginning after the effective date
25 of this chapter and each calendar year thereafter, the Secre-

1 tary shall publish in the Federal Register a list of all such
 2 ordinances published in the Federal Register in the preceding
 3 calendar year and shall furnish a copy of such list to each
 4 licensed manufacturer and licensed dealer.

5 “(e) It shall be unlawful for any person to ship or
 6 transport, or cause to be shipped or transported, any firearm
 7 in interstate or foreign commerce, to any person knowing or
 8 having reasonable cause to believe that such person is under
 9 indictment for, or has been convicted in any court of the
 10 United States or in any State of, a crime of violence or is a
 11 fugitive from justice.

12 “(f) It shall be unlawful for any person who is under
 13 indictment for, or who has been convicted of, a crime of
 14 violence, or who is a fugitive from justice to ship or trans-
 15 port, or cause to be shipped or transported, any firearm in
 16 interstate or foreign commerce.

17 “(g) It shall be unlawful for any person who is under
 18 indictment for, or who has been convicted of, a crime of
 19 violence, or who is a fugitive from justice, to receive any
 20 firearm which has been shipped or transported in interstate
 21 or foreign commerce.

22 “(h) It shall be unlawful for any person to transport or
 23 ship, or cause to be transported or shipped, any stolen fire-
 24 arm in interstate or foreign commerce, knowing, or having
 25 reasonable cause to believe, such firearm to have been stolen.

1 “(i) It shall be unlawful for any person—
 2 “(1) to receive, conceal, store, barter, sell, or
 3 dispose of any firearm, or

4 “(2) to pledge or accept as security for a loan any
 5 firearm,
 6 which is moving in, or a part of, interstate or foreign com-
 7 merce, and which while moving in, or constituting a part of,
 8 such commerce has been stolen, knowing, or having reason-
 9 able cause to believe, such firearm to have been stolen.”

10 “(j) It shall be unlawful for any person to transport,
 11 ship, or knowingly receive in interstate or foreign commerce
 12 any firearm from which the manufacturer’s serial number has
 13 been removed, obliterated, or altered.

14 “(k) It shall be unlawful for any manufacturer or dealer
 15 knowingly to deliver, or cause to be delivered, to any com-
 16 mon or contract carrier for transportation or shipment in
 17 interstate or foreign commerce to persons other than licensed
 18 manufacturers or dealers, any package or other container
 19 in which there is any handgun, unless such manufacturer or
 20 dealer gave written notice to the carrier that such package
 21 or other container contained a handgun.

22 “(l) It shall be unlawful for any common or contract
 23 carrier to deliver, or cause to be delivered, in interstate or
 24 foreign commerce any handgun to any person with knowl-

1 edge or with reasonable cause to believe that such person is
2 under twenty-one years of age.

3 “(m) It shall be unlawful for any licensed manufacturer
4 or licensed dealer to ship any handgun in interstate or foreign
5 commerce to any person (other than another licensed manu-
6 facturer or licensed dealer) unless—

7 “(1) such person has submitted to such manufac-
8 turer or dealer a sworn statement in the following form:

9 “STATEMENT OF ELIGIBILITY TO RECEIVE A HANDGUN

10 “Under penalties provided by chapter 44 of title 18,
11 United States Code, I swear that—

12 ““(1) I am over 20 years of age;

13 ““(2) I am not prohibited by the provisions of
14 chapter 44 of title 18, United States Code, from receiv-
15 ing a handgun in interstate or foreign commerce;

16 ““(3) I am not now and have not been at any time
17 during the last five years an unlawful user of or addicted
18 to marihuana or any depressant or stimulant drug (as
19 defined in section 201 (v) of the Federal Food, Drug,
20 and Cosmetic Act) or a narcotic drug (as defined in
21 section 4731 (a) of the Internal Revenue Code of 1954);

22 ““(4) I have never been convicted of the criminal
23 sale, possession, or use of marihuana or such drugs;

24 ““(5) I am not now and never have been adjudi-

1 cated in any court as a mental defective, and I am not
2 now and never have been committed under a court order
3 to any mental institution; and

4 ““(6) my receipt of this handgun will not be in
5 violation of any State statute or any ordinance (pub-
6 lished under section 922 (d) (2) of title 18, United
7 States Code) applicable to the locality to which the
8 handgun will be shipped and will not be in violation of
9 any State statute or any ordinance (published under
10 section 922 (d) (2) of title 18, United States Code)
11 applicable to the locality in which I reside.

12 Check the appropriate box—

13 “☐ Attached is a true copy of any permit required
14 pursuant to such State statute or such published ordinance.

15 “☐ Attached is a statement made by the authority
16 responsible for the issuing of a permit required by such State
17 statute or such published ordinance that such permit has been
18 issued to me.

19 “The title, name, and address of the principal law
20 enforcement officer of the locality to which the handgun will
21 be shipped is -----

22 -----;
23 and the title, name, and address of the principal law

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1 enforcement officer of the locality in which I reside is

2 -----
 3 “(If same, write ‘Same’)

4 “My residence is -----

5 Signature ----- Date -----’;

6 “(2) such manufacturer or dealer has, prior to the

7 shipment of such handgun, forwarded by registered or

8 certified mail (return receipt requested) to (A) the

9 official designated under this subsection by the Governor

10 of the State to which the handgun will be shipped, and

11 if such person resides in another State, the official desig-

12 nated under this subsection by the Governor of that

13 State, or (B) if no such official has been designated, the

14 local law enforcement officer or officers named in the

15 sworn statement, a notice which shall include a copy of

16 the sworn statement described in paragraph (1) of this

17 section and a description of the handgun to be shipped

18 (including the name of the manufacturer, caliber, model,

19 and type of such handgun, but not its serial number

20 identification), and has received a return receipt evi-

21 dencing delivery of such notice, or such notice has been

22 returned to such manufacturer or dealer due to the re-

23 fusal of such designated official or local law enforcement

24 officer to accept such notice in accordance with United

25 States Post Office Department regulations; and

“ (3) such manufacturer or dealer has delayed ship-

1 ment for a period of at least seven days following

2 receipt of the notification of such designated official’s

3 or local law enforcement officer’s acceptance or refusal

4 of such notice.

5 A copy of the notice forwarded to the designated official

6 or local law enforcement officer along with (evidence of

7 receipt or rejection of that notice shall be retained by the

8 licensee as a part of the records required to be kept under

9 section 923 (d). For purposes of paragraph (2) of this

10 subsection, the Governor of any State may designate any

11 official in his State to receive such notice for such State or

12 any political subdivision thereof and shall notify the Secre-

13 tary of the name, title, and business address of such official,

14 and the Secretary shall publish in the Federal Register the

15 name, title, and address of such official. Upon such publica-

16 tion, the notice required by paragraph (2) shall be forwarded

17 to such designated official during the five-year period begin-

18 ning on the date of such publication unless the request is

19 withdrawn by the Governor of such State and such with-

20 drawal is published in the Federal Register.

21 “ (n) It shall be unlawful for any licensed manufac-

22 turer or licensed dealer to sell or deliver for sale any handgun

23 to any person other than another licensed manufacturer or

24 licensed dealer who is not a resident of the State in which

1 such manufacturer's or dealer's place of business is located
2 and in which the sale or delivery for sale is made, unless such
3 manufacturer or dealer has, prior to sale, or delivery for sale
4 of the handgun, complied with the provisions of subsection
5 (m) of this section.

6 “(o) It shall be unlawful for any person in connection
7 with the acquisition or attempted acquisition of a firearm
8 from a licensed manufacturer or licensed dealer to—

9 “(1) knowingly make any false or fictitious state-
10 ment, written or oral; or

11 “(2) knowingly furnish or exhibit any false, ficti-
12 tious, or misrepresented identification with the intention
13 to deceive such manufacturer or dealer with respect
14 to any fact material to the lawfulness of the sale or other
15 disposition of a firearm by a licensed manufacturer or
16 licensed dealer under the provisions of this section.

17 “(p) It shall be unlawful for any person to transport or
18 receive in the State where he resides a firearm purchased or
19 otherwise obtained by him outside the State where he resides
20 if it would be unlawful for him to purchase or possess such
21 firearm in the State where he resides.

22 “(q) It shall be unlawful for any person to transport
23 into or receive in the political subdivision of the State in
24 which he resides a firearm purchased or otherwise obtained
25 by him outside such State if it would be unlawful for him

1 to purchase or possess such firearm in such political subdi-
2 vision.

3 “§ 923. Licenses

4 “(a) Any manufacturer or dealer desiring a license to
5 transport, ship, or receive firearms in interstate or foreign
6 commerce shall file an application for such license with the
7 Secretary, in such form and containing such information as
8 the Secretary shall by regulation prescribe. Each such appli-
9 cant shall be required to pay a fee for obtaining such license
10 as follows:

11 “(1) If a manufacturer of firearms, a fee of \$50 per
12 annum.

13 “(2) If a dealer (other than a pawnbroker) in fire-
14 arms, a fee of \$10 per annum, except that for the first
15 renewal following the effective date of the Firearms Con-
16 trol Act of 1967 or for the first year he is engaged in
17 business as a dealer such dealer will pay a fee of \$25.

18 “(3) If a pawnbroker, a fee of \$50 per annum.

19 “(b) Upon filing by a qualified applicant of a proper
20 application and the payment of the prescribed fee, the Sec-
21 retary shall issue to such applicant the license applied for,
22 which shall, subject to the provisions of this chapter, entitle
23 the licensee to transport, ship, sell, and receive firearms in
24 interstate or foreign commerce during the period stated in

1 the license. No license shall be issued pursuant to this
2 chapter—

3 “(1) to any applicant who is under twenty-one
4 years of age;

5 “(2) to any applicant, if the applicant (including,
6 in the case of a corporation, partnership, or association,
7 any individual who, directly or indirectly, has the power
8 to direct or cause the direction of the management and
9 policies of the corporation, partnership, or association)
10 is prohibited by the provisions of this chapter from trans-
11 porting, shipping, selling, or receiving firearms in inter-
12 state or foreign commerce; or

13 “(3) to any applicant who has willfully failed to
14 disclose any material information required, or made any
15 false statement as to any material fact, in connection
16 with his application.

17 “(c) The provisions of section 922 (e), (f), and (g)
18 of this chapter shall not apply in the case of a licensed manu-
19 facturer or licensed dealer who is under indictment for a
20 crime of violence if such manufacturer or dealer gives notice
21 to the Secretary by registered or certified mail of his indict-
22 ment within thirty days of the date of the indictment. A
23 licensed manufacturer or licensed dealer who has given
24 notice of his indictment to the Secretary, as provided in this
25 subsection, may continue operation pursuant to this existing

1 license during the term of such indictment, and until any
2 conviction pursuant to the indictment becomes final, where-
3 upon he shall be fully subject to all provisions of this
4 chapter, and operations pursuant to such license shall be
5 discontinued.

6 “(d) Each licensed manufacturer and licensed dealer
7 shall maintain such records of production, importation,
8 notices, shipment, sale, and other disposal of firearms as the
9 Secretary may by regulation prescribe.

10 “§ 924. Exceptions

11 “(a) The provisions of this chapter shall not apply with
12 respect to—

13 “(1) the transportation, shipment, receipt, or im-
14 portation of any firearms sold or shipped to, or issued
15 for the use of (A) the United States or any department,
16 independent establishment, or agency thereof; (B) any
17 State or any department, independent establishment,
18 agency, or any political subdivision thereof; (C) any
19 duly commissioned officer or agent of the United States
20 or a State or any political subdivision thereof; (D) any
21 bank, common or contract carrier, express company, or
22 armored-truck company organized and operating in good
23 faith for the transportation of money and valuables,
24 which is granted an exemption by the Secretary; or

1 (E) any research laboratory designated as such by the
 2 Secretary; or
 3 “(2) the transportation, shipment, or receipt of
 4 antique or unserviceable firearms possessed and held as
 5 a curio or museum piece.

6 “(b) Nothing contained in this chapter shall be con-
 7 strued to prevent shipments of firearms to institutions, orga-
 8 nizations, or persons to whom firearms may be lawfully deliv-
 9 ered by the Secretary of Defense or his designee, nor to
 10 prevent the receipt or transportation of such firearms by
 11 their lawful possessors while they are engaged in military
 12 training or in marksmanship competitions.

13 § 925. Penalties

14 “(a) Any person who violates any of the provisions of
 15 this chapter or any rules and regulations promulgated here-
 16 under, or who makes any statement in applying for the
 17 license or exemption provided for in this chapter, knowing
 18 or having reasonable cause to know such statement to be
 19 false, shall, upon conviction thereof, be fined not more than
 20 \$10,000, or imprisoned for not more than ten years, or both,
 21 and shall become eligible for parole as the board of parole
 22 shall determine.

23 “(b) Any firearm involved in any violation of the pro-
 24 visions of this chapter or any rules or regulations promul-
 25 gated thereunder shall be subject to seizure and forfeiture,

1 and all provisions of the Internal Revenue Code of 1954 re-
 2 lating to seizure, forfeiture, and disposition of firearms shall,
 3 so far as applicable, extend to seizures and forfeitures incurred
 4 under the provisions of this chapter.”

5 SEC. 3. Nothing in the amendments made by section 2
 6 of this Act shall be construed as modifying or otherwise
 7 affecting the requirements of—

8 (1) section 414 of the Mutual Security Act of 1954
 9 (22 U.S.C. 1934) (relating to munitions control); or

10 (2) section 1715 of title 18 of the United States
 11 Code (relating to nonmailable firearms).

12 SEC. 4. The table of chapters of part I of title 18, United
 13 States Code, is amended by inserting after

“43. False personation..... 911”

14 the following:

“44. Firearms..... 921”.

15 SEC. 5. The Federal Firearms Act (15 U.S.C. 901-
 16 910) is repealed.

17 SEC. 6. Section 5803 of the Internal Revenue Code
 18 of 1954 is amended to read as follows:

19 “SEC. 5803. EXEMPTIONS.

20 “The tax imposed by section 5801 shall not apply to
 21 any importer, manufacturer, or dealer all of whose business
 22 as an importer, manufacturer, or dealer is conducted with,
 23 or on behalf of, the United States or any department, inde-

pendent establishment, or agency thereof. The Secretary or his delegate may relieve any such importer, manufacturer, or dealer from compliance with any provision of this chapter with respect to the conducting of such business."

SEC. 7. (a) Section 5814 of the Internal Revenue Code of 1954 is amended—

(1) by striking out "duplicate" in the first sentence of subsection (a) and inserting in lieu thereof "triplicate";

(2) by inserting before the period in the second sentence of subsection (a) thereof the following: "and the age of such applicant"; and

(3) by striking out "a copy" in the first sentence of subsection (b) and inserting in lieu thereof "one copy", and by adding before the period in such sentence the following: "and one copy to the principal law enforcement officer of the locality wherein he resides".

(b) Subsection (e) of section 5821 of the Internal Revenue Code of 1954 is amended—

(1) by inserting before the period in the last sentence thereof the following: "and the age of such applicant"; and

(2) by adding at the end thereof the following new sentence: "At the same time that the person making the declaration forwards the declaration to the

Secretary or his delegate, he shall forward a copy thereof to the principal law enforcement officer of the locality wherein he resides."

SEC. 8. The second sentence of section 5841 of the Internal Revenue Code of 1954 is repealed.

SEC. 9. Section 5843 of the Internal Revenue Code of 1954 is amended by inserting at the end thereof the following sentence: "If a firearm (possessed by a person other than an importer or manufacturer) does not bear the identification required under this section, the possessor thereof shall identify the firearm with such number and other identification marks as may be designated by the Secretary or his delegate, in a manner approved by the Secretary or his delegate."

SEC. 10. (a) Section 5848 of the Internal Revenue Code of 1954 is amended as follows:

(1) Paragraph (1) is amended by inserting after "or a machinegun," the following: "or a destructive device,".

(2) Paragraph (2) is amended by inserting "can be readily restored to shoot," after "shoots," and by striking out the period at the end thereof and inserting ", and shall include (A) the frame or receiver of any such weapon, and (B) any combination of parts designed and intended for use in converting a weapon, other than a machinegun, into a machinegun."

(3) Paragraphs (3), (4), (5), (6), (7), (8), (9), (10), and (11) are redesignated as paragraphs (4), (5), (6), (7), (8), (9), (10), (11), and (12), respectively, and the following new paragraph is added after paragraph (2):

“(3) The term ‘destructive device’ means (A) any explosive or incendiary (i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile, (v) mine, or (vi) similar device; (B) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive, the barrel or barrels of which have a bore of more than 0.78 of an inch in diameter; or (C) any combination of parts designed and intended for use in converting any device into a destructive device. The term ‘destructive device’ shall not include (i) any device which is not designed or redesigned or used or intended for use as a weapon, (ii) any device, although originally designed as a weapon, which is redesigned for use or is used as a signaling, pyrotechnic, line throwing, safety, or similar device, (iii) any shotgun or rifle, (iv) any firearm designed for use with black powder, regardless of when manufactured, (v) surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title

10 of the United States Code, (vi) any device which the Secretary finds is used exclusively by the United States or any department or agency thereof, or (vii) any other device which the Secretary finds is not likely to be used as a weapon.”

(4) Paragraph (4) (as so redesignated by paragraph (3)) is amended by striking out the period at the end thereof and inserting “, and shall include the frame or receiver of any such weapon, and any such weapon which can readily be restored to firing condition.”

(5) Paragraph (5) (as so redesignated by paragraph (3)) is amended by striking out the period at the end thereof and inserting “, and shall include the frame or receiver of any such weapon, and any such weapon which can readily be restored to firing condition.”

(b) (1) The proviso in paragraph (3) of subsection (a) of section 5801 of the Internal Revenue Code of 1954 is amended by striking out “under section 5848(5)” and inserting in lieu thereof “under section 5848(6)”.

(2) The proviso in subsection (a) of section 5811 of the Internal Revenue Code of 1954 is amended by striking out “under section 5848(5)” and inserting in lieu thereof “under section 5848(6)”.

SEC. 11. (a) Subchapter B of chapter 53 of the In-

1 ternal Revenue Code of 1954 is amended by adding at the
2 end thereof a new section 5850 as follows:

3 **"SEC. 5850. APPLICABILITY OF OTHER LAWS.**

4 "Nothing in this chapter shall be construed as modify-
5 ing or otherwise affecting any provision of—

6 "(1) chapter 44 of title 18, United States Code
7 (relating to firearms);

8 "(2) section 414 of the Mutual Security Act of
9 1954 (22 U.S.C. 1934) (relating to munitions con-
10 trol); or

11 "(3) section 1715 of title 18, United States Code
12 (relating to nonmailable firearms)."

13 (b) The table of sections in subchapter B of chapter
14 53 of the Internal Revenue Code of 1954 is amended by
15 adding at the end thereof:

"Sec. 5850. Applicability of other laws."

16 **SEC. 12.** (a) Subchapter C of chapter 53 of the Internal
17 Revenue Code of 1954 is amended by adding at the end
18 thereof the following new sections:

19 **"SEC. 5856. UNLAWFUL POSSESSION IN VIOLATION OF**
20 **STATE AND LOCAL LAW.**

21 "(a) **STATE LAW.**—It shall be unlawful for any person
22 to possess in the State where he resides a firearm purchased
23 or otherwise obtained by him outside the State where he

1 resides if it would be unlawful for him to purchase or possess
2 such firearm in the State where he resides.

3 "(b) **LOCAL LAW.**—It shall be unlawful for any person
4 to possess in the political subdivision of the State where he
5 resides a firearm purchased or otherwise obtained by him
6 outside the State where he resides if it would be unlawful
7 for him to purchase or possess such firearm in the political
8 subdivision where he resides.

9 **"SEC. 5857. UNLAWFUL POSSESSION BY A PERSON UNDER**
10 **21 YEARS OF AGE.**

11 "It shall be unlawful for any person who is not 21 years
12 or more of age to possess a firearm."

13 (b) The table of sections in subchapter C of chapter 53
14 of the Internal Revenue Code of 1954 is amended by adding
15 at the end thereof:

"Sec. 5856. Unlawful possession in violation of State law."

"Sec. 5857. Unlawful possession by a person under 21 years
of age."

16 **SEC. 13.** Section 5861 of the Internal Revenue Code of
17 1954 is amended to read as follows:

18 **"SEC. 5861. PENALTIES.**

19 "Any person who violates or fails to comply with any
20 of the requirements of this chapter shall, upon conviction,
21 be fined not more than \$10,000, or imprisoned for not more

1 than ten years, or both, and shall become eligible for parole
2 as the Board of Parole shall determine.”

3 SEC. 14. Subsection (d) of section 5685 of the Internal
4 Revenue Code of 1954 is amended to read as follows:

5 “(d) DEFINITION OF MACHINE GUN.—As used in this
6 section the term ‘machine gun’ has the same meaning as-
7 signed to it in section 5848 (2).”

8 SEC. 15. (a) Except as provided in subsection (b),
9 the amendments made by this Act shall take effect on the
10 first day of the sixth calendar month beginning after the
11 month in which this Act is enacted.

12 (b) Any person required to register a firearm under
13 the provisions of section 5841 of the Internal Revenue Code
14 of 1954 because of the amendments to section 5848 of
15 such Code made by section 10 of this Act, shall have ninety
16 days from the effective date prescribed in subsection (a)
17 of this section to register such firearm, and such person shall
18 incur no liability (criminal or otherwise) for failure to
19 register such firearm under section 5841 of such Code prior
20 to the expiration of such ninety days.

1 than ten years, or both, and shall become eligible for parole
2 as the Board of Parole shall determine."

3 SEC. 14. Subsection (d) of section 5835 of the Internal
4 Revenue Code of 1954 is amended to read as follows:

5 "(d) DEFINITION OF MACHINE GUN.—As used in this
6 section the term 'machine gun' has the same meaning as-
7 signed to it in section 5848 (2)."

8 SEC. 15. (a) Except as provided in subsection (b),
9 the amendments made by this Act shall take effect on the
10 first day of the sixth calendar month beginning after the
11 month in which this Act is enacted.

12 (b) Any person required to register a firearm under
13 the provisions of section 5841 of the Internal Revenue Code
14 of 1954 because of the amendments to section 5848 of
15 such Code made by section 10 of this Act, shall have ninety
16 days from the effective date prescribed in subsection (a)
17 of this section to register such firearm, and such person shall
18 incur no liability (criminal or otherwise) for failure to
19 register such firearm under section 5841 of such Code prior
20 to the expiration of such ninety days.

Referred to the Committee on the Judiciary

June 31, 1961

By Mr. FURSTEN and Mr. RYAN

arms

To amend title 18, United States Code, to pro-

A BILL

1st Session
80th Congress

H. R. 11887

90TH CONGRESS
1ST SESSION

H. R. 11887

A BILL

To amend title 18, United States Code, to provide for control of interstate traffic in firearms.

By Mr. BRESTER and Mr. RAITSBACK

JULY 27, 1967

Referred to the Committee on the Judiciary

90TH CONGRESS
1ST SESSION

H. R. 5384

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 1967

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "State Firearms Control
4 Assistance Act of 1967".

FINDINGS AND DECLARATION

6 SEC. 2. (a) The Congress hereby finds and declares—

7 (1) that there is a widespread traffic in firearms
8 moving in or otherwise affecting interstate or foreign
9 commerce, and that the existing Federal controls over
10 such traffic do not adequately enable the States to con-

VI—O

1 trol the firearms traffic within their own borders through
2 the exercise of their police power;

3 (2) that the ease with which any person can ac-
4 quire firearms (including criminals, juveniles without
5 the knowledge or consent of their parents or guardians,
6 narcotics addicts, mental defectives, armed groups who
7 would supplant the functions of duly constituted public
8 authorities, and others whose possession of firearms is
9 similarly contrary to the public interest) is a significant
10 factor in the prevalence of lawlessness and violent crime
11 in the United States;

12 (3) that only through adequate Federal control
13 over interstate and foreign commerce in firearms, and
14 over all persons engaging in the businesses of importing,
15 manufacturing, or dealing in firearms, can this grave
16 problem be properly dealt with, and effective State and
17 local regulation of the firearms traffic be made possible;

18 (4) that the acquisition on a mail-order basis of
19 firearms by nonlicensed individuals, from a place other
20 than their State of residence, has materially tended to
21 thwart the effectiveness of State laws and regulations,
22 and local ordinances;

23 (5) that the sale or other disposition of concealable
24 weapons by importers, manufacturers, and dealers hold-
25 ing Federal licenses, to nonresidents of the State in

1 which the licensees' places of business are located, has
2 tended to make ineffective the laws, regulations, and
3 ordinances in the several States and local jurisdictions
4 regarding such firearms;

5 (6) that there is a causal relationship between the
6 easy availability of firearms and juvenile and youthful
7 criminal behavior, and that firearms have been widely
8 sold by federally licensed importers and dealers to emo-
9 tionally immature, or thrill-bent juveniles and minors
10 prone to criminal behavior;

11 (7) that the United States has become the dumping
12 ground of the castoff surplus military weapons of other
13 nations, and that such weapons, and the large volume of
14 relatively inexpensive pistols and revolvers (largely
15 worthless for sporting purposes), imported into the
16 United States in recent years, has contributed greatly
17 to lawlessness and to the Nation's law enforcement
18 problems;

19 (8) that the lack of adequate Federal control over
20 interstate and foreign commerce in highly destructive
21 weapons (such as bazookas, mortars, antitank guns, etc.,
22 and destructive devices such as explosives or incendiary
23 grenades, bombs, missiles, and so forth) has allowed such
24 weapons and devices to fall into the hands of lawless
25 persons, including armed groups who would supplant

lawful authority, thus creating a problem of national concern;

(9) that the existing licensing system under the Federal Firearms Act does not provide adequate license fees or proper standards for the granting or denial of licenses, and that this has led to licenses being issued to persons not reasonably entitled thereto, thus distorting the purposes of the licensing system.

(b) The Congress further hereby declares that the purpose of this Act is to cope with the conditions referred to in the foregoing subsection, and that it is not the purpose of this Act to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trap shooting, target shooting, personal protection, or any other lawful activity, and that this Act is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this Act.

SEC. 3. Title 18, United States Code, is amended by inserting after section 917 thereof the following new chapter:

"Chapter 44.—FIREARMS

"Sec.

"921. Definitions.

"922. Unlawful Acts.

"923. Licensing.

"924. Penalties.

"925. Exceptions: Relief from disabilities.

"926. Rules and regulations.

"927. Effect on State law.

"928. Separability clause.

4 "§ 921. Definitions

"(a) As used in this chapter—

"(1) The term 'person' and the term 'whoever' includes any individual, corporation, company, association, firm, partnership, society, or joint stock company.

"(2) The term 'interstate or foreign commerce' includes commerce between any State or possession (not including the Canal Zone) and any place outside thereof; or between points within the same State or possession (not including the Canal Zone), but through any place outside thereof; or within any possession or the District of Columbia. The term 'State' shall include the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia.

“(3) The term ‘firearm’ means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; or any destructive device.

“(4) The term ‘destructive device’ means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device; and includes any type of weapon which will or is designed to or may readily be converted to expel a projectile by the action of any explosive and having any barrel with a bore of one-half inch or more in diameter.

“(5) The term ‘shotgun’ means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

“(6) The term ‘short-barreled shotgun’ means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if

such weapon as modified has an overall length of less than twenty-six inches.

“(7) The term ‘rifle’ means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

“(8) The term ‘short-barreled rifle’ means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than twenty-six inches.

“(9) The term ‘importer’ means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term ‘licensed importer’ means any such person licensed under the provisions of this chapter.

“(10) The term ‘manufacturer’ means any person engaged in the manufacture of firearms or ammunition for purposes of sale or distribution; and the term ‘licensed

1 manufacturer' means any such person licensed under the
2 provisions of this chapter.

3 "(11) The term 'dealer' means (A) any person
4 engaged in the business of selling firearms or ammunition
5 at wholesale or retail, (B) any person engaged in the
6 business of repairing such firearms or of making or
7 fitting special barrels, stocks, or trigger mechanisms to
8 firearms or (C) any person who is a pawnbroker. The
9 term 'licensed dealer' means any dealer who is licensed
10 under the provisions of this chapter.

11 "(12) The term 'pawnbroker' means any person
12 whose business or occupation includes the taking or
13 receiving, by way of pledge or pawn, of any firearm
14 or ammunition as security for the payment or repayment
15 of money.

16 "(13) The term 'indictment' includes an indict-
17 ment or an information in any court under which a
18 crime punishable by imprisonment for a term exceeding
19 one year may be prosecuted.

20 "(14) The term 'fugitive from justice' means any
21 person who has fled from any State or possession to
22 avoid prosecution for a crime punishable by imprison-
23 ment for a term exceeding one year or to avoid giving
24 testimony in any criminal proceeding.

1 "(15) The term 'antique firearm' means any fire-
2 arm of a design used before the year 1870 (including
3 any matchlock, flintlock, percussion cap, or similar
4 early type of ignition system) or replica thereof, whether
5 actually manufactured before or after the year 1870;
6 but not including any weapon designed for use with
7 smokeless powder or using rim-fire or conventional
8 center-fire ignition with fixed ammunition.

9 "(16) The term 'ammunition' means ammunition
10 for a destructive device; it shall not include shotgun shells
11 or any other ammunition designed for use in a firearm
12 other than a destructive device.

13 "(17) The term 'Secretary' or 'Secretary of the
14 Treasury' means the Secretary of the Treasury or his
15 delegate.

16 "(b) As used in this chapter—

17 "(1) The term 'firearm' shall not include an antique
18 firearm.

19 "(2) The term 'destructive device' shall not in-
20 clude—

21 "(A) a device which is not designed or rede-
22 signed or used or intended for use as a weapon; or

23 "(B) any device, although originally designed

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1 as a weapon, which is redesigned so that it may be
2 used solely as a signaling, line-throwing, safety or
3 similar device; or

4 “(C) any shotgun other than a short-barreled
5 shotgun; or

6 “(D) any nonautomatic rifle (other than a
7 short-barreled rifle) generally recognized or particu-
8 larly suitable for use for the hunting of big game; or

9 “(E) surplus obsolete ordnance sold, loaned,
10 or given by the Secretary of the Army pursuant to
11 the provisions of 10 U.S.C., sections 4684 (2),
12 4685, or 4686; or

13 “(F) any other device which the Secretary
14 finds is not likely to be used as a weapon.

15 “(3) The term ‘crime punishable by imprisonment
16 for a term exceeding one year’ shall not include any
17 Federal or State offenses pertaining to antitrust viola-
18 tions, unfair trade practices, restraints of trade, or other
19 similar offenses relating to the regulation of business
20 practices as the Secretary may by regulation designate.

21 “§ 922. Unlawful acts

22 “(a) It shall be unlawful—

23 “(1) for any person, except a licensed importer,
24 licensed manufacturer, or licensed dealer, to engage in
25 the business of importing, manufacturing, or dealing in

1 firearms or ammunition, or in the course of such business
2 to ship, transport, or receive any firearm or ammunition
3 in interstate or foreign commerce;

4 “(2) for any importer, manufacturer, or dealer
5 licensed under the provisions of this chapter to ship or
6 transport in interstate or foreign commerce, any firearm
7 or ammunition to any person other than a licensed im-
8 porter, licensed manufacturer, or licensed dealer, except
9 that—

10 “(A) this paragraph shall not be held to pre-
11 clude a licensed importer, licensed manufacturer, or
12 licensed dealer from returning a firearm or replace-
13 ment firearm of the same kind and type to a person
14 from whom it was received;

15 “(B) this paragraph shall not be held to pre-
16 clude a licensed importer, licensed manufacturer, or
17 licensed dealer from depositing a firearm for con-
18 veyance in the mails to any officer, employee, agent,
19 or watchman who, pursuant to the provisions of
20 section 1715 of title 18 of the United States Code,
21 is eligible to receive through the mails, pistols, re-
22 volvers, and other firearms capable of being con-
23 cealed on the person, for use in connection with his
24 official duty;

25 “(C) this paragraph shall not be held to pre-

1 clude a licensed importer, licensed manufacturer, or
 2 licensed dealer from shipping a rifle or shotgun to
 3 an individual who in person upon the licensee's
 4 business premises purchased such rifle or shotgun,
 5 provided that such sale or shipment is not otherwise
 6 prohibited by the provisions of this chapter;

7 “(D) Nothing in this paragraph shall be con-
 8 strued as applying in any manner in the District of
 9 Columbia, the Commonwealth of Puerto Rico, or
 10 any possession of the United States differently than
 11 it would apply if the District of Columbia, the Com-
 12 monwealth of Puerto Rico, or the possession were
 13 in fact a State of the United States;

14 “(3) for any person other than a licensed importer,
 15 licensed manufacturer, or licensed dealer to transport
 16 into or receive in the State where he resides (or if
 17 the person is a corporation or other business entity, in
 18 which he maintains a place of business) —

19 “(A) any firearm, other than a shotgun or
 20 rifle, purchased or otherwise obtained by him out-
 21 side that State;

22 “(B) any firearm, purchased or otherwise ob-
 23 tained by him outside that State, which it would be
 24 unlawful for him to purchase or possess in the State

1 or political subdivision thereof wherein he resides
 2 (or if the person is a corporation or other business
 3 entity, in which he maintains a place of business).

4 “(4) for any person, other than a licensed im-
 5 porter, licensed manufacturer, or licensed dealer, to
 6 transport in interstate or foreign commerce any destruc-
 7 tive device, machine gun (as defined in section 5848 of
 8 the Internal Revenue Code of 1954), short-barreled
 9 shotgun, or short-barreled rifle, except as specifically
 10 authorized by the Secretary;

11 “(5) for any person to transfer, sell, trade, give,
 12 transport, or deliver to any person (other than a licensed
 13 importer, licensed manufacturer, or licensed dealer) who
 14 resides in any State other than that in which the trans-
 15 feror resides (or in which his place of business is located
 16 if the transferor is a corporation or other business
 17 entity) —

18 “(A) any firearm, other than a shotgun or
 19 rifle;

20 “(B) any firearm which the transferee could
 21 not lawfully purchase or possess in accord with ap-
 22 plicable laws, regulations, or ordinances of the State
 23 or political subdivision thereof in which the trans-

1 feree resides (or in which his place of business is
2 located if the transferee is a corporation or other
3 business entity).

4 This paragraph shall not apply to transactions between
5 licensed importers, licensed manufacturers, and licensed
6 dealers; or

7 “(5) for any person in connection with the acqui-
8 sition or attempted acquisition of any firearm from a
9 licensed importer, licensed manufacturer, or licensed
10 dealer, knowingly to make any false or fictitious oral or
11 written statement or to furnish or exhibit any false or
12 fictitious or misrepresented identification, intended or
13 likely to deceive such importer, manufacturer, or dealer
14 with respect to any fact material to the lawfulness of
15 the sale or other disposition of such firearm under the
16 provisions of this chapter.

17 “(b) It shall be unlawful for any licensed importer,
18 licensed manufacturer, or licensed dealer to sell or deliver—

19 “(1) any firearm to any individual who the licensee
20 knows or has reasonable cause to believe is less than
21 twenty-one years of age, if the firearm is other than a
22 shotgun or rifle; or to any individual who the licensee
23 knows or has reasonable cause to believe is less than
24 eighteen years of age, if the firearm is a shotgun or rifle;

25 “(2) any firearm to any person who the licensee

1 knows or has reasonable cause to believe is not lawfully
2 entitled to receive or possess such firearm by reason of
3 any State or local law, regulation, or ordinance ap-
4 plicable at the place of sale, delivery, or other disposi-
5 tion of the firearm;

6 “(3) any firearm to any person who the licensee
7 knows or has reasonable cause to believe does not re-
8 side in (or if the person is a corporation or other busi-
9 ness entity, does not maintain a place of business in) the
10 State in which the licensee's place of business is located;
11 except that this paragraph shall not apply in the case
12 of a shotgun or rifle.

13 “(4) to any person any destructive device, machine
14 gun (as defined in section 5848 of the Internal Revenue
15 Code of 1954), short-barreled shotgun, or short-barreled
16 rifle, unless he has in his possession a sworn statement
17 executed by the principal law enforcement officer of the
18 locality wherein the purchaser or person to whom it
19 is otherwise disposed of resides, attesting that there is
20 no provision of law, regulation, or ordinance which would
21 be violated by such person's receipt or possession thereof,
22 and that he is satisfied that it is intended by such person
23 for lawful purposes; and such sworn statement shall be
24 retained by the licensee as a part of the records required
25 to be kept under the provisions of this chapter.

1 “(5) any firearm to any person unless the licensee
2 notes in his records required to be kept pursuant to sec-
3 tion 923 of this chapter, the name, age, and place of
4 residence of such person if the person is an individual,
5 or the identity and principal and local places of business
6 of such person if the person is a corporation or other
7 business entity.

8 Paragraphs (1), (2), (3) and (4) of this subsection shall
9 not apply to transactions between licensed importers, licensed
10 manufacturers, and licensed dealers.

11 “(c) It shall be unlawful for any licensed importer,
12 licensed manufacturer, or licensed dealer to sell or otherwise
13 dispose of any firearm or ammunition to any person, know-
14 ing or having reasonable cause to believe that such person is
15 a fugitive from justice or is under indictment or has been
16 convicted in any court of a crime punishable by imprison-
17 ment for a term exceeding one year. This subsection shall
18 not apply with respect to sale or disposition of a firearm
19 to a licensed importer, licensed manufacturer, or licensed
20 dealer who pursuant to subsection (b) of section 925 of this
21 chapter is not precluded from dealing in firearms, or to a
22 person who has been granted relief from disabilities pursuant
23 to subsection (c) of section 925 of this chapter.

24 “(d) It shall be unlawful for any common or contract
25 carrier to transport or deliver in interstate or foreign com-

1 merce any firearm with knowledge or reasonable cause to
2 believe that the shipment, transportation, or receipt thereof
3 would be in violation of the provisions of this chapter.

4 “(e) It shall be unlawful for any person who is under
5 indictment or who has been convicted in any court of a
6 crime punishable by imprisonment for a term exceeding one
7 year, or who is a fugitive from justice, to ship or transport
8 any firearm or ammunition in interstate or foreign commerce.

9 “(f) It shall be unlawful for any person who is under
10 indictment or who has been convicted in any court of a
11 crime punishable by imprisonment for a term exceeding one
12 year, or is a fugitive from justice, to receive any firearm or
13 ammunition which has been shipped or transported in inter-
14 state or foreign commerce.

15 “(g) It shall be unlawful for any person to transport or
16 ship in interstate or foreign commerce, any stolen firearm
17 or stolen ammunition, knowing or having reasonable cause
18 to believe the same to have been stolen.

19 “(h) It shall be unlawful for any person to receive,
20 conceal, store, barter, sell, or dispose of any stolen firearm
21 or stolen ammunition, or pledge or accept as security for a
22 loan any stolen firearm or stolen ammunition, moving as
23 or which is a part of or which constitutes interstate or for-
24 eign commerce, knowing or having reasonable cause to be-
25 lieve the same to have been stolen.

1 “(i) It shall be unlawful for any person knowingly to
2 transport, ship, or receive, in interstate or foreign commerce,
3 any firearm the importer’s or manufacturer’s serial number
4 of which has been removed, obliterated, or altered.

5 “(j) It shall be unlawful for any person knowingly to
6 import or bring into the United States or any possession
7 thereof any firearm or ammunition, except as provided in
8 subsection (d) of section 925 of this chapter; and it shall be
9 unlawful for any person knowingly to receive any firearm
10 or ammunition which has been imported or brought into the
11 United States or any possession thereof in violation of the
12 provisions of this chapter.

13 “(k) It shall be unlawful for any licensed importer,
14 licensed manufacturer, or licensed dealer knowingly to make
15 any false entry in, or to fail to make appropriate entry in or
16 to fail to properly maintain, any record which he is required
17 to keep pursuant to section 923 of this chapter or regulations
18 promulgated thereunder.

19 **“§ 923. Licensing**

20 “(a) No person shall engage in business as a firearms
21 or ammunition importer, manufacturer, or dealer until he
22 has filed an application with, and received a license to do so
23 from, the Secretary. The application shall be in such form
24 and contain such information as the Secretary shall by regu-
25 lation prescribe. Each applicant shall be required to pay a

1 fee for obtaining such a license, a separate fee being required
2 for each place in which the applicant is to do business,
3 as follows:

4 “(1) If a manufacturer—

5 “(A) of destructive devices and/or ammunition a
6 fee of \$1,000 per year;

7 “(B) of firearms other than destructive devices a
8 fee of \$500 per year.

9 “(2) If an importer—

10 “(A) of destructive devices and/or ammunition a
11 fee of \$1,000 per year;

12 “(B) of firearms other than destructive devices a
13 fee of \$500 per year.

14 “(3) If a dealer—

15 “(A) in destructive devices and/or ammunition a
16 fee of \$1,000 per year;

17 “(B) who is a pawnbroker dealing in firearms other
18 than destructive devices a fee of \$250 per year;

19 “(C) who is not a dealer in destructive devices or
20 a pawnbroker, a fee of \$10 per year; except that for
21 the first renewal following the effective date of the State
22 Firearms Control Assistance Act of 1967 or for the first
23 year he is engaged in business as a dealer such dealer
24 will pay a fee of \$25.

25 “(b) Upon the filing of a proper application and pay-

1 ment of the prescribed fee, the Secretary may issue to the
2 applicant the appropriate license which, subject to the pro-
3 visions of this chapter and other applicable provisions of
4 law, shall entitle the licensee to transport, ship, and receive
5 firearms and ammunition covered by such license in inter-
6 state or foreign commerce during the period stated in the
7 license.

8 “(c) Any application submitted under subsections (a)
9 and (b) of this section shall be disapproved and the license
10 denied and the fee returned to the applicant if the Secre-
11 tary, after notice and opportunity for hearing, finds that—

12 “(1) the applicant is under twenty-one years of
13 age; or

14 “(2) the applicant (including in the case of a
15 corporation, partnership, or association, any individual
16 possessing directly or indirectly, the power to direct or
17 cause the direction of the management and policies
18 of the corporation, partnership, or association) is pro-
19 hibited from transporting, shipping, or receiving fire-
20 arms or ammunition in interstate or foreign commerce
21 under the provisions of this chapter; or is, by reason of
22 his business experience, financial standing, or trade
23 connections, not likely to commence business operations
24 during the term of the annual license applied for or to
25 maintain operations in compliance with this chapter; or

1 “(3) the applicant has willfully violated any of the
2 provisions of this chapter or regulations issued there-
3 under; or

4 “(4) the applicant has willfully failed to disclose
5 any material information required, or has made any
6 false statement as to any material fact, in connection
7 with his application; or

8 “(5) the applicant does not have, or does not in-
9 tend to have or to maintain, in a State or possession,
10 business premises for the conduct of the business.

11 “(d) Each licensed importer, licensed manufacturer,
12 and licensed dealer shall maintain such records of importa-
13 tion, production, shipment, receipt, and sale or other dispo-
14 sition, of firearms and ammunition at such place, for such
15 period and in such form as the Secretary may by regulations
16 prescribe. Such importers, manufacturers, and dealers shall
17 make such records available for inspection at all reasonable
18 times, and shall submit to the Secretary such reports and
19 information with respect to such records and the contents
20 thereof as he shall by regulations prescribe. The Secretary
21 or his delegate may enter during business hours the premises
22 (including places of storage) of any firearms or ammunition
23 importer, manufacturer, or dealer for the purpose of inspect-
24 ing or examining any records or documents required to be
25 kept by such importer or manufacturer or dealer under the

1 provisions of this chapter or regulations issued pursuant
 2 thereto, and any firearms or ammunition kept or stored by
 3 such importer, manufacturer, or dealer at such premises.
 4 Upon the request of any State, or possession, or any political
 5 subdivision thereof, the Secretary of the Treasury may make
 6 available to such State, or possession, or any political sub-
 7 division thereof, any information which he may obtain by
 8 reason of the provisions of this chapter with respect to the
 9 identification of persons within such State, or possession, or
 10 political subdivision thereof, who have purchased or received
 11 firearms or ammunition, together with a description of such
 12 firearms or ammunition.

13 “(e) Licenses issued under the provisions of subsection
 14 (b) of this section shall be kept posted and kept available
 15 for inspection on the business premises covered by the
 16 license.

17 “(f) Licensed importers and licensed manufacturers
 18 shall identify, in such manner as the Secretary shall by regu-
 19 lations prescribe, each firearm imported or manufactured by
 20 such importer or manufacturer.

21 “§ 924. Penalties

22 “(a) Whoever violates any provision of this chapter
 23 or any rule or regulation promulgated thereunder, or know-
 24 ingly makes any false statement or representation with
 25 respect to the information required by the provisions of this

1 chapter to be kept in the records of a person licensed under
 2 this chapter, or in applying for any license or exemption
 3 or relief from disability under the provisions of this chapter,
 4 shall be fined not more than \$5,000 or imprisoned not more
 5 than five years, or both.

6 “(b) Whoever, with intent to commit therewith an
 7 offense punishable by imprisonment for a term exceeding
 8 one year, or with knowledge or reasonable cause to believe
 9 that an offense punishable by imprisonment for a term exceed-
 10 ing one year is to be committed therewith, ships, transports,
 11 or receives a firearm in interstate or foreign commerce shall
 12 be fined not more than \$10,000 or imprisoned not more than
 13 ten years, or both.

14 “(c) Any firearm or ammunition involved in, or used
 15 or intended to be used in, any violation of the provisions
 16 of this chapter, or a rule or regulation promulgated there-
 17 under, or violation of any other criminal law of the United
 18 States, shall be subject to seizure and forfeiture and all pro-
 19 visions of the Internal Revenue Code of 1954 relating to
 20 the seizure, forfeiture, and disposition of firearms, as defined
 21 in section 5848 (1) of said Code, shall, so far as applicable,
 22 extend to seizures and forfeitures under the provisions of this
 23 chapter.

24 “§ 925. Exceptions: Relief from disabilities

25 “(a) The provisions of this chapter shall not apply with

1 respect to the transportation, shipment, receipt, or importa-
 2 tion of any firearm or ammunition imported for, or sold or
 3 shipped to, or issued for the use of the United States or any
 4 department, or agency thereof; or any State or possession,
 5 or any department, agency, or political subdivision thereof.

6 “(b) A licensed importer, licensed manufacturer, or
 7 licensed dealer who is indicted for a crime punishable by im-
 8 prisonment for a term exceeding one year, may, notwith-
 9 standing any other provisions of this chapter, continue opera-
 10 tions pursuant to his existing license (provided that prior
 11 to the expiration of the term of the existing license timely
 12 application is made for a new license) during the term of
 13 such indictment and until any conviction pursuant to the
 14 indictment becomes final.

15 “(c) A person who has been convicted of a crime
 16 punishable by imprisonment for a term exceeding one year
 17 (other than a crime involving the use of a firearm or other
 18 weapon or a violation of this chapter or of the National Fire-
 19 arms Act) may make application to the Secretary for relief
 20 from the disabilities under this chapter incurred by reason
 21 of such conviction, and the Secretary may grant such relief
 22 if it is established to his satisfaction that the circumstances
 23 regarding the conviction, and the applicant's record and
 24 reputation, are such that the applicant will not be likely to
 25 conduct his operations in an unlawful manner, and that the

1 granting of the relief would not be contrary to the public
 2 interest. A licensee conducting operations under this chap-
 3 ter, who makes application for relief from the disabilities in-
 4 curred under this chapter by reason of such a conviction,
 5 shall not be barred by such conviction from further operations
 6 under his license pending final action on an application for
 7 relief filed pursuant to this section. Whenever the Secretary
 8 grants relief to any person pursuant to this section, he shall
 9 promptly publish in the Federal Register notice of such
 10 action, together with the reasons therefor.

11 “(d) The Secretary may authorize a firearm to be im-
 12 ported or brought into the United States or any possession
 13 thereof if the person importing or bringing in the firearm
 14 establishes to the satisfaction of the Secretary that the fire-
 15 arm—

16 “(1) is being imported or brought in for scientific
 17 or research purposes, or is for use in connection with
 18 competition or training pursuant to chapter 401 of title
 19 10 of the United States Code; or

20 “(2) is an unserviceable firearm, other than a
 21 machine gun as defined by 5848(2) of the Internal
 22 Revenue Code of 1954 (not readily restorable to firing
 23 condition), imported or brought in as a curio or museum
 24 piece; or

25 “(3) is of a type that does not fall within the defi-

1 nition of a firearm as defined in section 5848 (1) of the
 2 Internal Revenue Code of 1954 and is generally rec-
 3 ognized as particularly suitable for or readily adaptable
 4 to sporting purposes, and in the case of surplus military
 5 firearms is a rifle or shotgun; or

6 “(4) was previously taken out of the United States
 7 or a possession by the person who is bringing in the
 8 firearm.

9 *Provided*, That the Secretary may permit the conditional
 10 importation or bringing in of a firearm for examination and
 11 testing in connection with the making of a determination as
 12 to whether the importation or bringing in of such firearm
 13 will be allowed under this subsection.

14 **“§ 926. Rules and regulations**

15 “The Secretary may prescribe such rules and regulations
 16 as he deems reasonably necessary to carry out the provisions
 17 of this chapter. The Secretary shall give reasonable public
 18 notice, and afford to interested parties opportunity for hear-
 19 ing, prior to prescribing such rules and regulations.

20 **“§ 927. Effect on State law**

21 “No provision of this chapter shall be construed as in-
 22 dicating an intent on the part of the Congress to occupy the
 23 field in which such provision operates to the exclusion of the
 24 law of any State or possession on the same subject matter,
 25 unless there is a direct and positive conflict between such

1 provision and the law of the State or possession so that the
 2 two cannot be reconciled or consistently stand together.

3 **“§ 928. Separability**

4 “If any provision of this chapter or the application
 5 thereof to any person or circumstance is held invalid, the
 6 remainder of the chapter and the application of such provi-
 7 sion to other persons not similarly situated or to other cir-
 8 cumstances shall not be affected thereby.”

9 SEC. 4. The administration and enforcement of this Act
 10 shall be vested in the Secretary of the Treasury.

11 SEC. 5. Nothing in this Act shall be construed as modi-
 12 fying or affecting any provision of—

13 (a) the National Firearms Act (chapter 53 of the
 14 Internal Revenue Code of 1954) ; or

15 (b) section 414 of the Mutual Security Act of
 16 1954 (22 U.S.C. 1934) , as amended, relating to muni-
 17 tions control; or

18 (c) section 1715 of title 18, United States Code,
 19 relating to nonmailable firearms.

20 SEC. 6. The table of contents to “Part I.—Crimes” of
 21 title 18, United States Code, is amended by inserting after
 “43. False personation----- 911”
 22 a new chapter reference as follows:

“44. Firearms----- 921”

1 SEC. 7. The Federal Firearms Act (52 Stat. 1250;
2 15 U.S.C. 901-910), as amended, is repealed.

3 SEC. 8. The amendments made by this Act shall become
4 effective one hundred and eighty days after the date of its
5 enactment; except that repeal of the Federal Firearms Act
6 shall not in itself terminate any valid license issued pursuant
7 to that Act and any such license shall be deemed valid until
8 it shall expire according to its terms unless it be sooner
9 revoked or terminated pursuant to applicable provisions of
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7 to that Act and any such license shall be deemed valid until
8 it shall expire according to its terms unless it be sooner
9 revoked or terminated pursuant to applicable provisions of
10 law.

Referred to the Committee on the Judiciary

February 12, 1961

By Mr. Celler

Traffic in Firearms

To amend title 18, United States Code, to provide for better control of the interstate

A BILL

1st Session
80th Congress

H. R. 2384

90TH CONGRESS
1ST SESSION

H. R. 5384

A BILL

To amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

By Mr. Celler

FEBRUARY 15, 1967

Referred to the Committee on the Judiciary



Your Congressman

JIM BATTIN

REPORTS FROM WASHINGTON

February 10, 1967

Not Printed at Government Expense



Dear Friends:

Believe it or not (and I find it hard to believe) another move is being made to restrict the sale and possession of firearms. Considering the overwhelming rejection of a similar measure in the House Ways and Means Committee last year, this new move doesn't seem logical. At that time the proposal, referred to as the *Dodd Bill*, was smothered in the Committee because it didn't have enough support to come to a vote. Not swayed by public disapproval of the measure, President Johnson is asking Congress to enact new gun laws. He made this recommendation last week in a message to Congress, calling for a *Safe Streets and Crime Control Act*.

Living in the outskirts of the Nation's Capital, I fully recognize the need for "safe streets and crime control." The need is especially evident here in what should be the world's finest city. But Washington is the city where muggings and armed robberies occur within pistol range of the White House and they occur at an alarming rate. My staff in Washington has suffered from the rising crime rate and flagrant disregard of laws and human rights. My secretary was savagely beaten when an intruder surprised her alone in her Capitol Hill apartment and the office manager was knocked down and robbed by thugs two blocks from the office. These instances have little to do with gun legislation, but I have cited them to lead up to the emotion gun control hearings ignite. *Dodd Bill* supporters will say "take away the guns and stop the rising tide of crime." The issue will be tied to the crime rate in an effort to gain public appeal. But I sat through the long hearings last year and know this is not the case.

Enacting legislation to take guns away from criminals will only deprive honest citizens, the bulk of America's population, of the rights granted to them in the Second Amendment of the American Constitution. This amendment guarantees that "the right of the people to keep and bear arms shall not be infringed." The definition of infringe is: "To enter by gradual steps or by stealth into the rights and possessions of another." There is good cause for this guaranty in that it allows, even insists, that Americans can protect their families and homes from lawbreakers or alien forces.

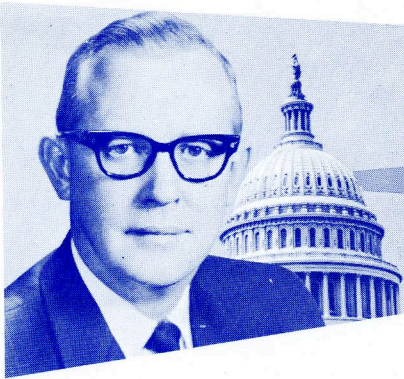
Proposed gun controls would take this right away from the good people of America while criminals would go on obtaining guns. The people who operate outside the law would not find it difficult to obtain guns. But the fellow who wants a gun to protect his home and family or for sport would have to break the law to enjoy this constitutional right. To be sure, the price of guns would increase tremendously (all illegal commodities are expensive) but criminals would be fast to raise the money and take the chance to arm themselves.

There is already a law prohibiting proven criminals from carrying or owning weapons. I propose enforcement of this statute and not enactment of further controls that would be even more difficult to enforce. However, any law that would take guns from independent Americans who use their weapons in a safe manner and for good purposes, will raise my strongest opposition and, I'm sure, that of the vast majority of Americans. Many citizens, who are not sportsmen and don't even own a gun, do not want to be barred from buying a gun when they feel the need arises.

When this issue was brought up last year, it inspired the largest flow of mail ever received in my office on any subject. Montana people, I was pleased to learn and as I knew they would be, were almost unanimous in their opposition to this measure. I have no reason to believe this has changed in the past year and so, acting on this assumption and my own strong feelings on this question, I will fight any attempt to push gun controls through this session of Congress.

To those who would tie this issue to the crime problem, I will say "enact laws that will assure the criminal he will be punished for his misdeeds and then give the police support in enforcing those laws. That will go further than any firearms restrictions we can pass."

Sincerely,



Your Congressman

JIM BATTIN

REPORTS FROM WASHINGTON

March 31, 1967

Not Printed at Government Expense



Dear Friends:

With the rise in crimes against individuals that has been evident for the past few years, there has been a surge of private citizens acting to protect their homes and families. This surge is noteworthy in a recent project for self defense by the housewives of Orlando, Florida. Nearly 2,400 women in Orlando formed a "*Pistol Packing Posse*" last fall after a series of rapes in beauty parlors, laundromats, and homes. Orlando policemen reported that after a series of assaults on women -- some in broad daylight -- last September pistol sales zoomed to 200 or 300 a week.

In order to avoid a tragedy from a novice gunhandler injuring herself, the police set up a free course in gun handling, geared to accomodate about 300 students. They were astonished when 2,400 women showed up for the classes, but police revamped the course and trained them all. One of the best scores was turned in by a lady in her mid-80s who had never handled a gun before.

This project received publicity in the local press and although there weren't any reports of shootings by the petticoat posse, their impact on would-be rapists was immediately noticed. In February for the first time in two years, not a single rape or assault on a woman was reported.

The same results were reported in Detroit where a group of 200 grocers banded together to take lessons on firearm handling. These reports are common in the larger cities where crime has gotten completely out of hand and in each case there have been surprising results. In New York City where a strict gun law prohibits storekeepers and individuals from owning guns, unarmed volunteers have formed vigilante groups to police their neighborhoods. These people were organized by the police department to keep their eyes and ears open for suspicious activities and report to the law officers when they see a crime being committed.

By citing these instances and their obvious success, I am not suggesting that an *Old West Vigilante Gang* should take the place of official law enforcement. I merely mean to point out that the presence of a gun in a home or the possibility that a homeowner may be armed works a deterrent against criminals. A burglar would think twice about entering a dark house if he was worried that someone inside would have a gun pointed at his head. In the hands of a person who is trained to handle it, a gun can be a lifesaving weapon.

This right to own a gun for protection of your person, home and family is in jeopardy under legislation that is being proposed again this year. Even though a similar firearm control bill was defeated in the House Ways and Means Committee last year, an attempt to push it through Congress is again being made.

The new bill, introduced by Rep. Emanuel Celler, was referred to the Judiciary Committee which is headed by the same man. The extensive hearings the Ways and Means Committee held on the subject and the decision to defeat the bill last year were ignored and normal procedures of the House were circumvented. As a member of this powerful committee, I intend to take every avenue to bring the bill back where it belongs.

As soon as our committee finishes hearings on Social Security changes, I have been granted permission by the chairman to bring this matter up. Then I will ask my fellow committee members to support my fight to have firearms legislation returned to us. I hope to have a favorable report to make to you in Montana soon after this meeting.

Sincerely,

Jim Battin

STATEMENT OF REP. JAMES F. BATTIN BEFORE THE HOUSE JUDICIARY COMMITTEE

Mr. Chairman, I would like to thank the members of your committee for allowing me to submit my opinions on H.R. 5384, State Firearms Control Assistance Act of 1967, which you are now considering. First, although I do not wish to alienate your attention to my remarks, I must state that I am unilaterally opposed to this legislation as proposed. Controls are necessary to restrict the flow of weapons that have value only as destructive devices, such as bazookas, machine guns, cannons, grenades and the like. But it is not necessary--in fact, it sets a dangerous precedent--to regulate the possession of sporting and defensive guns.

I maintain that to require registration of small firearms, pistols, rifles and shotguns, is to directly usurp the rights granted in the Second Amendment to our Constitution. This amendment clearly guarantees "the right of the people to keep and bear arms shall not be infringed." There has been some confusion in the interpretation of the opening clause of the amendment, "A well-regulated militia being necessary to the security of a free state," and I would like to clarify this. This "militia" has been wrongfully cast as an organized military unit, but what the Constitution referred to, in the vernacular of the times, was the entire populace. Webster's Seventh New Collegiate Dictionary defines militia as "the whole body of able-bodied male citizens declared by law as being subject to call for military service." This militia, which this bill seeks to restrain, is already "well-regulated" by all of the laws of the United States and its separate states. Those who should be deprived of the right to bear arms

are the persons in our society who are outside this definition of militia-- the felons who are not qualified to serve in the armed forces.

I submit to you that there are already enough laws to deprive felons and mental deficient of this right. The problem is in enforcing the existing statutes, not in enacting restrictions that will encompass the responsible Americans who have already been guaranteed this right in our most sacred document. If this committee in its wisdom feels more specific legislation is needed to assist law enforcement officers in coping with armed criminals, then laws should be passed that deal with criminals, not honest citizens. Make it more dangerous for thieves, burglars, rapists and robbers to carry guns. Provide prohibitive punishments for offenses committed with firearms. Give the courts more latitude in punishing armed criminals. Thereby you will give our law enforcement officers incentive to enforce these laws and the lawless a deterrent. But don't disarm the man who wants a gun to protect his home and family and, in dire straits which we hope will never come about, to defend his country.

With alarming increase in crimes against individuals in recent years, proponents of firearm controls have chosen the worst possible time to attempt to restrict our right to own guns. This lawlessness and the lurking danger of assault have been used as arguments in favor of strict gun legislation, but quite the opposite is the case. Persons intent on burglary will consider their actions in a different light as long as there remains a possibility that the occupants inside the unsuspecting house may be armed. If a burglar has assurance that his intended victim is defenseless, what

deterrent is there to his act except the unlikely occurrence of a patrolling police car. After an armed burglar is inside a house and has the family under his gun, the patrolling policeman has no indication a crime is being committed. A burglar entering the house of an unarmed family has to concern himself with only the few seconds it takes him to force the door.

Proponents of this measure also argue that the controls will only make it difficult for people bent on crime to obtain weapons. They do not say it will be impossible for a normal-appearing madman or a criminal with bogus credentials to buy a gun. But it will take a few weeks longer to get a gun under this measure. I don't have to assure you that destructive, dishonest and demented individuals who want a gun will not hesitate to go through the complex procedure required to obtain one under this bill. And even if we pass a bill that will take guns from everyone, don't be deluded into thinking the criminal and the insane person will not find another way to get a gun or to accomplish their purpose with another weapon.

The man who goes about robbing liquor stores with a gun these days would be able to use a knife or small club to accomplish the same crime if the Federal Government deprives storekeepers of their weapons. If a gun control law is enacted the people who will obey it are those who should not have to. The criminal or insane person, whom we seek to disarm, will disregard this law as well as other laws and the only thing we have accomplished is to disarm their victims.

Supporters of gun controls have argued with me that sportsmen will

still be able to obtain weapons through an involved procedure. This is true enough at present, but restriction begins that infringement which the Constitution specifically warns against. The purpose of licensing any object is to control and the provisions of a license allows the discretion of the governing power. I do not believe that Congress wants or should have this power in the area of firearms.

I believe that instead of discouraging the good citizens of our country from owning firearms, we should endorse the principle of self-protection and diminish the need of such.

The Outdoor Recreation Resources Review Commission summed up a distinguishing characteristic of Americans with this statement in its final report: "The outdoors lies deep in American tradition. It has had immeasurable impact on the nation's character and on those who have made its history. This is a civilization painfully and only recently carved in conflict with the forces of nature--farms from unbroken prairie and cities from wilderness. The epic of American life is the tale of the pioneer, edging his way westward in the face of unending danger and hardship. When an American looks for meaning in his past, he seeks it not in ancient ruins but more likely in mountains, forests, by a river, or at the edge of the sea."

The man with the gun is found on almost every page of our history. He has been known by such names as Miles Standish, George Washington, Daniel Boone, Kit Carson, Jim Bridger, Wesley Powell, Teddy Roosevelt, Buffalo Bill Cody, Alvin York, and a host of others. He has been famed for his steady aim, square shooting, and bravery in peace as in war.

Almost without exception, our national heroes have been hunters and fishermen--outdoorsmen who received their early training in pitting their skill and physical endurance against the forces of nature and the cunning of wild creatures. They have left their imprint on the American brand of patriotism, as well as on the trails of adventure which once led to far-off forests, prairies, mountains and western shores.

Today, in America, there are still some 14 million men and youngsters over the age of 12 years who take to our fields and forests each fall in pursuit of game. The figure is undoubtedly much higher, but statistics are hard to come by. Between 1940 and 1962 the number of licensed hunters in the United States increased by nearly 80 percent--almost twice as much as the percentage growth of population during the same period. Hunting continues to be one of the most popular types of outdoor recreation in America--and every indication points to the continuation of its popularity.

In recent years, many people who have good intentions but are poorly informed, have pictured the hunter as a "vanishing" American and have blamed on him many of the woes that have befallen some of our native wildlife species. These are the people who, even though they may accept the contributions to our American heritage made by the hunters and explorers of the last century and the first eras of this one, now condemn the modern sportsmen as an unnecessary element in our society. Some attack the hunter on moral grounds, charging cruelty to animals. Some attack the man with the gun with fostering many of our social ills--juvenile delinquency, rising crime rates, the degradation of our physical, mental and moral health.

The fact of the matter is that there exists sound evidence that outdoor

sports, including hunting, can be an effective preventive, and oftentimes a cure, for juvenile delinquency. Judge William G. Long, of Seattle's Juvenile Court, heard 45,000 cases of juvenile delinquency during a period exceeding 20 years and discovered that not one of these boys or girls had a wholesome outdoor hobby as his or her recreational outlet. In the same vein, we have the case of J. J. Jones, the jailer of Knox County, Tennessee. While performing his duties, Jones examined the belongings of 10,000 inmates and discovered that less than 2 percent had owned a hunting or fishing license.

Hunting may not be the only solution to some of our social ills but it is certainly one of the best. But the "sport of Kubla Khan--the first game manager recorded in history" goes far beyond social significance. From the first Thanksgiving dinner of two hundred years ago--one featuring a main course of wild meat--venison and "partridge" and wild turkey--to present, the hunter has not only pursued the wildlife resource of America, he has fought valiantly to preserve it.

What some modern day critics of the sport have never learned, or perhaps have conveniently forgotten, is that modern game laws and game management programs have resulted almost entirely because many hunters at the turn of the century saw the handwriting on the wall. They knew that hunting, particularly market hunting, had made serious inroads on wildlife populations. But they also realized that a more serious threat to wildlife was posed by the spread of our civilization across the land. We had cleared the vast forests that were the home of the passenger pigeon--and with them went the habitat without which this bird could not live. We had plowed up the prairies and fenced the western ranges upon which the buffalo depended. Even without hunting, these famous American species were doomed.

Because those early sportsmen--Teddy Roosevelt, William Hornaday, Henry

William Herbert (who used the pen-name Frank Forester and was the first American outdoor writer), George Shiras 3rd, John M. Phillips--set out on a crusade for wildlife, we have brought back from the brink of extinction such wonderful animals as the whitetailed deer, the black bear, elk, pronghorn antelope and a host of others. In 1890 the deer population of North America was estimated at no more than 500,000 head. They were practically extinct in Pennsylvania and in many other states. In 1963--just 75 years later, the deer population of New York State alone was estimated at 375,000 animals. Another 350,000 lived in Pennsylvania. Every state in the Union permitted deer hunting of some kind last year.

In 1922 the American Bison Society made a census of all pronghorn antelope in North America. The total was set at 11,749 head and no antelope hunting was permitted in that year anywhere on the continent. In 1963, the continental pronghorn population exceeded 500,000 and hunting was allowed in 12 states and two Canadian provinces. The combined annual hunter take of antelope in Wyoming and Montana alone is about 50,000 animals--twice the total living population of 1920.

During this same period of less than 50 years, elk have increased from around 50,000 animals to approximately 250,000 in 1963. We have even brought back the buffalo and today about 8,000 head occupy all available range in the United States. Some states even have permitted a controlled harvest of buffalo in recent years in order to keep the herds in balance with their food supplies. Sportsmen have long made important contributions to the public welfare, the protection of all wild birds and animals, and the economy of our country.

Today, for example, much of the pleasure the housewife and businessman derive from watching songbirds in their backyard is made possible by the voluntary contributions made by hunters each year to improve wildlife habitat throughout America.

Hunters are the financial backbone of state game departments which are charged by law to care for all wildlife, not only the game species but the non-hunted wildlife as well. Millions of bird-watchers, nature enthusiasts, tourists and campers enjoy the wonders of wildlife the year around, but few realize that, if it were not for hunters, there would be little, if any, wildlife to watch. Law enforcement officers whose salaries are paid entirely through revenue derived from the sale of hunting licenses not only enforce seasons and bag limits on those birds and animals which may legally be hunted--they likewise enforce the laws, rules and regulations designed to protect non-hunted species such as hawks, shore birds, eagles, and swans.

State game departments as well as the Federal Bureau of Sport Fisheries and Wildlife are constantly creating new habitate and improving living conditions for all of nature's creatures. A waterfowl refuge benefits more than ducks and geese; a food strip planted in the forest creates a habitat good for songbirds as wells as game birds.

State game departments each year collect more than \$68 million from hunters for licenses, tags and permits. This money is used for land acquisition, biological research, wildlife protection, for creating more food and cover, range improvement, and protection of all wild birds and animals.

More than 300 million has been distributed to state game departments since 1938 under terms of the Pittman-Robertson Act which created a "Federal Aid in Wildlife Restoration Fund" from an 11 percent excise tax on the sale

of all sporting arms and ammunition. It is significant that arms and ammunition manufacturers recently testified before a Congressional committee reviewing all Federal excise taxes and requested that their products continue to be taxed for this purpose. Indeed, this is probably one of the few times in recorded history that anyone requested continuation, instead of abolishment, of taxes. But these manufacturers realize the value of continuing a program designed to conserve and more properly manage the natural resource upon which their very existence depends.

The program has resulted in the purchase and development of 2,370,000 acres of land and about 900,000 acres of prime waterfowl habitat. Hunters may use this land for two or three months, but it is open to the public the year round.

Everyone in America thrills to the melodious honking of wild geese which migrate down our airways each spring and fall. Hunters have spent more than \$80 million for duck stamps since 1934 to keep those geese flying high, along with flocks of wild ducks. Federal wildlife agencies have used the money to acquire nearly 400,000 acres of refuges and production areas. They have spent some \$24 million to maintain these refuges, \$11 million to improve food and cover conditions on these areas, and additional monies on waterfowl research, without which no management program can succeed.

In addition, hunters, organized in thousands of clubs and conservation organizations throughout the United States, have spent at least \$50 million each year in developing privately-owned lands for wildlife. On their club grounds, training areas, refuges and other lands, they have devoted long hours and gone to great expense to improve living conditions for all wildlife, from

the tiniest songbird to the largest game animal.

But the contribution made by the hunter goes far beyond what he has done, and is presently doing, to preserve and maintain our great wildlife resource. Many studies have clearly shown that the American sportsman represents a major corner of the nation's economic market. Recent surveys indicate he feeds more than \$1,121,000,000 into the national economy. Putting it another way, for every dollar the hunter spends on his sporting equipment, he spends another \$2 or more on so-called "side" expenses.

And so by any measure, from any logical viewpoint uncolored by sentiment or emotion, today's hunter-sportsman is carrying on the traditions of his pioneer forefathers. He may be a paradox to the non-hunter, but without him there would be little, if any, wildlife left in America. He stands for protection, preservation, and wise use of annual surpluses of game birds and animals. He has been in the forefront of the nation's attack on mis-management or exploitation of our natural resources--our soils, waters, forests, rangelands and wildlife. The true sportsman is first, last and always a conservationist--dedicated to the principle of the greatest good for the greatest number for the longest period of time.

In closing, I beseech you to consider legislation that would make it less profitable for criminals to carry guns while not jeopardizing the Constitutional rights of our responsible citizens.

I would also ask you to send this bill to the House Ways and Means Committee when your deliberations are completed so that we can review the sections that are under our jurisdiction. Since this bill seeks to repeal the Federal Firearms Act and amend the National Firearms Act, both of which are

under the jurisdiction of Ways and Means, we should also have the opportunity to hold hearings and recommend action before it is presented on the floor.

Thank you again, gentlemen, for allowing me to present a written statement for your consideration even though I was unable to personally appear before you. I was informed by members of the Judiciary Committee Staff that my request to be heard was inadvertently misplaced by a staff member who, after scheduling my appearance, was taken ill and didn't complete my application.

September 8, 1968

Memorandum

To: Martin Anderson, Alan Greenspan

From: Jeff Geilich

Re: Gun Control - *file*

Sen. Tydings and others reportedly plan to fight to add registration and licensing provisions to the pending bill to ban interstate mail order sales of rifles and shotguns.

With the Senate Commerce Committee's waiver on Friday, the bill is now cleared for Senate debate. It is likely that RN will be asked for comment.

Humphrey has called for licensing and registration of firearms by Congress if the states fail to act.

RN has said that gun sales are best controlled at the state level and that the Federal Government's role should be limited to controlling interstate shipment of guns. To my knowledge, RN has not taken a position on licensing and/or registration.

WP 6/7/68 18-1
 ... And Take Away the Guns

The shooting of Robert F. Kennedy and five other innocent persons in Los Angeles was merely the most sensational of numberless shootings that took place in the United States on Tuesday night. Here in Washington, at a Georgetown hamburger shop, two young Marine lieutenants, 20 and 21 years old, were shot dead and a third officer and a young woman were wounded by gunfire at almost the same moment that the tragedy occurred in Los Angeles.

The United States can put a stop to this senseless slaughter—or at least very greatly lessen it. Congress has it within its power to do this simply and effectively, as every other civilized country has done it—by bringing the sordid traffic in guns under control. There were, as President Johnson said yesterday, more than 5000 homicides by firearms in this country during 1967—not to speak of suicides and accidental shootings which brought the year's death toll from guns up to about 18,000. Gun homicides are fewer than 50 a year in England or in Japan.

Thanks to the insensate obstructionism of the National Rifle Association, the gun-control provisions of the current omnibus crime bill are piddling and ineffectual. It is time now to deal with the gun peril in this country definitely, on its own merits and in a distinct piece of legislation, not squeezed casually into a hodge-podge measure of doubtful constitutionality. We applaud most warmly the President's appeal to Congress "to enact a strong and effective gun control law, governing the full range of lethal weapons." But control must go beyond the purchase of firearms. It must govern possession as well.

Regarding pistols and revolvers, the control should be just as rigid as possible. No one ought to be allowed to possess one of these weapons, designed only for the killing or maiming of human beings, unless he is a member of the military, a law-enforcement officer or an individual whose peculiar occupation and circumstances require him, in the judgment of the police, to possess a handgun for self-protection.

In short, private sale of these weapons should

be ended. Everyone now possessing a pistol or revolver should be required to turn it in to police authorities by a fixed date—with just compensation, of course. Licensed shooting galleries and clubs may be allowed to keep such guns under stringent controls for target shooting purposes. But unlicensed possession of one of these weapons by anyone should be subject to severe penalties.

Possession of sporting rifles and shotguns should be limited strictly to law-abiding, responsible adults; and every one of these weapons should be registered, along with all sales of ammunition for them. Regulations should be formulated also for the responsible handling of these firearms, requiring that they be kept unloaded and disassembled except when being employed at appropriate places for target shooting or hunting. Better still, perhaps, they should be kept, as in Japan, at gun clubs where they can be obtained by their owners when actually needed for sport.

These measures will not forbid legitimate and reasonable use of guns for lawful purposes. They will, however, make it extremely difficult for criminals, lunatics, children and assassins to acquire guns. And they will reduce the tragic incidence of shootings by infuriated or intoxicated or careless individuals who happen to find a gun handy when they lose control of their minds or their tempers.

The frontier has passed from American life. Americans now live in much too close proximity to each other to leave guns lying around at random for their mutual destruction. The one redeeming benefit that could flow from the Kennedy tragedy in Los Angeles is effective action to save the lives of his fellow Americans. Common sense and a decent respect for the sanctity of human life command the President and Congress to deal with this peril now.

tion, that legislatures can subject the right to bear arms to reasonable regulation.⁴ Others have held that "arms" does not include the type of weapon the questioned enactment seeks to regulate.⁵

C. Acts of Congress

The National Firearms Act of 1934, administered by the Alcohol and Tobacco Tax Division of the Internal Revenue Service, imposes federal regulation on firearms under the taxing power.⁶ A prohibitive tax is placed on the manufacture and transfer of automatic firearms, rifles with barrel length less than 16 inches, shotguns with barrel length less than 18 inches, sawed-off shotguns, handguns with shoulder stocks, and silencers or mufflers.

The commerce power has also been the source of federal control over firearms. The Federal Firearms Act of 1938 requires licenses (easily and inexpensively obtainable) for firearms manufacturers, importers, and dealers. It also prohibits shipment in interstate commerce of firearms which are sent to or from convicted felons or fugitives from justice, firearms which have been stolen, and firearms which have had the serial numbers obliterated.⁸

Postal laws prohibiting the mailing of concealable weapons constitute another source of federal control.

D. State legislation

A review of state legislation, through July 1, 1966, has been completed and its major provisions are charted in Appendix B. It will be noted that state restrictions on firearms take the forms of positive control on one hand and prohibitions on the other. For example, 30 jurisdictions require a license to carry a handgun on or about the person; 18 states require a permit to carry a handgun in a vehicle; 22 states require a license to sell handguns at retail; 9 require a waiting period between purchase and delivery; 19 require sales to be reported to law enforcement officials; New York requires a permit for simple possession of a handgun, and Hawaii requires registration of handguns and all other firearms regardless of type. Twenty-one jurisdictions have laws that prohibit the carrying of a handgun on the person; South Carolina completely prohibits the manufacture or sale of handguns. In addition, specified classes of persons, described in 43 of the statutes, are prohibited from possessing firearms, e.g., aliens, felons, minors, drug addicts, mental incompetents.

⁴ States where reasonable regulation of right to bear arms held valid in absence of constitutional authority: *Alabama*: Jackson v. State, 37 Ala. App. 335, 68 So. 2d. 850 (1953). *Arkansas*: Wilson v. State, 33 Ark. 557, 34 Am. R. 52 (1878). *California*: People v. Ferguson, 129 C.A. 300, 18 P.2d. 741 (1933). *Indiana*: State v. Mitchell, 3 Black. 229 (1833); *MacIntyre v. State*, 170 Ind. 163, 83 N.E. 1005 (1908); *Mathews v. State*, 237 Ind. 677, 148 N.E. 2d. 334 (1958). *Kansas*: City of Salina v. Blaksley, 72 Kan. 230, 83 P. 619 (1905). *Michigan*: People v. Zerillo, 219 Mich. 635, 189 N.W. 927 (1922); *People v. Brown*, 253 Mich. 537, 235 N.W. 245 (1931). *Ohio*: State v. Nieto, 101 O.S. 409, 130 N.E. 663 (1920); *Akron v. Williams*, 113 App. 293, 177 N.E. 2d. 802 (1960). *Oregon*: State v. Robinson, 217 Ore. 612, 343 P.2d. 886 (1959). *Pennsylvania*: Commonwealth v. Kreps, 25 Dauph. 335 (1922); *Wright v. Commonwealth*, 77 Pa. 470 (1875). *Washington*: State v. Krantz, 24 Wash. 2d 350, 164 P.2d. 453 (1945); *State v. Tully*, 198 Wash. 605, 89 P.2d 517 (1939).

⁵ States where "arms" held not to include certain regulated weapons: *Arkansas*: Fife v. State, 31 Ark. 455, 25 Am. R. 556 (1876). *Pennsylvania*: Commonwealth v. Kreps, 25 Dauph. 335 (1922).

⁶ 26 USCA §§ 5801, 5802, 5811-5814 (1955) (Supp. 1966). June 26, 1934, c. 757, 48 Stat. 1236.

⁸ 15 USCA §§ 901-909 (1963). June 30, 1938, c. 850, 52 Stat. 1250.

Considerable variations in the pattern and degree of control are found in the state legislation. The agency exercising the control also varies: permits and licenses are administered by a city or county police official or sheriff, by a state office of public safety, by a judge, a county clerk, a mayor, or a city or county licensing office. A similar variety is found in respect to type of weapon regulated. Among the definitions of firearms found in the statutes are: "firearms with barrel less than eighteen inches" (or other length), "pistol or revolver," "handgun," "concealable weapon," and "deadly firearms."

While this lack of uniformity in state legislation presents an obvious problem in maintaining a strict control in any single state, the variety itself suggests different views among the states of the seriousness of the firearms problem. Three uniform acts have been proposed by the National Conference of Commissioners on Uniform State Laws, with very little response from state legislatures.¹⁰ The likelihood of the adoption of strict uniform state legislation appears highly doubtful.

IV. ANALYSIS OF THE FIREARMS PROBLEM AND APPROACH TO CONTROL

A. Goals of firearm control

The reasons advanced for firearms control are usually (1) prevention of crime and (2) detection of criminals.

Two major types of crime require separate attention when considering the effectiveness of firearm legislation in preventing crime: premeditated crime and the "heat of passion" crime. ("Premeditated" is used here not in its strict legal sense, which includes an almost instantaneously formed intention of criminal consequences, but in the popular understanding of a deliberately planned and executed crime.) Markedly different courses of behavior are involved in these classes of behavior, and different patterns of gun control statutes would seem necessary.

If gun control pursues the objective of prevention of premeditated crimes, the legislation must keep guns out of the hands of both the professional criminal and the occasional, determined amateur. The foregone conclusion that 100 per cent effectiveness is impossible does not warrant abandonment of the objective, but it does require a realistic appraisal of the prospective degree of success and an evaluation of the methods that might be employed to achieve given levels of effectiveness. Doubtless, severe restrictions on the open market sale of firearms would tend to achieve the desired goal. It would also cause an underworld market to develop. It is possible, however, that a program of strict enforcement could make the cost so high and risk so great as to have some deterrent effect. It must be remembered, however, that the tight administration and enforcement of such a law would be very expensive. It might create a drain on available resources that would make other activities, such as crime detection, less effective.

In the case of professionals, the objective would be to make it difficult for a person having known proclivity to crime to obtain firearms. His past activities serve as a warning signal that a weapon in his hands is a danger to the community. With the amateur, no such warning is available, making ineffective any licensing system designed to

deter premeditated crime. However, neither the professional nor the amateur is likely to seek to obtain weapons in a way sanctioned by law if it requires bringing himself to the attention of a licensing authority. Both would probably seek out illegitimate sources. In that case, the law would have the greatest preventive effect upon the amateur: the professional would probably have the contacts to find an illegitimate source; the amateur probably would not.

In addition to keeping guns out of the hands of the man who has already decided upon his course of crime, advocates of restrictive gun legislation believe that reducing the availability of weapons will remove one cause of crime. They hypothesize that the presence of guns induces the commission of premeditated crimes by persons who would lack courage without a firearm. To be effective, assuming there is validity to the hypothesis, legislation designed to diminish this danger would have to restrict severely the general availability of weapons. Since it is not presently possible to anticipate what types of persons might be so induced to commit crimes, it would be necessary to so restrict access to weapons as to severely reduce non-criminal uses of firearms.

Also to be considered is the likelihood that, if access to guns is eliminated, some persons will utilize other weapons to carry out premeditated crimes. What may be the net result on frequency of premeditated crimes?

In the passionate crimes, we picture an individual who, overcome by rage, seizes a firearm ready at hand and shoots his victim. In many areas of the United States, guns are almost instantly available in homes, at hardware stores, sporting goods shops, or gunsmiths. It is quite possible that a seething rage would sustain some people through the minimal difficulty of acquiring a weapon under these conditions. It is quite probable that waiting periods or the red tape of getting a permit would discourage these people from acquiring guns. It does not necessarily follow that the crimes would not be committed. We do not know how likely it is that such persons would turn to another weapon when a gun is not available. Also we do not know how many crimes of passion are committed by people who would have had a weapon under any reasonable laws restricting sale and possession.

It may be possible to devise very restrictive legislation that would have a significant preventive effect on both types of crime, but it would be extremely difficult to do so while also accommodating the views of those who wish to protect the convenience of legitimate gun users.

If detection in criminal cases can be materially aided by strict gun registration, the question of the cost of such improved detection must be considered. Assuming that a gun has been used in a crime, detection might be aided by the following gun control practices:

a) If a gun register is maintained, it could be searched to determine whether any of the suspects own a gun of the type used.

b) If the weapon is found, gun sales records could identify the owner.

c) If ballistics records are kept on every gun manufactured, identification from the bullet could identify the gun and then the owner.

Two questions immediately arise. Do we presently have the scientific and managerial know-how to implement such programs? And is there enough criminal activity in which this sort of detection would be valuable to warrant the very large expenditure of money and time necessary to create and maintain the detection machinery? An affirmative answer can confidently be given to the first question, but further information would be required in order to make a worthwhile judgment on the second.

Assuming that only a law uniform among the states can be effective, can variations in

¹⁰ The Uniform Firearms Act (1930) was enacted in Alabama, District of Columbia, Pennsylvania, South Dakota, and Washington, and with modifications in California, Hawaii, Indiana, New Hampshire, North Dakota, and Rhode Island, and superseded in 1940 by the Uniform Pistol Act. The Uniform Machine Gun Act (1932) was enacted in Arkansas, Connecticut, Maryland, Montana, Ohio, South Carolina, South Dakota, Virginia, and Wisconsin and withdrawn as obsolete in 1954. The Uniform Pistol Act (1940) was enacted in New Hampshire and North Dakota and withdrawn as obsolete in 1959.

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pattern that may occur throughout the country be eliminated without an undue burden on the legitimate user or on the law enforcement officials? For example, it is widely asserted that handguns are the most serious problem. This appears to be the view of knowledgeable people in urban areas at least, although shoulder weapons may be the more serious problem in less densely populated areas. Suppose that the vast majority of rifles and shotguns in New York City are owned and used by sportsmen; is it desirable to impose strict regulations there for the sake of uniformity with the rural areas of Wisconsin, where rifles and shotguns may have accounted for more crime than pistols? Evaluation must be made not only in terms of inconvenience to the non-criminal user but also in terms of the administrative burden imposed on the law enforcement agencies.

Is it apparent that no state or city can now attain security from the dangers of easily accessible weapons by requiring its citizens to get permits for the purchase of firearms. Seven states presently require a permit to purchase firearms and all of them border on states without such requirements. The only factor which uniformly disqualifies a person from obtaining a firearm is nonage, and this varies from 12 years to 21. Thus, legal restrictions in effect at place of residence are easily overcome. In the light of the growing mobility of our population, the percentage of unregistered firearms may grow.

Uniformity would make the job of effective enforcement easier in any given jurisdiction, but unless the uniform legislation meets the requirements of the most restrictive system now in effect, some areas will continue to experience circumvention. It does not appear possible that all states would adopt a composite of the most stringent systems now in effect. Neither does it appear likely that those states or cities that have stringent laws will relax them in the interest of uniformity. Although uniformity may not be attainable, consideration should be given to the development of a set of minimum requirements for recommendation to all the states.

B. An analysis of values to be considered

The reasonably expected results of a particular program of gun control must be balanced against the inconvenience to legitimate users of firearms and against limitation of the principles behind the constitutional safeguard of the right to bear arms.

Similar considerations arise on the questions of administration. Benefits of uniform legislation must be balanced against potential needs for variation because of local conditions. A comparable value judgment must be made on the question of whether state or federal control is preferable.

In this connection, the attitudes of certain prosecutors toward a federal gun law may be of interest. We received the views of 29 prosecuting attorneys on the desirability of a federal law aimed at further restricting interstate traffic in firearms (Table 1). Opposition was quite strong.

TABLE 1.—OPINIONS OF PROSECUTORS ON FEDERAL RESTRICTION OF INTERSTATE TRAFFIC IN FIREARMS

Jurisdiction of prosecutor	Number of prosecutors	Federal law	
		Desired	Opposed
Rural.....	9	1	8
Rural-urban.....	9	3	6
Urban.....	11	5	6
Total.....	29	9	20

As we might expect, among prosecutors support for federal legislation appears to be stronger in urban areas than in rural areas, and support for federal intervention is directly correlated with the local extent of crimes involving firearms. But does the opinion of this group of prosecutors help to chart

a course for or against federal gun control? The answer depends upon the value choices discussed above. If uniformity is considered essential and desirable, if the interest of society in controlling weapons is held to tip the balance against inconvenience to legitimate users, the results of our inquiry suggest that those with the most experience would predict that the resulting legislation would have some beneficial effect on law enforcement.

V. PROPOSED RESPONSES TO THE PROBLEMS OF FIREARMS REGULATION

A. Federal action

In 1965 there was a bill before Congress designed to further regulate interstate traffic in firearms and to curb importation. At that time, Attorney General Katzenbach¹¹ stated that the purpose of the legislation was "merely, to help the states protect themselves against the unchecked flood of mail-order weapons to residents whose purposes might not be responsible or even lawful."

That bill died in committee and in January 1967 another bill was introduced, and is still pending. The provisions of the present bill:

1. Requires licensing of interstate importers, manufacturers and dealers; illegal to ship to other than aforesaid except return of a firearm to sender or replace same, or send firearms to any officer, employee, agent, or watchman coming under 18 U.S.C. 1715.

2. Does not apply to shotguns or rifles (other than short-barreled) suitable for sporting use and not military surplus, where the person to whom it was mailed has submitted a sworn and notarized statement in duplicate that he is 18 or over, and not prohibited from receiving by the act; that no local law is violated by the shipment; and giving title, name, and address of principal local law enforcement agent.

3. Shipper must forward by registered letter to the local officer the statement of the recipient and information on the gun, not including serial number, and receive return receipt of letter or letter itself which has been refused and returned.

4. Shipper must retain copies of statement and letter.

5. Governor may designate state official to receive local notice, or request discontinuance of local notice.

6. Makes unlawful a false statement by sender.

7. It is unlawful for a person to transport into or receive in any state a firearm acquired outside the state of his residence where it would have been illegal for him to acquire such firearm.

8. Any licensed importer, manufacturer, or dealer may not dispose of any firearm to any person without ascertaining identity, date of birth, and place of residence.

9. Cannot sell to anyone under 21, except rifle or shotgun, then under 18.

10. Cannot sell to out-of-state residents, except shotguns and rifles.

11. Cannot sell where violative of state law.

12. Provisions 9, 10, 11 do not apply between licensed persons, or to cases covered by shipping requirements.

13. Cannot sell to persons under indictment or convicted of crime requiring 1 year or more, or to fugitive from justice. Such person can not ship, transport, or cause to be shipped or transported any firearms. Such persons cannot receive firearms in interstate commerce.

14. Requires notice on packages.

15. Shipper knowing or having reason to know of above type violations may not deliver to one who does not have license.

16. Prohibits traffic in stolen firearms.

17. Prohibits traffic in firearms without a serial number.

¹¹ Statement by Attorney General Nicholas deB. Katzenbach before the Subcommittee on Juvenile Delinquency of the Senate Committee on the Judiciary, May 19, 1965.

The proposed federal law does not reach the question of who should be permitted to buy a weapon except as to minors. It works primarily to lend local officials support in whatever methods they may undertake for controlling accessibility of firearms within the locality. If federal legislation remains restricted to this role, effectiveness still remains primarily a local matter.

What are the prospects for effective regulation at the state and local levels? We asked our list of selected police officials if they believed a requirement of permits to purchase or possess firearms would be effective in preventing undesirables from obtaining guns. Twenty-two said yes. Twenty-two said no. When asked if such requirements would aid in criminal detection, 26 said yes and 19 said no. We also asked what measures the police felt were necessary for firearms control (see Table 2).

TABLE 2.—OPINIONS OF SELECTED POLICE OFFICIALS ON THE ESSENTIAL ELEMENTS OF EFFECTIVE FIREARMS REGULATION

Control element	Number mentioning
Requirement of permit, license of examination to purchase firearm.....	12
Uniform State or Federal law.....	8
Registration.....	9
More severe penalties.....	6
Restriction on mail-order sales.....	3
Waiting period between purchase and delivery.....	2

If this variation in the views of the police officials who responded to our questions is an accurate reflection of views throughout the country (something we do not know), we probably cannot look for significant changes in the patterns of state and local law. The net effect of the proposed federal law would be to require those who cannot now obtain weapons in their own communities to expend a little more effort to acquire them elsewhere; with mail-order guns no longer available, some travel would be required to circumvent the law. The resident in a city where permits are required would have to go to the suburbs. The resident of a state where permits were required would have to resort to private purchases from citizens of other states. Federal limitations on interstate shipment would reduce accessibility to some degree, but to what degree? Certainly, they would not deter the professional criminal but would probably deter the amateur criminal to some extent. Such provisions probably would have some limiting effect on the number of heat-of-passion criminals but much less on the premeditated criminal. The deterrent effect on the amateur criminal and the perpetrator of a passionate crime would result from a reduction of the number of weapons in the hands of non-criminals and all potential criminals.

B. Proposals affecting enforcement

Another approach that directly reaches the criminal and potential criminal has been suggested by many police officials and others familiar with the problems of criminal law and law enforcement. They assert that, since restrictive firearm legislation has not been and is not likely to be effective, police should be allowed to stop and search suspects and their possessions on the chance of illegal possession of firearms although there is no "probable cause" for arrest.

The American Bar Foundation's empirical studies of criminal justice administration show that it is, in fact, common practice now for the metropolitan police to detain suspects, without probable cause, to question them and to frisk them.¹² Such a prac-

¹² W. La Fave, *Arrest: The Decision To Take a Suspect into Custody* (Little, Brown & Co., 1965).

tice by the police, in the absence of probable cause for arrest, is presently illegal in most states. The practice continues but results in confiscation of weapons rather than conviction of those who illegally possess them. Legislation allowing search upon reasonable grounds for suspicion, the so-called "stop, question, and frisk" laws, has been adopted in several states.¹³ There is some doubt about their constitutionality; they have not been tested in the U.S. Supreme Court. Power of the police to stop and search a person on reasonable suspicion that he is in illegal possession of a weapon and, when they find such weapon, to present it as evidence in court might well provide a significant deterrent to possession if possession itself were made illegal.

Alternatively, the exclusionary rule that prevents the introduction of evidence obtained by illegal search could be relaxed as to illegal firearms, making possible a conviction for illegal possession. This has been done in Michigan by amendment of the state constitution, though the validity of this provision is in doubt since the U.S. Supreme Court decision in *Mapp v. Ohio*, 367 U.S. 643 (1961). In the light of *Mapp*, an exception to the exclusionary rule which would permit introduction into evidence of illegally seized firearms would probably require congressional legislation and conceivably amendment of the federal Constitution.

Adoption of either of these proposed methods aimed at convictions for illegal possession of firearms would substantially avoid problems of inconvenience to non-criminal users and limitation of the right to bear arms in defense of home and society. Existing restrictions on possession and use of firearms would probably not have to be materially enlarged in order to make such a program of enforcement compatible with legitimate uses. In fact, the prohibition against carrying concealed weapons might be the only limitation required. However, these measures to help police enforcement would and do raise their own set of problems. The individual's protected right against unwarranted searches or interference with his personal property and privacy must be balanced against the desirability of increasing society's facilities for self-protection. A new and possibly more complicated value judgment must be arrived at.

VI. RECOMMENDATIONS FOR FURTHER RESEARCH

The American Bar Foundation finds the available evidence insufficient to warrant taking a position on the effectiveness of existing and proposed firearm legislation. It should be emphasized that this finding is made in the light of our activities as an organization devoted to legal research and empirical research in particular. It is not to say that there are not sufficient considerations to justify a legislative body in attempting changes on the basis of its responsibility to experiment with social reform for the benefit of the community.

¹³ Several states have enacted "stop, question, and frisk" laws: New York, Code of Criminal Procedure, § 180(a) and the six states that have adopted the Uniform Arrest Act—Alabama A.157.1 (1967) (not yet codified); Col. Rev. Stat. Ann. 40.11.1 (1963); Del. Code Ann. tit. 11 § 462, 1902-1903 (1953); N.H. Rev. Stat. Ann. 594.2.3 (1955); R.I. Gen. Laws Ann. § 12.7.2 (1956); Utah H.150.1 (1967) (not yet codified). Court decisions in California and a few other states indicate a recognition of this power in the police without statutes. See F. Remington, "The Law Relating to 'On the Street' Detention, Questioning and Frisking of Suspected Persons and Police Arrest Privileges in General," 51 J.Crim. L., C. & P.S. 386 (1960); See also Note, 78 Harv. L. Rev. 473 (1964); W. LaFare, "Detention for Investigation by Police: An Analysis of Current Practices," 1962 Wash. U.L.Q. 331 (1962); Note, 39 N.Y. U.L. Rev. 1093 (1964).

At first glance it would appear that the usefulness of a particular gun control statute could be readily determined by empirical research. The presence of a variety of constitutional and statutory patterns among the states would seem to create almost a laboratory model for testing the effect of different regulations. It would seem, for example, that comparison could be made between the incidence of the use of firearms in crimes in jurisdictions with tight control laws and those which do little to restrict access to guns.

However, two factors seriously restrict this prospective success of such a comparative study. The first, and most important, factor is the presence of a number of variables which affect the rate of violent crimes apart from ease of access to guns. Other factors almost certainly outweigh the presence of firearms as a cause of crime: for example, New York has much stricter gun control laws and a much higher crime rate than neighboring Vermont. Among the variables which must be considered are population size and density, economic conditions, degree of social, racial and religious homogeneity, and community attitudes toward crime in general and guns in particular.

Even if it proved possible to devise comparisons that controlled some of these variables and reduced the number of factors extraneous to firearms, such a study would meet with a practical obstacle—the absence of comparable records. At present, police department reports do not, with rare exceptions, detail the number and kind of offenses in which firearms are used, nor do they distinguish among the various kinds of firearms. Lack of uniformity in criminal statistics and in police and court record keeping has been and continues to be a roadblock to useful research on crime and the administration of criminal law. The American Bar Foundation has encountered this obstacle in a number of its studies: *Narcotics and the Law*,¹⁴ *Defense of the Poor*,¹⁵ and *The Administration of Criminal Justice in the United States*.¹⁶ Other researchers have had similar experiences.

In the absence of comparable records, the necessary information on distribution and use of firearms could be gathered only by the very expensive and less reliable techniques of the field survey: questionnaires, interviews, and case by case search of records. It seems doubtful that the information obtained would be worth the cost.

Our conclusion is that high priority should be given to the development of model forms for the use of police departments and courts in reporting information about crime and criminal prosecution in order to introduce a degree of uniformity which would make more feasible the use of the potential wealth of comparative information provided by our federal system. Furthermore, we believe that when comparable data become available it would be more profitable to encourage efforts to increase knowledge about the causes and incidence of all types of crime, including in such studies an examination of the use of firearms, as one among many factors, than to try to focus exclusively on the criminal use of firearms.

VICE PRESIDENT HUMPHREY'S SPEECH TO THE NATIONAL HOUSING CONFERENCE

Mr. HARRIS. Mr. President, I invite the attention of the Senate to Vice Presi-

¹⁴ W. B. Eldridge, *Narcotics and the Law* 127-131 (American Bar Foundation, 1962).

¹⁵ L. Silverstein, *Defense of the Poor in Criminal Cases in American State Courts: Volume I, National Report* 151, 175 (American Bar Foundation, 1965).

¹⁶ A. Sherry, *The Administration of Criminal Justice in the United States: Plan for a Survey* 15 (American Bar Foundation, 1955).

dent HUMPHREY's speech to the National Housing Conference on March 4.

The Vice President commended the report of the National Commission on Civil Disorders on which I was privileged to serve. He emphasized that it is the responsibility of the entire American community to meet the challenge outlined in the Commission's report—to correct age-old inequities in our society so that America will not become permanently divided between black and white.

If the Commission's fear of a society divided along racial lines becomes a reality, said the Vice President:

It will not be so much because any specific government failed. It will be because our free society failed; because taxpayers waited for someone else to pay for community services; because Chamber of Commerce and union members in a thousand American cities did not throw open the doors of job opportunity; because government officials were more concerned with their precious jurisdictions than with the people living within them; because school boards and PTA's forgot the cost of ignorance in a free society; because builders, land developers, and real estate people failed to meet a national housing crisis; because a complacent or fearful majority ignored the long-deferred rights and aspirations of an increasingly impatient minority.

But the Vice President also said:

Don't sell America short. Not only do we have nearly half the world's GNP at our disposal and an unprecedented reserve of human and technological resources. I find a determination and a willingness in all parts of our society to overcome what may be the last hurdle on the long path to full democracy.

Vice President HUBERT HUMPHREY has been a leader in the struggle for civil rights in this country. He has spoken out consistently and effectively on behalf of needy people, urban or rural. Without minimizing the dimensions of the unfinished business before us, he has never failed to express confidence that our free institutions could produce full and equal opportunity for every American. I think his realism and his faith in this Nation are an example to all of us today.

I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF VICE PRESIDENT HUBERT H. HUMPHREY AT NATIONAL HOUSING CONFERENCE DINNER, WASHINGTON, D.C., MARCH 4, 1968

Today, at noon, the Senate of the United States—in perhaps its most historic civil rights vote of the century—brought nearer to every American, President Truman's historic 1949 pledge of: "A decent home and a suitable living environment for every American family."

And today, two-thirds of the Members of the U.S. Senate said this pledge was not just for white American citizens but would apply to every American citizen.

A decent home for every American is possible only with a national fair housing law.

We can win on this pledge made by President Johnson. The fight continues and it is still a hard road ahead, but we must prevail this year, this session, in this Congress.

The citizens of America found this message on their breakfast tables yesterday morning as they opened their Sunday newspapers.

"It is time to end the destruction and the violence, not only in the streets of the ghetto but in the lives of the people."

September 29, 1967

THE NEW YORK TIMES, FR

Johnson Retreats on Gun Curbs In Effort to Win Passage of Bill

By JOHN HERBERS

Special to The New York Times

WASHINGTON, Sept. 28—President Johnson has agreed to weaken his gun control bill so as to improve its chances of getting through Congress.

The proposed change would permit states to exempt themselves from the ban against the mail order sale of rifles and shotguns. The original Administration bill would ban the mail order sale of all firearms.

Senator Thomas J. Dodd, Democrat of Connecticut, author of the Administration bill, introduced the weakening amendment today and issued a statement calling for its support. A similar proposal has been submitted to a House Judiciary subcommittee that has been considering the bill.

Senator Dodd said the amendment was designed to overcome strong opposition to the bill from rural and Western states.

Testimony Cited

"Witnesses from these states have indicated that a mail order ban or stringent controls on mail order rifles and shotguns would effect a hardship on sportsmen, ranchers and farmers whose primary access to sporting rifles and shotguns is through the mail order routes," Mr. Dodd said.

"Eight of our Western states," he continued, "have memorialized Congress to oppose this gun bill mainly because of the inclusion of long arms."

"I believe this amendment will dissipate such opposition," Mr. Dodd said.

The amendment would permit a state legislature to enact a law relieving citizens of the state from the bill's outright prohibition on mail order acquisitions of rifles and shotguns. The ban would still apply to the sale of hand guns.

Move Called Necessary

Much of the opposition to gun control legislation has come from the National Rifle Association. Under the proposed amendment the association could be expected to shift its pressure to the state legislatures to obtain the exemption.

Several Congressional sources said the amendment was necessary if the President was to get any gun control legislation through Congress this year. Senator Dodd and others

pointed out that the bill still contained restrictions on over-the-counter sales and on the importation of firearms from other countries.

On Sept. 14 President Johnson, in an address to the International Association of Chiefs of Police, pleaded with the American people for help in limiting the sale of firearms.

One week later, the Senate Juvenile Delinquency Subcommittee, of which Ms. Dodd is chairman, approved the President's bill 5 to 4. The measure still faced trouble, however, in the full Judiciary Committee and on the Senate floor as well as in the House.

Congressional sources said the Justice Department and President Johnson had agreed to the Dodd amendment to overcome the opposition.

Disagreement Expressed

Some advocates of strong gun control legislation considered the amendment premature. They thought the tactic should have been saved for use during the floor fight.

Senator Edward M. Kennedy, Democrat of Massachusetts, said he still favored the Administration bill as originally submitted. He said he believed a vast majority of the people did, too.

Senator Dodd, on the other hand, said the amendment would "not greatly reduce the over-all effectiveness" of the bill.

The amendment, he said, "would be applicable only in those states which feel that they do not need the help of the Federal Government in enforcing their own laws."

PRESIDENT ASKS AID ON CRIME BILL AND GUN CONTROL

Also Attacks Riot Leaders
in Kansas City Address
to Police Chiefs' Parley

By MAX FRANKEL
Special to The New York Times

KANSAS CITY, Mo., Sept. 14 — President Johnson flew to midcountry today to plead with the American people for help in passing his programs to fight crime and limit the sales of firearms.

Addressing the convention of the International Association of Chiefs of Police, Mr. Johnson appealed to all local communities to substitute legislation and action for "handwringing" and "self-righteous indignation" about crime.

He coupled his message with his most impassioned denunciation yet of urban rioters and the advocates of violence "spawned" by the riots.

Grievances Are Cited

"These wretched, vulgar men," Mr. Johnson said, without naming names, "these poisonous propagandists, pose as spokesmen for the underprivileged and capitalized on the real grievances of the suffering people."

The police chiefs, assembled in the music hall of the municipal auditorium here, applauded loudest when the President said that "much can explain but nothing can justify the riots of 1967."

Mr. Johnson went on, however, before a now silent audience of 1,200 persons, to insist that law enforcement should be swift and blind to color as well as effective.

Policemen Hailed

There was vigorous applause again as Mr. Johnson saluted policemen and endorsed their effort to obtain better equipment, better training and more pay.

The President's principal purpose on this hastily scheduled journey, however, was to enlist some popular support in his difficulties in getting Congress to support his Safe Streets and Crime Control Act and another bill to limit the sales of firearms.

The House of Representatives has passed the crime measure but with an amendment that would channel Federal aid through the state governments and leave them con-

Continued on Page 31, Column 5

FRIDAY, SEPTEMBER 15, 1967

JOHNSON APPEALS FOR CRIME BILLS

Continued From Page 1, Col. 5
siderable discretion in its use. The Administration would prefer its original proposal of direct aid to cities and local communities, but now faces the real possibility of having to accept this change.

Stresses 2 Themes

The bill to curb the spread of weapons has not gone anywhere in either house.

With this situation in mind, Mr. Johnson stressed two themes: first, that much more is needed now than the preaching of "sermons" against crime, and, second, that the local community has primary responsibility for crime control.

"Officials in Washington cannot patrol a neighborhood in the Far West, stop a burglary in the South or prevent a riot in a great metropolis," he said, in a passage that also served to dissociate the Administration from direct responsibility for riot control.

In the end, Mr. Johnson asserted, local citizens must decide the quality of law enforcement they want and how much they are willing to do and pay for it.

This is what his proposed program would do "if its spirit and purpose survive," the President said.

Similarly, Mr. Johnson pleaded for the firearms control bill, which he said could plug one more loophole "to save your life or mine or the life of some innocent child down the street."

"Let's not be content to be wall the rising crime rate or the number of repeaters who fill our jails and prisons while we turn our back," he said.

In an implied response to the National Rifle Association and other groups lobbying against restrictions on weapon sales, the President insisted that his proposal was consistent with due process and in keeping with our tenacious regard for the blessings of individual freedom.

Believe in Obedience

In discussing the urban riots, Mr. Johnson said the vast majority of suffering people—implying that he meant Negroes—believe in obedience to the law. The law in recent years, he said, has become more just

for them, establishing their rights more firmly and greatly increasing their opportunities.

The President said he had come this far—a flight of two hours from Washington—to see whether "perhaps we could awaken this nation to the obligation we are not now discharging," toward law enforcement and also toward nurses and teachers and the builders of home.

After his talk, Mr. Johnson drove 12 miles to Independence, Mo., for a brief visit to the home of former President Harry S. Truman, now 83 years old.

The President, accompanied by Attorney General Ramsey Clark, spent about 10 minutes with Mr. Truman, who looked pale and drawn, before returning to Washington. He com-

pleted the 6½-hour round trip at 4:30 P.M.

Canadian Elected

KANSAS CITY, Sept. 14 (AP) — Leonard G. Lawrence, Chief of Police at Hamilton, Ont., was elected today president of the International Association of Police Chiefs at the final session of their annual convention. He has been chief of police for 15 years. He succeeds William H. Morris, superintendent of the Illinois State Police.

China Warns Ceylon

COLOMBO, Ceylon Sept. 14 (UPI) — Communist China warned Ceylon today of "grave consequences" if she continues to have dealings with the Nationalist Chinese Government of Generalissimo Chiang Kai-shek.

PRESERVATION COPY

GUN-BILL ACTION

EXPECTED SOON

Senate Floor Vote Forecast
This Week Or Next

By JOSEPH R. L. STERNE
(Washington Bureau of The Sun)

Washington, April 22—Senate Judiciary Committee sources cautiously forecast today that new gun control legislation finally will reach the Senate floor for a vote this week or next.

Attached to the Administration's anti-crime package, the firearms amendment would ban the interstate shipment of handguns to individuals and prohibit over-the-counter sales to persons who are not residents of a dealer's state.

While the proposal falls short of President Johnson's call for a halt to the mail-order sale of rifles and shotguns, it would be the first gun control legislation to reach the Senate floor since 1938.

New impetus for tighter regulation of firearms traffic came after the Rev. Martin Luther King, Jr., was slain April 4 by a sniper, apparently an escaped convict who obtained his rifle under an alias.

Public Opinion Rises

Despite opposition from the National Rifle Association and various sports and hobby groups, public opinion favoring gun control has risen steadily since the assassination of President Kennedy in November, 1963.

Until this year, however, legislation has received relatively little attention in the House and has been blocked from coming to a vote by the Senate as a whole.

Even now, the Senate proposal is the subject of an unusual procedural wrangle.

But Senator Dodd (D., Conn.), chief sponsor of tighter controls, and Senator Hruska (R., Neb.), who has doggedly fought such legislation, are expected to meet informally tomorrow to negotiate an agreement.

At issue is whether Dodd's amendment curbing handgun sales will have to be acted upon again by the Senate Judiciary Committee.

The committee, by a vote of 9 to 7, approved the Dodd amendment April 7 after the Connecticut Senator had given assurances it would apply only to pistols, revolvers and other handguns. In advance of the vote, the amendment had been described verbally but had not been printed.

Applies To Long Guns 3-Ways

Hruska later complained that Dodd's proposal applied to long guns in three ways:

It would prohibit their import from abroad if they were not designed for sports use. It would ban the sale of any firearm that knowingly will be used in a felony. And it would prevent the transfer of any guns in violation of state laws.

Faced with this challenge, Dodd over the weekend polled all nine senators who voted for his amendment and found they

(Continued, Page A 8, Col. 8)

Gun-Bill Action Expected Soon

By JOSEPH R. L. STERNE

(Continued from Page A 1)

would stand firm if Hruska demanded another committee meeting.

In addition, Senator Tydings (D., Md.), an outspoken champion of gun control, let it be known that if Hruska forced another committee vote he would try to toughen Dodd's amendment.

Two Alternatives

Senator Eastland (D., Miss.), committee chairman, said today his committee would meet again this week—but not to deal with gun control.

This left two alternatives—either the whole anti-crime package would be delayed or the measure with the Dodd amendment attached would be brought to the floor for an early vote.

Action Predicted Soon

As of late this afternoon, informed congressional sources were predicting that the highly controversial legislation would come before the Senate within a week or ten days.

Senator Mansfield (D., Mont.), the majority leader, was said to favor an early vote — possibly to avoid Senate action in May when growing numbers of demonstrators are expected here to take part in the Poor People's March on Washington.

PRESERVATION COPY

4/22/69
Gun Control (8-1)

The day after Dr. King's assassination the Senate Judiciary Committee approved a gun-control bill. It is a mild bill, applying primarily to mail-order sales of hand guns, but the committee vote was significant. For 30 years pro-gun lobbyists have prevented a floor vote on gun control. Now it appeared that the issue was coming to an open vote of all senators, at last. Since the latest poll results show 71 per cent of all Americans favor *strict* gun-control legislation, the outcome would seem certain. Lobbyists and pressure groups that can manipulate committees are less successful once floor votes are scheduled.

But something is going on. The Judiciary Committee has not yet—three weeks later—sent the bill to the Senate. Some members of the committee say the vote on the gun-control measure was improper. Another meeting is planned. This may be a simple misunderstanding, or it may be a maneuver to keep the Senate from considering the bill.

The supporters of the bill would be wise to bend over backward in trying to smooth out the misunderstanding, if that's what it is, in order to get this bill to the floor. If that requires some watering down of this already weak bill, that would be all right, tactically, since the bill can easily be made stronger on the floor. It would be tragic to get this close to a full Senate debate and vote, only to be outmaneuvered or to lose control on some technicality.

Assembly Kills Gun-Control Bill With a Massive Show of Hands

By JOHN KIFNER
Special to The New York Times

ALBANY, May 13—The State Assembly killed Governor Rockefeller's gun-control bill today.

The bill, which would have required the statewide licensing of rifles and shotguns, was sent back to the Committee on Rules by an overwhelming show of hands after a 45-minute debate that flared briefly into animosity.

The action came as the legislators—and a noticeably large number of lobbyists—returned to the Capitol to attempt to dispose of the backlog of this year's bills by the end of the week.

But the general outlook here was that, because of the volume of remaining business, adjournment might not be possible until Tuesday or Wednesday of next week.

The Assembly moved at its

usual Monday pace today, meeting at 3 P.M. and adjourning a little before 6, with members wandering in and out.

Much of the day's calendar, including controversial bills authorizing publicly built atomic power plants and permitting eavesdropping under certain circumstances, was put aside until tomorrow, causing Speaker Anthony J. Travia to warn several times that it would be a long working day.

S. William Green, Republican of Manhattan, acted as sponsor of the gun bill for the Rules Committee, which alone can bring bills to the floor at this late date.

Speaking above a hubbub of conversations, Mr. Green said the bill was necessary to keep

Continued on Page 52, Column 1

ASSEMBLY KILLS GUN-CONTROL BILL

Continued From Page 1, Col.

weapons out of the hands of "people who are mentally deranged." He cited recent multiple slayings by riflemen at the University of Texas and in New York's Bryant Park.

But he spent much of his speech stressing that the new licensing bill would "substantially increase the rights" of gun-owners in New York City by establishing a statewide board of appeal to which they would have recourse if denied a license under the city's more stringent regulations.

Leonard P. Stavisky, Democrat of Queens, spoke at length in favor of the bill, mentioning the ease with which the weapons used in the sniper slayings of President Kennedy and the Rev. Dr. Martin Luther King Jr. were obtained.

When Mr. Stavisky charged that the National Rifle Association, which lobbies against gun-control legislation, "delights in misinforming" the public, Edwytt E. Mason, Republican of Hobart, jumped to his feet.

"I've been a member of the National Rifle Association for more than 20 years, and you don't know what you're talking about," he shouted.

"You're just blowing off steam—you're shooting off your mouth," Mr. Mason continued angrily over Mr. Stavisky's protests of "I will not yield."

"Mr. Stavisky—you're lying!" continued Mr. Mason.

Mr. Travia rapped his gavel for order, and Mr. Mason returned to reading his newspaper. A few minutes later the Speaker called for a show of hands of those opposed to the bill.

Nearly all the members

the Republican side of the aisle and about half of the Democrats raised their hands, and Mr. Green nodded quietly when Mr. Travia asked him if he would move to recommit.

Other Developments

Other legislative developments today included the following:

NURSING HOMES

The Senate gave final legislative approval to a bill to establish a \$2-million development fund to encourage private construction of nursing homes.

TRANSIT POLICE

The Senate passed and sent to the Assembly a measure permitting policemen of the New

York City Transit Authority to work up to 20 hours a week in approved outside jobs.

HEART TRANSPLANTS

The Assembly passed and sent to the Senate a bill to set up a temporary state commission to decide whether legislation on heart transplants is needed.

PRESERVATION COPY



Joshua Lederberg

New Civil Hazards Agency Could Regulate Gun Sales

GUNS, booze, cigarettes, drugs, fast cars . . . Human ingenuity knows no bounds when it comes to inventing new pleasures and hazards. Regulating hazards without stifling the individual pursuit of happiness is a major challenge to the designers of democratic social techniques, especially difficult when the effort is muddled by conflicts, personal privilege, established economic interests, risks to uneducated users or innocent bystanders and controversy over the nature and importance of the hazards.

The criminal law is the historic tool, but a notoriously unwieldy one for the regulation of personal behavior and especially, ancient and customary vices. In other spheres, regulatory agencies have been endowed with a broad authority to achieve the purposes set by legislation. Congress does not have to pass a law to decide whether penicillin should be sold over the counter, to set telephone rates or to renew a broadcasting license. We should deal with the regulation of civil hazards, like firearms, in the same way.

The common-law doctrine of implied warranty already imposes certain limited responsibilities on manufacturers and sellers of hazardous implements like automobiles but the limits of this doctrine are clouded by the absence of specific statutes covering contemporary situations. Present law, for ex-

ample, gives very shaky ground to sue a gun dealer for damages inflicted by thugs armed with a weapon sold by the dealer. After all, a kitchen knife or a razor blade might also be instruments of grievous harm.

ONE SOLUTION MIGHT BE a Civil Hazards Agency with authority to judge which products are potentially so dangerous as to demand more careful control. If the Agency did find that domestic use of handguns was outweighed by their abuse in personal violence, it would not outlaw them. Instead, it would establish a chain of civil responsibility, back to the manufacturer, for specific abuses of the product.

In self-protection, the handgun manufacturer would have to insist on distributing the weapons through bonded dealers and, in turn, only to responsible individuals who can be held to account for the damages that the guns might inflict on others.

The law would not directly restrict the ownership of weapons except to ensure that each one is covered by the system. Purchasers would, in effect, have to buy an insurance policy together with the weapon and thus register themselves with the insurance company. Possession or transfer of a weapon would be a crime if it lacked a valid identifying mark, or if the new owner lacked a certificate of re-

sponsibility, either in his own name or derived from the dealer.

THE ADVANTAGES of this system are its flexibility and its pluralism. It is not very different from compulsory insurance and registration of Automobiles. Manufacturers and their insurers would be liable only to the extent that a jury found as a matter of fact that a specific weapon was an instrument of crime or civil injury. The insurance rates could then reflect the actual statistics of the abuse of a given class of weapons, and their owners. For example, the National Rifle Association might undertake to insure the weapons owned by its members.

How many more assassinations will we have to suffer before imposing reasonable social controls on the irresponsible sale of lethal toys?

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Durrell Doesn't Travel

By Just Ward

Washington Post Staff Writer Just is the author of "To What End: Report From Vietnam," published this month.

By Lawrence Durrell (Dutton, 359 pp., \$6.95)

THIS BOOK is very difficult to read in Washington, if you are seriously connected with law or government or journalism. It does not travel. The sentences are too rich, the puns too outrageous, the love affair with language too unsettling. It is bawdy; it requires concentration. The writer is an authentic crank, an eccentric traveler, an Englishman, a writer of quartets and travel books; a civil servant, a historian, a poet.

It is difficult to turn from a lawyer's brief or a presidential message on health or the wire service account of a New Nixon formulation to "Tunc." To do so is to unhinge the imagination, sow seeds of doubt and ultimately to suspect that the language which surrounds us is as dead and lifeless as last year's leaves. The title is Latin for "then," which is the publisher's explanation for its significance; but don't believe that. Lawrence Durrell says that in "Tunc" there are echoes of the "Black Book," and it is the first of a two-part job. He enters here the world of science, of business, industrial espionage, if you can believe it, and many other matters.

It is possible, if the Washington reader possesses a romantic temperament, to read the book as a series of travel essays. The action moves from Athens to Istanbul to London, with intimations of Cypriot grape arbors, Aphrodites rising from Polis waters, nameless Near Eastern habitations, and

and dirty jelly. white lanterns. the branches. skin of wet was fastidious car; he could paws."

example of delightful rich of suet. It is

Book Review 'Tunc'

By Lawrence Durrell (Dutton, 359 pp., \$6.95).

pointless and unnecessary to recount the plot. I am not certain, in any event, that I can do it accurately. The book has to do with a machine, "an abacus of the intuition," and expands on many facets of this speculation.

It is one of those books in which the story does not really matter. One must read "Tunc" in the spirit of a fisherman who loves the fight and does not really care if at the last minute the marlin slips the hook. Durrell writes with such confidence that once engaged it is an easy matter for the reader to glide along with him, understanding some parts of the book, not understanding others, becoming distracted, fidgeting, feeling guilty, finally saying, once every ten or twelve thousand words, the hell with it and picking up Time magazine. That is one of the hazards of reading this book if you live in Washington.

But like an authentic work of art, you emerge from it changed. Light is cast in dark corners. The author is a high-wire aerialist, whom you can only watch with amazement, not that his work is done well but that it is done at all. It is difficult to edit these 40 words:

"A series of gaunt and yet dignified rooms had been thrown down pell-mell about a certain cruciform shape, rambling up two floors and petering out in precarious balconies which looked out on the ravishing mauve slopes of the foothills."

That is very fine English prose, without nonsense. But it is not prose to be read here. Buy it now and take it with you to the Vineyard or to Rehoboth or Kyrenia. Begin reading it on a day when the newspapers, unaccountably, fail to arrive.

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Take Over 25 Firms

Kunda's announcement, his speech, Kaunda hinted made before the national that the government might ac- council of his ruling United quire holdings in the copper

CHRISTIAN SCIENCE MONITOR

4/13/68

Guns in everyone's hands 16.1

Now that it has happened again will the American people and the American Congress sigh, say "isn't it terrible?" but once more sit back and do nothing? We are speaking, of course, about legislation to control the indiscriminate availability and use of guns.

Remember the intense indignation which swept the United States after the assassination of President Kennedy? Remember how so many of us felt: now, surely, something will be done? And do you recall just how much has been done to control such weapons of death in the hands of private citizens as a result of the Kennedy tragedy? Virtually nothing.

What will be the effect upon such legislation of the King assassination? Unhappily, unless there is a concerted effort to arouse public conscience and to mobilize congressional support, we cannot be sure that any positive forward steps will result from this latest national tragedy. The National Rifle Association (the leading lobby against even the present weak measures before Congress) expresses confidence that nothing will happen. Congressman John D. Dingell of Detroit (long one of the most lamentably crime-ridden cities in America) has bitterly attacked the administration's control bill. These are but two of the signs indicating how great must be the effort if this shameful situation is to be corrected.

But this is not all. During the past several years there has come a new element—the stockpiling of weapons through fear of racial incidents. There are areas in

which whites are organizing gun-handling classes. They see it as self-protection. Similarly, there are thought to be more guns in Negro areas than ever before. Again, the excuse given is the need for self-protection.

Meanwhile, the vast and deadly mills of crime—organized, unorganized and spontaneous—continue to churn throughout the land. And behind most of this crime is the gun or the threat of the gun.

Let us ask the question frankly and openly. Has not the time come when, as a mark of its maturity and as a proof of its moral character, the United States must decide that guns, all guns, other than those available to the forces of law and order be forbidden and prevented? We know the arguments against this—the constitutional provision, the necessity of farmers to protect themselves against predators, the recreation of the innocent sportsman. But should not a far greater need to end the national reign of violence take precedence over all these?

Gunnar Myrdal, the great Swedish student of American life, believes that such a moment has come. He says, "I am all against your gun laws. . . . To allow everyone to have guns today is dangerous."

We think that the time has come for the American people to examine their conscience in this matter. Should not stringent gun control legislation be enacted immediately, and then, indeed, should not a measure be considered banning all guns other than those belonging to the armed services and to the forces of law and order?

April 2, 1968

CONGRESSIONAL RECORD — SENATE

S3785

and a great strain. I think he has made a great contribution.

I think he has been most eloquent today and, may I say, most patient in answering the questions of his colleagues.

The junior Senator from Massachusetts [Mr. BROOKE] has covered many of the points I had in mind.

I merely want to clarify one thing: Obviously, I am one of those to whom the Senator referred—and I say this in all kindness—when he said that he read statements which were somewhat disturbing to him while he was on the scene in Vietnam.

On page 10 of the prepared statement of the Senator from California, he mentions Con Thien, as follows:

"On September 22, I saw Con Thien and Gio Linh. I talked with the men of the Third Marine Division at Dong Ha. In the course of that trip, I observed a B-52 raid on entrenched artillery positions of the enemy in the Demilitarized Zone. The men of the Third Marines live with a daily rain of incoming shells. I cannot understand how any fair-minded approach to honorable negotiations would deny them their principal means of defense through air power while they are under attack."

I concur. I certainly did not mean to imply by my suggestions that we were not going to give air support to our troops wherever they might be.

Mr. KUCHEL. That is most important. I think the Senator knows of my high respect for him. That is most important from the standpoint of clarification of what we are talking about.

Mr. MORRISON. I am sure that the colloquy which developed in the Chamber on yesterday, as a result of the speech made by my senior colleague, in which most of us engaged—and I am sure I speak for him as well as for myself on this—did not mean to imply otherwise.

What I suggested was a two-way thing: reappraisal of the bombing, one; and, two, withdrawal to that 20 percent of the land where 80 percent of the people live. In other words, to abandon the hunt-and-destroy method and again take up the offensive which has been very costly.

I sometimes question why we have this enclave in the desolate and unpopulated northern area at Con Thien, but I know that there are probably good military and strategic reasons for it.

I did want to make that point, because the questions I intended to pursue were most eloquently developed by the junior Senator from Massachusetts.

I appreciate this opportunity to respond to the Senator from California.

Mr. MANSFIELD. Mr. President, will the Senator from California yield?

Mr. KUCHEL. I am happy to yield to the Senator from Montana.

Mr. MANSFIELD. I am delighted that the distinguished Senator from Kentucky [Mr. MORRISON] raised the question he did. I am happy to note that now, at least so far as the record is concerned, the situation relative to a cessation of the bombing is clarified, period.

The distinguished Senator from California has made an excellent speech. I commend him for it. He recognizes that there is room for disagreement. Disagreement is one of the strengths of a democracy. If a person disagrees with a certain policy, what has that to do with aiding the enemy?

If we are all to be robots, we might as well abolish the Congress of the United States, because when we are sent to Congress, we are sent here to express the opinions we hold, in accordance with our conscience.

That is exactly what the distinguished Senator from California has done, and I commend him and congratulate him for it. What he has done is to make a worthwhile trip

to Vietnam and then return with an honest appraisal. He has made his report to the Senate on his views. There were no ifs, ands or buts in it. He laid them out. That is as we all should do.

Getting back to what the Senator from Kentucky [Mr. MORRISON] said, he did clarify something which I am sure has been bothering the distinguished Senator from California, and, as he seemed to indicate, some of the men fighting in places like Con Thien.

The Senator from California stated earlier during the course of this debate that he wished, when the matter of bombing was discussed, when it came to the 17th parallel, particularly Con Thien, that this situation could have been "excised out."

I think the formula of concentration and consolidation which the distinguished Senator from Kentucky [Mr. COOPER] has advocated is a cessation of the bombing in North Vietnam, but not along the 17th parallel, or along the Ho Chi Minh trails extending into Laos, so that our men—and that is what the other Senator from Kentucky [Mr. MORRISON] said—would be reinforced with the aerial protection necessary. It would be given them no matter where they might be in South Vietnam. To the best of my knowledge, the only area in which Americans are fighting on the ground in Vietnam is in South Vietnam at the present time.

Thus, I am delighted that this part has been straightened out so that the viewpoints of the two distinguished Senators from Kentucky can be made a part of the Record and so that our men at Con Thien and elsewhere in the 1st Corps will be aware of the fact that so far as some of the suggestions are concerned, they do not mean in any way, shape, or form, insofar as I am aware, that they will be denied this valuable support when they are under attack or when they are subject to attack.

The distinguished Senator from California has made a most worthwhile contribution in giving us—as soon as he returned—the benefit of his honest views.

I commend him for a fine report to the Senate.

Mr. KUCHEL. Mr. President, we want this war to end, but it ought to be clear to every reasonable human being all around the globe that the next move is up to Ho Chi Minh and the Communist north. There is a bombing pause, on our part. What will their answer be? Will there be any indication of deescalation on their part? They now can demonstrate whether they have any desire, in good faith, to negotiate, in good faith, a peaceful settlement, or whether their so-called prescription for talks is only a slam and a mockery.

Mr. HRUSKA. Mr. President, I yield 3 minutes to the Senator from Ohio [Mr. LAUSCHE].

Mr. LAUSCHE. Mr. President, I had been away for 3 days, and came in about 4 o'clock, to be shocked beyond the shock I suffered Sunday night when I heard the President's declaration not to be a candidate again.

I was shocked on the floor this afternoon to find out that condemnation of the President has been expressed on this floor far earlier than any answer being given by Ho Chi Minh, the arch enemy of the United States in Southeast Asia.

The President Sunday night declared that he would not seek nor accept the nomination. He stated that position because he did not feel he could engage in politics and at the same time fulfill the responsibilities of the President of the United States in leading our people into

a course that would secure the life of our country.

It took great courage. It took courage because, in addition to renouncing his purpose to run, he yielded to the attacks that have been made upon him on this floor during the last 4 years. The attacks have been cutting. They blame him for all that has happened. The United States was charged with being an aggressor, demanding an unconditional surrender, making it impossible for Ho Chi Minh to go to the negotiating table, wanting to impose colonial domination upon South Vietnam, making prostitutes out of the women of South Vietnam, and with a plan and design to perpetrate atrocities upon those people.

The charges were against the United States, but, in fact, they were against President Johnson. He was attacked in New Hampshire and attacked in Wisconsin. The speakers presenting the views of his Government were stopped from making their presentation by demonstrations that bordered on riots. The President bowed out. He did so with the purpose of wanting to be in the position of talking to the American people and telling them what he believes should be done, without charges being made against him that he was politically motivated.

He has been driven out of the candidacy. But that is not enough. Today, on the floor of the Senate, he is again attacked. There has been no waiting to have Ho Chi Minh answer. The attack is upon the President, on this floor.

How do you ever expect Ho Chi Minh to give an affirmative answer to a deescalation program if, on this floor, supposedly the principal speaker for the United States, outside of the President, the Senator from Arkansas begins a denunciation of what our Government is doing? There has been no waiting to find out what the answer would be from Ho Chi Minh, but there has been a galloping speed to attack the President.

How can you ever expect to have the enemy take your word when your friends and your public officials denounce the Government before the enemy has ever had a chance to answer? It simply cannot happen.

In conclusion, I ask, has there been one word spoken today condemning Ho Chi Minh? Has there been one charge made on this floor against our enemy? The answer is manifestly no. The attacks are against our country, and the praise for our enemy.

Mr. President, I am not willing to accept this sort of sanctimonious word about the purpose of aiding our Nation, when it is thoroughly apparent that the only result can be harm, and possibly the ultimate destruction of our country.

I have heard words spoken today expressing the hope that the President will reconsider. How can he reconsider? He has withdrawn; and there is no contentment in the fact that he has withdrawn. The purpose of his critics seems to be to continue hitting him on the head with the biggest clubs to be found in the arsenal.

I do not know how the man in the White House feels about it. What do we expect him to do? How can he escape attacks from the Senate? Where shall

he flee? I suppose there is no refuge; there is no sanctuary. Wherever he may go, attacks will still be made upon him. It was a tragic and a black day for our country Sunday, when he announced that he would not be a candidate. It was a great and glorious day for Ho Chi Minh.

But it was not the President's will to make it a great and glorious day for Ho Chi Minh. That came from the floor of the Senate, and from the public platform, in denunciations of what he was doing.

AMENDMENT OF THE FEDERAL FIREARMS LAWS

Mr. HRUSKA. Mr. President, there has been introduced in the Senate a bill (S. 1853) which has for its purpose the amendment of the Federal Firearms Act of 1938. I ask unanimous consent that, at its next printing, the names of the following Senators be added as cosponsors: the Senator from Iowa [Mr. HICKENLOOPER], the Senator from Ohio [Mr. LAUSCHEL], the Senator from Oregon [Mr. HATFIELD], the Senator from Idaho [Mr. JORDAN], and the Senator from South Carolina [Mr. THURMOND].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, earlier today the Senator from Utah [Mr. MOSS] made some remarks concerning this bill. It will be my purpose to enlarge on those remarks, and to discuss the merits, impact, and meaning of the proposed legislation.

Mr. President, it had been my intention to discuss this legislation much earlier, but matters of a high order of importance intervened. A number of my fellow Senators have indicated to me their desire to participate in colloquy on this subject, because in the near future this body may be called upon to consider legislation in this field.

Mr. President, I commend the Senator from Utah for the fine statement that he made on S. 1853. He also commented upon S. 1854, which has for its purpose the amendment of the National Firearms Act of 1934. The latter bill deals with destructive devices. It deals with sawed-off shotguns, bazookas, rockets, mortars, and the like.

May I say at this time, Mr. President, that neither of these acts has been significantly amended, since their original passage. So we know that for 30 years, in one instance, and for 34 years in the other, little has been done to update them.

There is a need for additional firearms control legislation on the Federal level. There can be no doubt as to the necessity and desirability of passage of Federal legislation to regulate commerce in sporting firearms, as well as in destructive devices. But certain features are essential if such legislation is to be effective in achieving its declared objectives. The objective is to keep guns out of the hands of the wrong people.

The features that should be embodied in any such measure certainly should include these:

First. It should be workable and enforceable.

Second. Its principal thrust should be to enable State and local authorities to have available means by which they can enforce their laws. This can be done by strong provisions directed at shipment of guns in interstate commerce. Such shipments and sales must be within the requirements of the Federal law, and also in strict compliance with State and local law.

Third. Such legislation should not inflict undue burdens nor interfere with the rights of millions of law-abiding Americans who put firearms to uses that are beneficial, wholesome, and in many cases highly essential.

S. 1853 meets these requirements, Mr. President. It is a strict bill. It is a proper bill. It is workable. It is capable of effective enforcement. It goes as far as any such measure can go without ceasing to be realistic, and without unduly burdening or interfering with law-abiding owners and users of firearms.

This is a dynamic and a positive measure. It includes the following principal features:

First. It requires that no manufacturer or dealer may ship, in interstate commerce, any firearm to any person in violation of State law.

Second. It provides that no person may transport into his State of residence, any firearm acquired by him outside the State, if the acquisition or possession of such firearm is unlawful in the place of his residence.

Third. It requires that no carrier may deliver any handgun to a person under 21 years of age.

Fourth. It requires that the purchaser of a handgun in interstate commerce make an affidavit of eligibility to purchase, which he shall send to the dealer who shall send a copy thereof to the purchaser's local law-enforcement agency. Further, the seller shall wait at least 1 week from receipt of notice from the local law-enforcement agency before shipping the handgun to the purchaser. If objection to such sale is made by the law-enforcement agency on grounds that the proposed sale would violate the law, then the dealer must desist from shipment and sale.

The second bill (S. 1854) is intended to amend the National Firearms Act of 1934. It has for its purpose the strict regulation of destructive devices, such as bazookas and mortars in the same manner as sawed-off shotguns, machine-guns, and other gangster-type weapons are presently regulated under the national act.

Mr. President, it is because the handgun is the real offender that we subject it to special controls. It is because it is used overwhelmingly in the commission of crimes of violence and that it lends itself to that purpose, that these special provisions are made.

At this point I wish to observe that this legislation is not partisan legislation. The bipartisan cosponsors and supporters of this legislation definitely demonstrate that fact.

Included in the major features of S. 1853 is that the burden of enforcement will be placed on local and State authorities. That is where it should be. The problem is of such a nature that much

detailed policing will be required, and it can only be done effectively in the States, localities, and political subdivisions of a State.

Earlier today, the Senator from Utah referred to the lack of enforcement of existing Federal firearms statutes. I shall not go into great detail on this point, but testimony in the hearings indicates that there has been a lack of enforcement on the part of Federal authorities in this area, and that a better job could be done. However, by the very nature of things, this kind of regulation of firearms should be assigned and delegated to local and State police officers.

ENFORCEMENT OF EXISTING FEDERAL FIREARMS LAWS

Mr. President, the press recently carried accounts of an indictment handed down by a Federal grand jury of the Southern District of New York against a gun dealer for violation of section 2(c) of the Federal Firearms Act of 1938. According to the accounts this was the first Federal prosecution in the 34-year history of the act of a dealer for interstate shipment of firearms.

For those of us who are seriously concerned with the problems associated with misuse of firearms by the lawless, this was most welcome news. Much hard evidence has been presented to the Senate Juvenile Delinquency Subcommittee and other investigating groups that interstate shipments of guns were being made in violation of existing Federal law. But until now, there seemed to be little enthusiasm on the part of our Federal law enforcement officials to crack down on violators.

In 1965 the subcommittee heard the testimony of police officials from the States of Missouri and Massachusetts, among others, States which have State licensing or permit laws. Evidence was presented to the subcommittee that some of the weapons were obtained from out-of-State mail-order dealers. Yet, apparently no attempt has been made during the intervening time to prosecute dealers who were responsible for these sales.

It should be noted that several States, including Illinois and New Jersey, have recently enacted State laws requiring licenses for the purchase of firearms. Here is an additional opportunity for crack-down on dealers who flaunt the law and sell firearms to out-of-State residents from States which require permits without complying with those State laws.

The applicable provision of the existing law now reads:

It shall be unlawful for any licensed manufacturer or dealer to transport or ship any firearm in interstate or foreign commerce to any person other than a licensed manufacturer or dealer in any State the laws of which require that a license be obtained for the purchase of such firearms, unless such license is exhibited to such manufacturer or dealer by the prospective purchaser.

Under the bill which I have introduced, S. 1853, this provision would be broadened and strengthened considerably. Incidentally, I might point out that there is no comparable provision in either S. 1 or amendment No. 90 to S. 1. The provision in section 2 of my bill which would add a new section 2(c) to the act reads:

It shall be unlawful for any licensed manufacturer or licensed dealer to ship or transport, or cause to be shipped or transported, any firearm in interstate or foreign commerce, to any person in any State where the receipt or possession by such person of such firearm would be in violation of any statute of such State unless the licensed manufacturer or licensed dealer establishes that he was unable to ascertain with reasonable effort that such receipt or possession would be in violation of such State law.

This change would not only broaden the scope of the existing provision, but would also make enforcement easier.

Another aspect of the enforcement of existing Federal laws has to do with the adequacy of the enforcement activity personnel assigned to administer Federal and National Firearms Acts. During the 1965 hearings of the House Ways and Means Committee, it developed that the Alcohol and Tobacco Tax Division of the Department of the Treasury—the agency assigned with the responsibility for enforcement—had a total of about one enforcement officer per State to do the job. The figure included central office administrative personnel. Congressman CURTIS, of Missouri, explored this matter quite thoroughly with the Director of the Internal Revenue Service at that time.

During the 1967 Senate hearings, I asked questions of the Director again. This time, on page 73, it was indicated about the equivalent of 113 man-years were devoted to that purpose. However, in supplementary information supplied to the Senate subcommittee on page 75, it was indicated that prior to October of 1965 no statistics were maintained with respect to inspection of premises of persons licensed under the Federal Firearms Act. The information supplied by the Treasury Department also reveals that the number of investigators in the Division declined from a high of 1,000 in 1963 to a low of 937 in 1966. Although that figure has increased to 964 in 1967, still this trend leaves much to be desired.

Recently, in the President's special message on crime, a request was made for additional assistant U.S. attorneys, FBI agents, and narcotics agents, but no mention was made of alcohol and tobacco agents. There was a renewed request for the administration's controversial gun-control bill, however.

These are the reasons, Mr. President, that many of us who are concerned with the problem of firearms control feel that the essential first step is strict and vigorous enforcement of the laws which are already on the books.

TOUGH BILLS

Contrary to the misinformation that has been circulated repeatedly by proponents of the Johnson-Dodd bill, there are several provisions in S. 1853 and S. 1854 which not only considerably strengthens existing Federal firearms legislation, but which are tough if properly enforced.

First, it must be pointed out that both bills increase the maximum penalties for violation of the Federal laws to 10 years imprisonment and a \$10,000 fine. This change speaks for itself.

Second, section 2(n) of S. 1853 makes it an unlawful act subject to the penalties above for any person in connection with the acquisition of any firearm—including rifles and shotguns as well as handguns—from any federally licensed dealer to

make false statements or to furnish bogus identification with the intent to deceive a dealer. This applies to all sales of all firearms from federally licensed dealers. The provision reads as follows:

It shall be unlawful for any person in connection with the acquisition or attempted acquisition of a firearm from a licensed manufacturer or licensed dealer to—

knowingly make any false or fictitious statement, written or oral; or

knowingly furnish or exhibit any false, fictitious, or misrepresented identification with the intention to deceive such manufacturer or dealer with respect to any fact material to the lawfulness of the sale or other disposition of a firearm by a licensed manufacturer or licensed dealer under the provisions of this section.

Section 2(o) of S. 1853 makes it a violation of the Federal law for any person to transport or receive in his State of residence any firearms, including long-guns, purchased or obtained by him outside of his State of residence if it would be unlawful for him to purchase or possess such firearms in his own State or political subdivision thereof. This provision is designed to prevent circumvention of State law and local ordinance. If enforced, it could be very effective in assisting the States to enforce their own gun-control laws. The section reads as follows:

It shall be unlawful for any person to transport or receive in the State where he resides a firearm purchased or otherwise obtained by him outside the State where he resides if it would be unlawful for him to purchase or possess such firearm in the State (or political subdivision thereof) where he resides.

Fourth, as was noted earlier, 2(c) of S. 1853 would broaden considerably section 2(c) of the existing Federal Firearms Act by making it a federally prohibited act for any licensed manufacturer or dealer to ship any firearms—including long-guns—in interstate commerce to any person where the receipt by such person would be in violation of any State statute, not just permit laws as the present provision requires. Again, this provision would be extremely effective if properly enforced.

There are numerous other provisions that could be cited which serve to strengthen and tighten existing law, but these are given only to illustrate the point that the bills which I have introduced contain numerous tough provisions.

Mr. President, in an earlier discussion with respect to control, I made a statement which called for firearms legislation. In that statement there was a recital of statistics and figures from the Federal Bureau of Investigation Uniform Crime Reports and other sources. I ask unanimous consent to have printed in the Record at this point the material contained in that report, as updated with the most recent figures available for the items which are covered in each instance.

There being no objection, the material was ordered to be printed in the Record, as follows:

BACKGROUND AND CONTEXT FOR CONSIDERATION OF FIREARMS LEGISLATION

Mr. HRUSKA. Mr. President, there is far more to the efforts to legislate in this field than the declared objectives of the various pending bills indicate.

Each of these measures directs its impact to an area of American history, activity, and human conduct which is as far flung in our Republic as are the 50 States themselves. The factors involved are deep rooted.

They embrace customs and practices which were born of necessity in the beginnings of our country. They still exist in that context today, though some of the needs are different now than formerly.

But this can be said with confidence: taken in the entire context and on balance, the place and role of privately owned and used firearms are still beneficial, necessary and wholesome in this modern day. They should be protected.

This is true notwithstanding unlawful use of firearms when they get into the hands of the wrong persons—the lawless and the demented. Those instances, while deeply deplored and of grave concern, are relatively few. Efforts to deal with these few should be made to concentrate upon them, in order to be effective, and in order to prevent and avoid a harmful interference and encroachment on the vast preponderance of lawful and beneficial uses and purposes of firearms.

Mr. President, here are some of the many factors which present difficulties and obstacles to the development of fair, balanced, and effective legislative effort on this subject.

The first factor is the very large number of privately owned guns in the United States. While estimates run from 50 to 200 million, the estimate most often used is 100 million privately owned firearms within the United States. Of course, they are widely scattered throughout the 50 States.

The most commonly used total for active users of guns for lawful, proper, and beneficial purposes is 20 million.

Twenty million of our citizens are included in this category. In this figure are included about 15 million holders of paid hunting licenses; additional hunters legally entitled to hunt but without licenses such as landowners, persons over or under paid license age, veterans, and senior citizens. Members of organizations for skeet, rock, target and competitive shooting; gun collectors, and organizations of that type are also included. Not included are the millions of homes where firearms have a proper place, for self-protection.

With such a vast vast reservoir of available firearms, and the millions of active users in lawful fashion, it is imperative that a highly effective method of getting at the core of the problem must be devised. This necessity becomes even more urgent when we consider the statistics on unlawful use of firearms. They also dramatically show small number of offenses committed with firearms. They also dramatically show the vast preponderance of lawful, legitimate use over unlawful use of the firearm.

The Federal Bureau of Investigation Uniform Crime Reports show that the number of serious crimes reported in the United States for 1966 came to a total of approximately 3,243,370.

In crimes of violence, statistics showing use of firearms in their commission are available in only three classes; willful killings, aggravated assaults, and robbery. The total of crimes of these 3 classes in 1966 was 396,140.

At that point it becomes very pertinent to inquire how many of those 396,000 crimes of violence were committed with firearms. The answer for the uninitiated is rather spectacular—only one in every four. Firearms were used in about 109,000 of this number. This means about a 27-percent use of firearms in these crimes of violence.

Mr. President, I ask unanimous consent that a table on relationship of firearms to other weapons used in the commission of certain crimes of violence be printed at this point in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE 1.—RELATIONSHIP OF FIREARMS¹ TO OTHER WEAPONS USED IN THE COMMISSION OF SERIOUS CRIMES, 1966

	Percent of weapons used	Total crimes committed	Crimes in which firearms were used		Percent of weapons used	Total crimes committed	Crimes in which firearms were used
Homicide.....		10,920		Robbery.....		153,420	
Firearms.....	59.3		6,476	Armed with—			
Knives or cutting instruments.....	22.3			Firearms.....	38.9		59,680
Personal weapon (hands, feet, etc.).....	9.4			Other weapons.....	19.4		
Blunt objects.....	5.4			Strong arm (muggings).....	41.7		
Miscellaneous.....	3.6			Forcible rape.....		25,330	
Aggravated assault.....		231,800		Burglary.....		1,370,300	
Knives or cutting instruments.....	33.6			Larceny (\$50 and over).....		894,600	
Blunt objects.....	22.3			Auto theft.....		557,000	
Personal weapon (hands, feet, etc.).....	25.3			Total.....	13.4	3,243,370	109,734
Firearms.....	18.8		43,578				

¹ Firearms including the so-called gangster weapons as so classified under the National Firearms Act of 1934, "zip" guns, toy guns, alleged guns, pistols and revolvers, and rifles and shotguns.

² Source: FBI Uniform Crime Report, 1966, pp. 4, 9, 15, and 107 and supplemental letters from the Director of the FBI.

THE HANDGUN IS THE REAL OFFENDER

Mr. HRUSKA. By its very nature, the handgun is the most troublesome and difficult factor in unlawfully used firearms. Its size, weight, and compactness make it easy to carry, to conceal, to store, to transport, or dispose of. All these features and others make it a very effective weapon in commission of crime and violence. It is difficult to observe, control, and to police.

Its status as the most formidable and most frequently used tool of the criminal is well recognized and established by first, the existence in many States of laws controlling the handgun; and second, by statistics on its unlawful and criminal use in crimes of violence.

STATE CONTROLS OF HANDGUNS

These controls are of two classes—the positive and the negative.

As to the States with positive gun controls:

Twenty-three States require a license to sell at retail.

Twenty-nine States require a license to carry a handgun on or about the person.

Eight States require a permit or its equivalent to purchase a handgun.

Ten States prescribe a waiting period between purchase and delivery of a handgun.

Eighteen States require a license to carry a handgun in a vehicle.

As to States with negative controls:

Twenty-one States prohibit the carrying of a handgun concealed on the person.

Four States require registration of handguns.

Twenty-two States prohibit carrying a loaded handgun—and in some instances other firearms—in a vehicle.

In addition, many municipalities have ordinances of various kinds on this subject.

Of course, here we get into the matter of assisting the States. The States are the best judges of those conditions that they wish to impose on people within their bodies in connection with the use of handguns.

STATISTICS ON FIREARMS USED IN CRIMES

There is a second reason why we can readily perceive the handgun as the offender, and that is by a review of the statistics on firearms used in crimes.

The 1966 FBI uniform crime reports state that 59 percent of the wilful killings during that year were committed with firearms. This means a total of 6,476 wilful killings with firearms out of a total of 10,920.

In a letter dated July 27, 1966, addressed to this Senator, Director J. Edgar Hoover of the FBI wrote:

"Based on the submission of police reports under the uniform crime reporting program, 70 percent of the murder by gun in this country is committed with a handgun, 20 percent by the use of a shotgun and 10 percent with a rifle or other firearm. This will supplement the data available to you in uniform crime reports—1965."

Mr. HRUSKA. Mr. President, the States and cities would have affirmative

and positive control under this proposed legislation. The enactment of statutes or ordinances dealing with permits, license requirements, and other prerequisites to delivery or importation of a gun, is available to any State or any city. Such a procedure would activate, section 2(1) of the present statute, and also as revised in S. 1853. That section would make it illegal to put a gun into a State without disclosing the permit, the license number, the date, and the place of issuance of the permit if so required by local law.

This would enable the local authorities to search the files of existent permits and licenses. If the required permit has not been issued this fact would be quickly communicated to the prospective seller and the sale and shipment of that gun would be prevented.

Now a good deal has been made from time to time, Mr. President, of the idea that prohibition of all mail order sales, after all, is not objectionable.

The representation has been made, and the argument has been advanced, that it would entail only a mere inconvenience to the prospective buyer if all interstate mail-order sales of firearms were prohibited.

I would respectfully disagree with the conclusion. It is not a matter of a little inconvenience. We should bear in mind that tens of thousands of lawful users of guns buy them by mail. They have been doing so for more than 100 years. The mail-order business is legal and a proper way to do business. Many persons do business by mail to reduce the cost of firearms they seek to buy. There are more areas with sparse populations in existence in America today than there were 50 years ago. The rural areas of the Nation are being drained of their populations in favor of metropolitan areas, as we all know.

The general stores or the crossroads gas station carry a limited stock of the most popular firearms at best, and more often than not, only a stock of shells and ammunition as a convenience for regular customers. Access to mail-order purchases by rural citizens is an absolute necessity under these circumstances.

Under the bill proposed by the administration, which provides a total prohibition of interstate mail-order sales, there is a real question as to whether the sale and shipment of a gun from a dealer to an individual between two points within the same State would be allowed.

This is because S. 1—amendment No. 90 place severe burdens upon licensed dealers selling intrastate through the mails or over the counter. In fact, those burdens are so great that many individuals will be arbitrarily denied the purchase of a gun. The dealer will not want to take a chance and vouch for the purchaser as he is called upon to do by those proposals. The misuse of a gun by a purchaser at a later time might cause great penalties to be inflicted upon the dealer. There is no sense to any such harsh requirement when more workable and more acceptable methods can be used to achieve the same results of the intended legislation.

The dealer has no police pre-sale notification procedure upon which to rely. He must ascertain the bonafides of a transaction at his peril.

Section 922(b) of amendment 90 indicates the great burdens placed upon dealers.

I ask unanimous consent that those pertinent sections of S. 1 be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

(b) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell or deliver—

(1) any firearm to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age, if the firearm is other than a shotgun or rifle; or to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, if the firearm is a shotgun or rifle.

(2) any firearm to any person who the licensee knows or has reasonable cause to believe is not lawfully entitled to receive or possess such firearm by reason of any State or local law, regulation, or ordinance applicable at the place of sale, delivery, or other disposition of the firearm.

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located; except that this paragraph shall not apply in the case of a shotgun or rifle.

(4) to any person any destructive device, machine gun (as defined in section 5848 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, unless he has in his possession a sworn statement executed by the principal law enforcement officer of the locality wherein the purchaser or person to whom it is otherwise disposed of resides, attesting that there is no provision of law, regulation, or ordinance

which would be violated by such person's receipt or possession thereof, and that he is satisfied that it is intended by such person for lawful purposes; and such sworn statement shall be retained by the licensee as a part of the records required to be kept under the provisions of this chapter.

(5) any firearm to any person unless the licensee notes in his records required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Mr. HRUSKA. The number of licensed hunters who use rifles and shotguns in America today approximates 20 million citizens.

In the State of Michigan alone there are more than a million hunting licenses issued annually.

It seems to me, and I am sure it will appear to others, that the picture should be balanced. Every workable and acceptable effort should be made to keep guns out of the hands of the wrong people by law but, by the same token, the rifle and the shotgun are weapons used for sporting purposes, which are legitimate, wholesome, and beneficial. In many instances, such uses are essential. The rights and prerogatives of the law-abiding citizen should not be unduly interfered with or unduly burdened.

Mr. President, I conclude by restating my original proposition; namely, that S. 1853 is a workable bill. It is enforceable. It is a strict bill. It goes as far as any such measure can go without ceasing to be realistic and without placing undue burdens upon or interfering with law-abiding citizens who are owners and users of firearms.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. HANSEN. Mr. President, I compliment the distinguished and able Senator from Nebraska for contributing most significantly to the type of wise, sane, and reasonable legislation that I think is indicated to come to grips with the problem that concerns all of us. We are all concerned with the increasing rise in crime throughout the country. We are deeply disturbed as we see firearms and other destructive devices in the hands of people being put to wrong uses. Yet, I think all of us in this country, ever since the adoption of the Constitution nearly 200 years ago, have cherished certain of the privileges that were conveyed by that document. And certainly one is the right to own and bear arms. That is a very real one in the minds of a great many people.

Because there has been such great expression of concern from many people, and particularly people in the West, I would like to ask the distinguished Senator what S. 1853 will mean for the average sportsman when he sets out to buy a rifle or a shotgun. Will it impose additional burdens?

Mr. HRUSKA. Mr. President, S. 1853 will have no effect on the legitimate purchaser or user of a shotgun or rifle. However, if the shipment of a rifle or a shotgun from one State into another State would be in violation of the law of that

second State, then there would be a Federal prohibition against it.

Mr. HANSEN. Would it not be fair to say then, if the Senator will yield further, that all the bill would do in this instance would be to reinforce State law? It would not prohibit something that is perfectly legal insofar as State law is concerned, but it would not give official Federal sanction to the doing of those things which would be prohibited by State law.

Mr. HRUSKA. The Senator is correct. The main thrust of the bill is to enable the States and localities to enforce their own laws.

In the course of the firearms hearings, we had many witnesses representing law-enforcement agencies of cities and States. They were asked why they did not enforce the laws within their own States. The answer invariably was, "We can handle matters within the borders of the State, but we cannot handle shipments across State lines into our State or cities."

So, by reason of this bill, which would cover the interstate shipment of guns, the States, and local authorities would be able to enforce their laws.

Mr. HANSEN. Mr. President, what about one who wishes to buy a pistol for sporting purposes or self-protection? How will he be affected? I am sure that a lot of people would like to know how this proposed law would affect them in this instance.

Mr. HRUSKA. If someone wants to purchase a handgun from outside his State, by mail, he would be required to fill out an affidavit. The affidavit would set forth his name, address, age, and other pertinent information necessary to qualify him as a purchaser of a handgun within his own State.

Also, if his State requires a permit or license to buy and accept delivery of a handgun, he must attach a true copy of the permit or license. Then he mails that affidavit to the out-of-State dealer. He must also specify, in the affidavit, the name of the law-enforcement officer of the city or State who has jurisdiction over the sale.

One copy of the affidavit would be mailed to the law-enforcement officer named. The law-enforcement officer would be given 7 days from the time the return receipt for that mail was received by the seller to determine whether or not the prospective purchaser is qualified under the law to purchase a gun and accept delivery.

If there is a negative finding, the seller would immediately receive word from the law-enforcement officer, "Do not sell this man the gun." That would be enough to stop the sale unless the dealer were willing to violate the Federal law.

In the event of an over-the-counter sale, where the purchaser crosses a State line for the purpose of buying a handgun, the same affidavit procedure would have to be followed.

The Director of the Federal Bureau of Investigation, Mr. J. Edgar Hoover, has indicated, and I have correspondence from him to that effect, that about 70 percent of the major crimes which are

committed by firearms are perpetrated by the use of handguns.

The thrust of the bill, therefore, would be directed against the main offender of the illegal, improper, and unlawful use of firearms.

Mr. HANSEN. Mr. President, it has been asserted that the bills of the Senator represent a first step toward national registration of firearms. Is that so?

Mr. HRUSKA. No. It is not so. It is not so intended.

It is intended to forestall indefinitely any demand for registration of sporting firearms. Of course, machineguns and other gangster weapons are now required to be registered under the National Firearms Act.

Mr. HANSEN. What additional information about firearms ownership will be made available to the Federal Government if S. 1853 is adopted?

Mr. HRUSKA. Nothing not already required by the Federal Firearms Act.

Mr. HANSEN. How do the proposals of the Senator differ from the administration proposal—amendment No. 90 to S. 1—in this regard?

Mr. HRUSKA. The principal difference in the provisions is that the administration bill calls for a complete prohibition of all interstate mail-order sales to individuals of all firearms—an unthinkable concept.

America has had bad luck with prohibition statutes, very bad luck. They are difficult to enforce. There would be added expense to the millions of lawful users of firearms if a prohibition type of statute is passed. I have previously pointed out other problems in this connection.

Mr. HANSEN. How will S. 1853 aid local law enforcement officers?

Mr. HRUSKA. They will have advance notice of any intended interstate purchase of a handgun through the mails or over the counter.

The bill will enable such officers to enforce their laws better, because there is an express provision in S. 1853 which makes it unlawful to bring into the State any gun which the gun owner would be forbidden by law to possess or to own within that State. So the infraction of any law—State or local—by a user or an owner of a gun would become a Federal offense.

Mr. HANSEN. Unlike the administration's proposals, S. 1853 and S. 1854 deal separately with ordinary personal firearms and with destructive devices. Does the Senator believe we need much stricter regulation of destructive devices, especially under the threat of violence in our cities? I refer to the bazooka, the machinegun, the claymore mine, the grenade. All these items, in my judgment, have no place at all in anyone's home. I take it that these are all weapons of destruction to which any sportsman, anyone concerned only with his own protection, would never resort.

Mr. HRUSKA. The Senator is correct, they should be treated separately. S. 1853 deals only with sporting weapons—the rifle, the shotgun, the revolver, and the pistol.

The National Firearms Act of 1934 was passed in the days of gang warfare. It

previously takes care of the sawed-off shotgun, the automatic weapons, the machinegun, and so forth. However, since that time new weapons of the same character—also used in gang warfare and its equivalent—have been developed.

The purpose of S. 1854 is to deal with destructive weapons. The sportsmen of the Nation have every right to deeply resent being equated with users of destructive weapons. They are not hoodlums. They—by the millions—are not unlawful users of firearms. They have no interest in destructive devices. Such devices should be dealt with in the National Firearms Act of 1934.

One of the principal faults of the administration bill is that firearms and destructive devices are all wrapped up in one bill. They should not be. Destructive devices should be dealt with in one bill, and sporting arms should be considered in another bill.

Mr. HANSEN. I am certain that the Senator will be interested and pleased to know that all the mail I have received from my State of Wyoming, as a cosponsor of the Senator's bills, which I consider to be very excellent, has been favorable. Those organizations, which include sportsman's groups, hunter's, rifle associations, and others, have been critical of S. 1, and they have been most complimentary of S. 1853 and S. 1854.

I believe it is noteworthy that people who have a genuine concern and reason to be interested in this type of legislation because of their activities, their full-time activity, or because of their interest in the ownership of these guns so far as sportsmanship is concerned, as reflected by my mail, are in accord with the Senator's position.

I have one further question: How will S. 1854, in particular, be affected by the recent Supreme Court decision in *Haynes* against United States?

Mr. HRUSKA. The effect of the opinion in *Haynes* against United States was anticipated in one particular by the language in section 4 of S. 1854, so that only one other point need be covered by an amendment to the present language of S. 1854.

I have been in touch with the general counsel of the Treasury Department. The Treasury Department has written an opinion and has provided me with information with respect to the requirements of the *Haynes* opinion upon the National Firearms Act.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD the letter of February 14, 1968, signed by the Acting General Counsel of the Treasury Department, Roy T. Englert, which bears on this subject.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE GENERAL COUNSEL OF
THE TREASURY.

Washington, D.C., February 14, 1968.

HON. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HRUSKA: Your letter of February 7, 1968, to the Secretary of the Treasury requested his view of the impact of the *Marchetti*, *Grosso* and *Haynes* opinions on certain enforcement activities of the Department. Your inquiry was referred to me for reply.

On January 29, 1968, the Supreme Court handed down decisions in *Marchetti*, *Grosso* and *Haynes*. Each case was concerned with the application of the constitutional privilege against self-incrimination by reason of government required information (occupational tax returns, excise tax returns and registration). Premised on the regulatory requirements in the wagering and firearms areas, the holding of the Court in each case was that one charged with any of the violations under consideration had the right to assert the Fifth Amendment privilege which would provide a bar to prosecution. The Court did not hold any of the statutes involved to be unconstitutional. It is also significant that in each of these cases the Court very carefully observed that the regulatory system involved was directed to groups "inherently suspect of criminal activities."

It is obvious that these cases will have a significant impact on the enforcement activities of the Department. At this time, we can only speculate as to the extent of the impact on the National Firearms Act and in the area of federal taxes on wagering. However, the many problems involved are receiving extensive study. We anticipate that recommendations for effectively coping with the problems will come from those studies.

As to the National Firearms Act, in the *Haynes* case, the Court held "that a proper claim of the constitutional privilege against self-incrimination provides a full defense to prosecutions either for failure to register a firearm under 5841 or for possession of an unregistered firearm under 5851." The incrimination aspects of this case go to federal law—the National Firearms Act (26 U.S.C. 5801-5862)—rather than incrimination under state statutes. However, the Court observed that a registrant "might be confronted by hazards of prosecution under state law, and that these hazards might support a proper claim of privilege." (n. 13, p. 14, Slip Opinion.)

As pertinent to the National Firearms Act, *Grosso* held that the privilege could be premised on a substantial hazard of incrimination under state law and *Marchetti* concluded that hazards of incrimination could, under the circumstances of that case, be premised on prospective acts noting that "insubstantial claims of privilege as to entirely prospective acts may certainly be asserted, but such claims are not here, and they need only be considered when a litigant has the temerity to pursue them." (p. 15, Slip Opinion.)

As you know, section 5851 generally makes it unlawful to receive or possess a firearm which has at any time been made or transferred in violation of the Act, as well as declaring it unlawful to possess a firearm which has not been registered as required by section 5841.

We believe that the violations of possession of a firearm illegally made or illegally transferred may be distinguished from the violations involved in *Haynes*, *Grosso* and *Marchetti*. Briefly, the basis of the distinction is: (1) There is no substantial risk of self-incrimination under federal law through compliance with the transfer and making tax provisions of the Act; (2) Only a few states have laws prohibiting the possession of National Act weapons and, therefore, compliance with the making and transfer provisions of the Act would not present a substantial risk of self-incrimination under the laws of every state; (3) A charge of possessing a firearm that was illegally made or illegally transferred by persons other than the accused can be made and such would preclude the accused from relying on the privilege; and (4) Compliance with the making and transfer provisions of the Act would, at best, show prospective violations of a state law and the application of the prospective rule followed by the Court in *Marchetti* may be distinguished in the firearms area.

You may be interested in the fact that the United States Court of Appeals for the Second Circuit rendered an opinion on January 19, 1968, in the case of *United States v. Arthur Della Rocca* involving charges of possessing a firearm illegally transferred. The Court affirmed the conviction of the appellant in the District Court. We understand that he has filed a petition for certiorari with the Supreme Court. Possibly, a judicial determination of the validity of a charge of receiving or possessing a firearm illegally transferred will be made in this case. It is also interesting that possible incrimination under state law through compliance with the transfer provisions of the National Act has been raised in this case.

You recognize, of course, that the most effective tool in the enforcement of the National Firearms Act had been the charge of possessing a firearm which had not been registered. The loss of this tool will make it more difficult and time consuming to make cases charging illegal possessions under the Act. At this time, we are considering recommendations for legislation to assist in coping with this problem.

In the special (occupational) tax area under the National Firearms Act, we do not believe that the problem is as acute as is the case with this type of tax under the wagering statutes. This conclusion is based on the fact that one can engage in the business of dealing, manufacturing, or importing the types of firearms covered by the Act in most, if not all, states without violating state law. This is not the case with engaging in the business of accepting wagers.

Insofar as your proposals to amend the National Firearms Act through S. 1854, now pending in Congress, we shall limit ourselves to broad observations. In *Haynes*, the Court found that registration provisions of section 5841 were directed to persons who possessed a gun in violation of the Act except in the uncommon occurrence of one finding a firearm. Your proposed amendments would not go to this problem.

Your bill includes several provisions that would disclose information to state authorities. Each of the three cases found this procedure objectionable in that it could disclose violations under state law.

There are, of course, other proposals in your bill which must be carefully considered in the light of these decisions.

In the area of federal taxes on wagering, we believe that the immediate effect of the *Marchetti* and *Grosso* cases has been to bring federal wagering tax criminal enforcement to a virtual standstill unless and until new legislation is enacted. At the present time, the Department is intensively exploring proposals to attempt to cope with the problems presented by these cases.

We recognize that our reply to your inquiry is speculative and in general terms. However, under the circumstances, we are constrained to follow this approach. In the near future, we hope that our position will be more definitive.

Very truly yours,

ROY T. ENGLERT,
Acting General Counsel.

Mr. HANSEN. I thank the Senator.

Mr. HRUSKA. Mr. President, I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I commend the distinguished and able Senator from Nebraska for the magnificent address he has delivered on the subject of gun legislation, and also for the outstanding leadership he has provided for Congress in this field.

Mr. President, this Nation is in the midst of a serious crime wave. This terrible increase in crime is occurring on three fronts: First, an increase in individual criminal acts—rape, murder, as-

sault and battery, breaking and entering, and the like—second, a tremendous increase in mob violence—to wit, the tragic events in Watts, Detroit, Newark, and many other American cities, the latest of which is Memphis; third, an increase in organized crime.

This increase in crime is partially responsible, in my judgment, for the recent pressure to enact highly punitive legislation restricting the sales of firearms. For this reason it is imperative that we examine the causes of this wave of violence to see if, in reality, the adoption of such legislation would be wise.

Undoubtedly, many factors are involved; but, in my judgment, the single greatest factor is that the opinion leaders of this Nation have encouraged an attitude of moral relativism and permissiveness—an attitude which allows each individual to decide for himself which laws he will obey and which he will disobey. This permissive attitude is further reflected in the curious opinion held by many influential people that criminal actions should be excused, because the individuals involved might not be as financially well off as other citizens.

The result of this moral relativism has been to divorce many young people from a code of conduct which includes respect for the laws and for the community. The lines between legitimate protest and criminal action have become blurred in the minds of many, and our opinion leaders often treat crime as if it were legitimate protest. This has only served to increase a tendency toward crime, as moral restraint against such actions has been weakened or removed.

This attitude has been reflected in recent decisions of the Supreme Court which have shown such great concern for the criminal at the expense of law and order. Supreme Court policy on confessions has seriously handicapped law enforcement agencies in their attempts to bring criminal offenders to justice.

Where do guns fit into this picture? Some people apparently believe that firearms themselves are to blame. We must never forget that firearms do not commit crimes, people with criminal intent commit crimes. A gun can be used for good or ill, depending upon the disposition of the individual involved. The aim of this body should be to prevent the use of firearms for criminal purposes not to merely restrict the use of firearms.

One legitimate use of firearms which should not be forgotten is self-defense. Individuals bent upon violent crimes are not deterred from their actions if they have the knowledge that their intended victims are unarmed. With the growing crime rate in this Nation, let us not take action which may disarm the innocent citizen, but does not effectively disarm the criminal. Let us remember that criminals will strive to circumvent any law we pass. Restrictive legislation will not serve as an equal deterrent to ownership of firearms on the law-abiding and criminal alike, as the criminal is always able to obtain firearms.

Another consideration is the legitimate use of firearms for sport. Hundreds of thousands of persons in this country participate in sports—both in hunting and in marksmanship—which

involve the use of firearms. Properly conducted, this use of firearms should not be inhibited by the Congress.

Marksmanship serves another important purpose as well: that of training persons for national defense purposes. This can be seen from the very successful program of the National Board for the Promotion of Rifle Practice. This program of civilian marksmanship has been important to the nation's defense effort. As of January 1 of this year, 418,000 persons were enrolled in the civilian marksmanship program. Forty-five percent of these were young people between the ages of 12 and 18. This is important for two reasons: First, many of these are draft eligibles. It should be obvious to all that training in the use of firearms is important in our defense effort. This program not only trains young people, but also make available for the use of our Armed Forces a group of highly trained civilian marksmanship instructors in the event of the national mobilization of our Armed Forces as did happen in World War II. The second reason why this program is important is one which is particularly important in view of the increase in juvenile delinquency in this country. This program has 200,000 young people in disciplined, purposeful recreational activity. This is one of the finest youth programs in the Nation. It is a splendid example of character building—something far too many of our young people lack.

Our country needs more fine youth programs like the civilian marksmanship program of the Department of Army. I must say I regret that the President has deemed it necessary to decrease the appropriation for this program, but our economy is a bit strained in this time of war and I do not now wish to question that decision. However, I certainly hope that the recommended appropriation will be retained and I intend to work toward that goal. The President has recommended the modest sum of \$52,750 for the operation of the National Board for the Promotion of Rifle Practice and \$84,000 for the ammunition needed for the civilian marksmanship program.

The program can survive if further cuts are not made. This program deserves the continued support of the Congress. I am not advocating the free and unfettered accessibility of firearms. I wish only to urge that the importance of the civilian marksmanship program to the Nation be kept in mind in the consideration of any firearms legislation.

Mr. President, it has long been my view that congressional action can be taken which will be helpful in preventing easy access to firearms by those with criminal intentions, and yet not interfere with the legitimate use of firearms. Congress can make it unlawful to ship firearms in interstate commerce unless the sale is consistent with the law of the State to which the weapon is shipped. My views on this issue have been a matter of public record long before the present push for unreasonable congressional control of firearms. In my report to the people of June 14, 1965, I called for just this type of legislation. On August 16, 1966, I entered this newsletter in the

CONGRESSIONAL RECORD. On June 18, 1967, I again discussed this subject in my weekly newsletter entitled "The Right To Bear Arms." Mr. President, I ask unanimous consent that this newsletter be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

There being no objection, the newsletter was ordered to be printed in the RECORD, as follows:

THE RIGHT TO BEAR ARMS
(Weekly Newsletter by Senator STROM
THURMOND, June 18, 1967)

The tempo of the demands for some type of gun legislation has been increasing this year. Rising crime rates have led to more heated argument about the need for gun control by the authorities, State or Federal. The debate today is whether the Federal government should provide assistance for State laws on the subject, or set up substantive legislation of its own.

I believe, as I have indicated many times in the past, that Congress has no authority to prevent people from buying and owning firearms. The Second Amendment to the Constitution provides that "the right of the people to keep and bear Arms, shall not be infringed." These prohibitions are directed against the National Government, but not against the States. The people of each State, therefore, can regulate the sale of firearms without running afoul of the Constitution.

Most of the States have laws designed to prevent firearms from being sold to juveniles, insane persons and people with criminal records. The State laws vary in strictness and enforcement, according to the needs of each State. The New York law, for instance, requires that a person apply for and be granted a permit from the State as a prerequisite to purchasing or possessing a hand gun. In most States, however, control over gun sales is exercised by licensing the merchants who sell firearms, and by requiring the sellers to adhere to the law in order to keep their licenses.

In recent years, State laws governing the sale of firearms have been increasingly circumvented by mail order sales of weapons. Dealers in weapons located outside State boundaries often do not comply with State laws restricting sales. Guns have been sold through the mail to children, persons of unsound mind, and people with long criminal records. Some irresponsible mail order merchants sell with impunity to anyone who has the price, since they do not have to obtain a license in the State where the purchaser lives, and are beyond the reach of criminal laws of the State to which the gun is shipped.

The problem is easily solved without overstepping the safeguards of the Second Amendment. Congress has the power to regulate interstate commerce. Therefore, Congress can make it unlawful to ship firearms in interstate commerce unless the sale is consistent with the law of the State to which the weapon is shipped.

Congress should require the gun seller to obtain from the would-be purchaser a sworn statement that the buyer is not prevented by the law of his home State from purchasing the weapon. This should be coupled with a requirement that the seller, prior to shipping the weapon, send a copy of the sworn statement by registered mail to the chief law enforcement officer of the area in which the would-be purchaser lives. Failure to comply would be a Federal criminal offense.

Legislation of this type would protect the rights of the States and the rights of the people, without working an undue hardship on seller or buyer. In most States, the people feel strongly that law-abiding, sane adults should be permitted to own firearms. If the National Government prohibited the sales of firearms, law-abiding citizens would not obtain firearms, but law-breakers would. Criminals do not hesitate to obtain firearms

illegally. Moreover, they would know that a gun would provide them with a bigger advantage over a citizenry disarmed by law.

Congress should enact legislation to support the laws which the people of each State have passed according to their varying requirements. It is just as important, however, for Congress to obey the Constitutional mandate that protects the right of the people to keep and bear arms.

Mr. THURMOND. Mr. President, in closing I again wish to commend the distinguished Senator from Nebraska for the great service he is rendering our country in the lead he is taking in trying to provide sound gun control legislation for the Nation.

Mr. HRUSKA. Mr. President, I am grateful to the distinguished Senator from South Carolina for his kind remarks and his valuable contributions to this legislation.

Mr. HICKENLOOPER. Mr. President, various firearms bills have been offered in this Congress in the hope that they might solve the problem of the misuse of firearms in crime. We are all aware that the misuse of firearms in crime is a problem. It is a problem which we must make efforts to solve. But before we can find a proper solution to a problem, we must know something about its magnitude and its character. Only then does it become possible to determine if proposed solutions will be not only effective, but reasonable and fair to all concerned.

It is not going too far to say that proponents of restrictive firearms legislation have gone out of their way to convince the public that the misuse of firearms accounts for a large part of our crime problem. Such is not the case. We now have available a new study which explores in a scientific manner the extent and character of the misuse of firearms in crime. This study shows that firearms are only involved in about 3 percent of our serious crimes, and in perhaps one-half of 1 percent of our total crime picture. The study shows further that homemade zip guns and toy guns are involved in an appreciable part of those crimes which are attributed to firearms in crime statistics. Also counted in the figures on firearms crime are the common hand-in-the-pocket type hold-ups where the actual presence of a firearm is uncertain.

No one denies that crimes committed with firearms are serious. The study points out that it is important to have laws prohibiting the possession of firearms by convicted felons, adjudged delinquents, drug addicts, and other undesirable. But it concludes that restrictive firearms legislation is not the solution to the crime problem, if for no other reason than the fact that firearms are not involved in the overwhelming majority of criminal offenses.

This study gives us an accurate perspective as regards the misuse of firearms in crime. It can help us to evaluate the proposed firearms legislation now before the Congress.

I ask unanimous consent that the study be printed in the *Record*.

There being no objection, the study was ordered to be printed in the *Record*, as follows:

THE MISUSE OF FIREARMS IN CRIME—EXTENT OF THE PROBLEM, FEBRUARY 26, 1968

(By Alan S. Krug*)

INTRODUCTION

The need to prevent abuses in interstate firearms sales through realistic federal legislation has been recognized by the overwhelming majority of American sportsmen and other law-abiding firearms owners in the United States. All the major organizations representing these interests have endorsed proposals which are now pending before the Congress. Other groups have proposed measures which law-abiding firearms owners believe are overly restrictive and ineffective. It is generally agreed that enactment of any new firearms legislation will be realized only through mutual understanding between all interested parties. However, positive action is being blocked by the anti-gun faction's dissemination of false and misleading statistics on the subject of the misuse of firearms in crime. The use of such "doctored" material serves only to alienate those sportsmen who are familiar with the facts. By misleading much of the general public with manufactured material, the anti-gun faction contributes nothing to the constructive dialogue over firearms control. Rather, it drives the two positions farther apart.

FACTS AND FANCY

One very misleading statistics that has been used in a number of emotionally charged antifirearm newspaper editorials and magazine articles is that, in 1965, 17,000 Americans were "killed by guns." While these 17,000 deaths were represented to be murders committed with firearms, the actual number of criminal homicides involving firearms in that year was 5,634. The remainder of the 17,000 people who were "killed by guns" died through suicide (8,989) (21) and firearms accidents (2,200) (18).

Another statistic of antifirearms writers is that "750,000 Americans have died since 1900 by means of firearms." Here again, the implication is that all of these people were murdered with guns. However, upon closer inspection, it is seen that this figure too includes deaths due to criminal homicide, firearms accidents and suicide. This particular statistic was originally manufactured by a New York City press agent to help sell an extremist anti-gun book. There are no reliable data available from any private or public source to substantiate it. J. Edgar Hoover, Director of the FBI, said in reference to the 750,000 "deaths" that "This Bureau does not have any reliable figures or estimates on the total number of Americans killed by firearms since 1900. We began compiling data on this subject in 1961, . . . (8)."

Data on the number of homicides in the United States involving firearms and explosives are available from the U.S. Department of Health, Education, and Welfare, Public Health Service, for the years 1933 to 1966. Some data are available for the period 1910 to 1932, but only for "Death-registration States," and not for the entire United States. Data for homicides by type of weapon used are not available for any years prior to 1910 (11). In no case are the data disaggregated into deaths by firearms and deaths by explosives. A second deficiency in the data is that the homicides are not broken down into criminal homicides and justifiable homicides.

Unfortunately, such fabricated, misleading

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statistics influence not only the general public but individuals who are seriously interested in the question of the misuse of firearms in crime. This is well demonstrated by the recent testimony of Attorney General Ramsey Clark before a subcommittee of the U.S. House of Representatives. Both the 17,000 and the 750,000 figures were used by Attorney General Clark (5), who testified in favor of the enactment of H.R. 5384, the House version of Amendment 90 to S. 1, the current "Dodd bill." He made the amazing statements in regard to the 17,000 statistic that "Actually, we are unable to make a specific breakdown (as to those deaths which were the result of criminal activity and those that were due to accidents and suicide—ed.)," and "It may be that most of them (the 17,000 deaths—ed.) are the result of criminal acts."

These statements were made in spite of the fact that the number of criminal homicides involving firearms in 1965 was published by the Federal Bureau of Investigation, an agency of the U.S. Department of Justice, which Attorney General Clark heads (24). Both the number of accidental deaths and suicides involving firearms were available from the U.S. Public Health Service, U.S. Department of Health, Education and Welfare. In 1965, criminal homicides involving firearms totaled 5,634 (24), hardly "most of them."

When asked for a breakdown of the 750,000 figure, the attorney general said "I would assume that accidental death would be among the highest," (5, page 255). Actually, the number of accidental deaths by firearm is the lowest of the three categories of firearms deaths as mentioned above for each of the years for which data are available.

Thus, it can be seen that it is all too easy for statistics that have "popped up" in some popular article to be taken for scientific fact, when in truth they constitute little more than "gossip." Such situations as this represent a real threat to any attempt to present the problem of the misuse of firearms in a scientific light. The result can only be confusion, consternation and resentment on the part of those who are attempting to judge proposed firearms legislation.

FIREARM HOMICIDE 1910-67

From 1910 until the present time, the firearm homicide rate in the United States has shown a decidedly downward trend. This is depicted in the graph of Figure 1 [Not printed in the *Record*], which is a time series of the national firearm homicide rate.¹ The trend line,² which was fitted to the date of the time series by the method of least squares,³ indicates that the magnitude of the problem of the misuse of firearms in homicides has been decreasing, not increasing, over the entire period for which data are available.

During this 57-year period in which the firearms homicide rate has shown this downward trend, the extent of firearms ownership in the United States has trended upward.⁴

¹Series of successive observations of the same phenomenon over a period of time are called time series. In this case, the phenomenon is the annual firearm homicide rate in the United States.

²The secular trend is that characteristic of a time series which extends consistently throughout the entire period of time under consideration, and is represented by the trend line.

³For a simplified explanation of the "method of least squares," used for determining the trend line, see *Introduction to Probability and Statistics* (1) or *Introduction to Statistical Analysis* (7).

⁴At the end of 1966, it is estimated that between 40 and 50 million persons in the United States owned some 200 million fire-

These data are not at all consistent with a contention that firearms are a causative factor in homicides, but rather tend to refute such a view. Nor do the data suggest that the problem of the misuse of firearms in homicide is a new one which has suddenly appeared on the sociological horizon. Perhaps the increasingly efficient communications media of today are partly responsible for much of the public having this impression. While efforts must be made to solve the problem of the misuse of firearms in crime, the extent of the problem and its present status should be judged in terms of the entire period for which data are available. Only then can the problem be seen in its proper perspective and subjected to meaningful analysis.

arms of all types. For a treatise on the socio-economics of firearms in the United States, see *The Socio-economic Impact of Firearms in the Field of Conservation and Natural Resources Management* (17).

FIREARMS IN CRIME: 1966

Firearms were misused in 3.4 percent of the 3,243,370 serious crimes that were committed in the United States in 1966.¹ Table 1 shows the relationship of firearms to other weapons used in the commission of serious crimes in that year.

Unfortunately, data breaking down this 3.4 per cent into (1) gangster weapons as classified under the National Firearms Act of 1934, (2) "zip guns," (3) toy guns, (4)

¹ Total serious crime as defined by the FBI in the Uniform Crime Reports is (1) murder and non-negligent manslaughter; (2) forcible rape; (3) robbery; (4) aggravated assault; (5) burglary; (6) larceny (\$50 and over); and (7) auto theft (23, page 4). Murder and non-negligent manslaughter, aggravated assault and robbery are the three specific crime categories in which firearms are sometimes misused.

² FBI crime data for 1966 are the latest available (23).

alleged guns,⁷ (5) pistols and revolvers, and (6) rifles and shotguns are not available (10). Therefore, just what the role of each is in the total picture of the misuse of firearms in crime can only be estimated. It is possible to say that the percentage of serious crimes in which non-gangster type firearms are involved is less than the 3.4 per cent figure, and that handguns, including zip guns, are the most frequently misused type of firearm.

⁷ If, for example, a man holds up a store by keeping his hand in his coat pocket in such a way as to indicate he has a gun, the robbery will be recorded as involving a firearm, even if no gun is ever actually seen by any of the persons involved in the holdup. The number of such cases is apparently significant. In 1966, 10.1 per cent of all robberies in New York City which involved firearms were committed with toy or alleged guns. By comparison, rifles, shotguns and machine guns were involved in only 2.3 per cent (13).

TABLE 1.—RELATIONSHIP OF FIREARMS¹ TO OTHER WEAPONS USED IN THE COMMISSION OF SERIOUS CRIMES, 1966

	Percent of weapons used	Total crimes committed	Crimes in which firearms were used		Percent of weapons used	Total crimes committed	Crimes in which firearms were used
Homicide.....		10,920		Robbery.....		153,420	
Firearms.....	59.3		6,476	Armed with—			
Knives or cutting instruments.....	22.3			Firearms.....	38.9		59,680
Personal weapon (hands, feet, etc.).....	9.4			Other weapons.....	19.4		
Blunt objects.....	5.4			Strong arm (muggings).....	41.7		
Miscellaneous.....	3.6			Forcible rape.....		25,330	
Aggravated assault.....		231,800		Burglary.....		1,370,300	
Knives or cutting instruments.....	33.6			Larceny (\$50 and over).....		894,600	
Blunt objects.....	22.3			Auto theft.....		557,000	
Personal weapon (hands, feet, etc.).....	25.3			Total.....	3.4	3,243,370	109,734
Firearms.....	18.8		43,578				

¹ Firearms including the so-called gangster weapons as so classified under the National Firearms Act of 1934, zip guns, toy guns, alleged guns, pistols and revolvers, and rifles and shotguns.

Source: FBI Uniform Crime Report, 1966, pp. 4, 9, 15, and 107 and supplemental letter from the director of the FBI.

It is known, for example, that in 1966, pistols and revolvers, including zip guns, were involved in 72.7 per cent of all firearm homicides, rifles in 11.4 per cent, and shotguns in 15.9 per cent (6).² The latter two categories, of course, include an unknown number of gangster-type weapons, i.e. "sawed-off" rifles and shotguns and machine guns.

According to Prosecuting Attorney William L. Cahalan's testimony before the Senate Subcommittee To Investigate Juvenile Delinquency in July of 1967, Detroit Police Department statistics indicate that 95 per cent of all gun armed robberies in that city are with handguns (4). In all probability, this figure is similar to those encountered in other cities, as by and large holdups are committed with concealable weapons.

FBI and New York City Police Department Statistics show that there were 23,539 robberies in the city of New York in 1966. Handguns were used in 23.4 per cent of these robberies and rifles, shotguns and machine guns in 0.6 per cent. Of the total number of robberies committed with all types of firearms, those committed with rifles, shotguns and machine guns constituted 2.3 per cent, less than the five per cent figure reported for Detroit (13).

These data indicate that of all the serious crimes which occurred in the United States in 1966, less than one half of one per cent (0.005) involved rifles and shotguns.

² Although the 1966 FBI Uniform Crime Report erroneously reported "firearms used to commit more than 6,500 murders" in 1966 (23, page 1), firearms were involved in 6,476 criminal homicides, or 59.3 per cent of the total number committed (23, page 107). This 59.3 per cent figure was incorrectly rounded to 60 per cent (23, page 6). The error was apparently the result of a second incorrectly rounded figure of 44 per cent for the per cent of murders committed with handguns (23, page 7). The latter was actually 43.1 and should have been rounded to 43.

In addition to the 3,243,370 serious crimes known to have been committed in 1966, there were nearly six million arrests³ for assaults, embezzlement and fraud, forgery and counterfeiting, arson, violation of narcotic drug laws, vandalism, vice and other crimes excluding traffic violations (23, page 114). With the number of such crimes amounting to more than four times the number of arrests made (23, page 102), the total number of crimes committed in the United States in 1966 was apparently no less than a staggering 31 million (excluding traffic offenses).⁴ Thus, serious crimes committed with firearms of all types constituted no more than 35/100 of one per cent (0.0035) of all the crime in the United States in 1966. Such crimes committed with rifles and shotguns were probably no more than 5/100 of one percent (0.0005) of the total!

CONCLUSION

In 1966, there were 3,243,370 serious crimes committed in the United States. Firearms of

³ Arrests, not crimes known to have been committed. The total number of crimes committed has not been reported, and must be imputed from the arrest figures. In 1966, the FBI received reports of 4,144,445 arrests for such crimes from 4,042 agencies representing a population of 137,986,000. For the entire population of 195,857,000, a total arrest figure of 5,880,967 can be imputed.

⁴ The percent of offenses cleared by arrests in 1966 was 24.3 for serious crimes, and 21.1 for other crimes, excluding traffic offenses. A clearance of 21.1% for 27,871,800 crimes would account for 5,880,967 arrests as noted above. With 3,243,370 serious crimes having been committed, the grand total for all crimes, excluding traffic offenses, would be 31,115,170. This, of course, does not account for any unreported crime.

⁵ Crime reports measure the number of crimes, not the number of criminals. The number of criminals is substantially less than the number of crimes committed.

all types, including zip guns, gangster weapons, and alleged guns, were involved in 109,734, or 3.4% of these serious crimes. Rifles and shotguns were involved in less than one-half of one per cent (0.005).

The grand total of all crime, excluding traffic offenses, in the United States in 1966 was apparently in excess of 31 million. Serious crimes involving firearms constituted about 35/100 of one per cent (0.0035) of this total. Such crimes involving rifles and shotguns accounted for approximately 5/100 of one per cent (0.0005).

What this means in practical terms is that if firearms were to be completely eliminated from society, (granted, an impossibility) and no criminal substituted any other type weapon for a firearm, the United States would still have 96.6% of its serious crime, and 99.6% of its total crime. If all rifles and shotguns were to be eliminated from society, and no criminal substituted any other type of weapon for them, the United States would still have at least 99.5% of its serious crime and at least 99.9% of all of its crime. The fact that criminals do substitute other weapons for commercially-manufactured firearms is obvious, and has been well documented (2, 15, 19, 20, 25, 27). For example, the use of homemade zip guns exceeded the misuse of rifles and shotguns in murders, robberies and assaults in New York state in 1966 (12).⁵

Measuring the extent of the misuse of firearms in crime is a necessary prerequisite to evaluating the possible effect which firearms legislation might be expected to have on the crime rate. Data presented in this study show that crimes involving the misuse of firearms account for a minimal part of the total crime

⁶ The Joint Legislative Committee on Crime, Its Causes, Control, and Effect on Society of the New York state legislature reported that in 1966, murders, robberies and assaults with rifles and shotguns in New York state totaled 705, while zip guns were involved in 976 such incidents (12).

picture. Firearms legislation would be correspondingly limited in its effectiveness.

Previous studies have shown that the availability of firearms is not a causative, but only an incidental, factor in the 3.4% of total serious crimes in which firearms of all types are involved (14, 25, 27). Studies have also shown that there is no statistically significant difference in crime rates between those states having firearms licensing laws and those which do not (15, 26).

It is axiomatic that it is desirable to have laws prohibiting convicted felons, adjudged delinquents, mental incompetents, drug addicts, adjudged habitual drunkards and fugitives from justice from purchasing or possessing firearms (16). But many of those who espouse firearms legislation as a means of reducing crime rates in the United States are doing the public a disservice by leading people to believe that such legislation will successfully solve the crime problem, or for that matter, even a significant part of it, when the facts dictate that it will not. Misleading the public in this way tends to reduce the public's justifiable concern over our alarming crime rate and delays positive action aimed at the real causes of crime, which, as many studies have shown, are socio-economic in nature (3, 24; page VII).

With 40 to 50 million Americans owning firearms for lawful purposes, the burden should be on those advocating restrictive firearms legislation to show that the legislation they propose is an effective means of preventing crime and reducing crime rates. Proof in the way of scientific evidence, duly treated by proper statistical methods, should be required. Emotional arguments based on personal opinion or political expediency should be rejected. Benefits, if any, to be gained from firearms legislation should be judged both in terms of the financial cost to the community and in terms of the subsequent loss of personal freedom and individual civil rights.

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APPENDIX TABLE 1.—Firearms homicide rates in the United States: 1910-66¹

Year:	Rate
1910	2.5
1911	3.2
1912	3.2
1913	3.6
1914	3.9
1915	3.6
Average	3.5
1916	4.0
1917	4.6
1918	4.4
1919	5.1
1920	4.8
Average	4.6
1921	5.9
1922	5.8
1923	5.6
1924	5.8
1925	5.8
Average	5.8
1926	5.8
1927	5.6
1928	5.9
1929	5.5
1930	6.0
Average	5.8
1931	6.2
1932	6.1
1933	6.3
1934	6.1
1935	5.1
Average	6.0
1936	4.7
1937	4.4
1938	3.9
1939	3.7
1940	3.5
Average	4.0
1941	3.4
1942	3.1
1943	2.5
1944	2.5
1945	2.9
Average	2.9
1946	3.5
1947	3.4
1948	3.3
1949	2.8
1950	2.8
Average	3.2
1951	2.6
1952	2.7
1953	2.6
1954	2.5
1955	2.3
Average	2.6
1956	2.4
1957	2.3
1958	2.4
1959	2.5
1960	2.6
Average	2.4
1961	2.6
1962	2.4
1963	2.5
1964	2.6
1965	2.9
Average	2.6
1966	3.3

¹Data for 1910-32 are for "Death-registration States" only; data for 1933-66 are for the entire United States (11).

SOURCE: Public Health Service, U.S. Department of Health, Education, and Welfare (1910-60); Federal Bureau of Investigation, U.S. Department of Justice (1961-66).

THE LEGITIMATE NEED AND USE OF FIREARMS IN THE UNITED STATES TODAY

Mr. HICKENLOOPER. Mr. President, in all the hue and cry over the criminal misuse of firearms in America these days, some people, by design or accident, are mounting a massive campaign which implies that there is no longer any need for firearms in a modern, civilized society. These persons, no doubt, are motivated by an inherent fear of violence, particularly that involving shot and shell, and their ideals of a peaceful utopia undoubtedly are sincere. But in their zeal, they seem to give the impression that the only legitimate need for or use of firearms in our society should be reserved for the police and the Nation's military forces. All other uses, in their professed opinion, are suspect, dangerous, and unnecessary to the health, happiness, and welfare of the American people.

Such thinking, unfortunately, is completely unrealistic, impractical, and wishful. For there are, whether or not they can believe it, many entirely legitimate uses for firearms in our society—uses which are completely honorable and necessary to our survival in a troubled world.

Hunting, for example, has been and continues to be one of America's finest traditions. Approximately 17 percent of all adult Americans participate in the sport of hunting. In 1964 the number of Americans taking to our fields and forests in quest of game and healthy outdoor sport approached the 20 million mark. In rural areas, 28 percent of our population participates in the sport of hunting; in cities, 10 percent—and there is every indication that more of our city dwellers would like to enjoy this sport if given the opportunity to do so. Projections for the future indicate that, between now and 1975, there will be a 30-percent increase in the number of individual hunters; between now and the year 2000, there will be an 83-percent increase.

Firearms are also used extensively, and legitimately, in target shooting. Although exact figures on the total number of target shooters in the United States have not been completely compiled, some 150,000 of the National Rifle Association's 950,000 members in 1967 held classification cards for competitive shooting. These shooters participated in more than 2,200 registered and approved tournaments. In that same year, more than 490,000 men, women, and children participated in NRA marksmanship qualification courses; and since 1926 more than 6 million Americans have been qualified by this organization, the largest of its kind in the world.

In the shotgun sports, more than 23,000 persons are represented by the National Trapshooting Association, and another 12,000 persons belong to the National Skeetshooting Association. Reliable estimates, however, place the number of people who regularly compete in these fine sports at over 100,000 trapshooters and more than 200,000 skeetshooters.

Millions of other persons enjoy shooting in activities which range from turkey shoots to plinking at tin cans. Collecting firearms of historic value is another form of ownership and use which attracts

increasing numbers of our citizens. Many of these persons belong to one or more than 75 gun collectors' associations; thousands more enjoy this interesting hobby on a personal, unorganized basis.

Finally, there is one other legitimate use of and need for private ownership of firearms in the United States today. This is the right to protect one's life, family, home, or business. Millions of guns are kept by homeowners as protection from criminals; millions of firearms are also legitimately kept in banks, business offices, stores, and other places of business for the same reason. Despite the wishful thinking of some naive "do-gooders," there is today, and always will be, a need for American citizens to protect themselves against the midnight prowler, the rapist, and the mentally deranged criminal who will not wait for the police to arrive before he commits mayhem or murder. It is completely unrealistic and impractical for us to believe that we can create a police force large enough or efficient enough so that every home and every place of business in America could be constantly patrolled. Certainly, the right of American citizens to defend their lives and property must be recognized, for without this privilege our right to life, liberty, and the pursuit of happiness would be seriously jeopardized.

In all, there are at least 200 million firearms in private ownership in the United States—firearms that are owned and used in a variety of legitimate ways by decent, law-abiding persons. It is patently unfair and untrue to classify these citizens in the same category as criminals or others who accidentally or intentionally misuse firearms for any purpose whatsoever. The vast majority of Americans who own and use firearms do so safely, legally, and as a means of enjoying a healthy, beneficial sport.

Through the sporting use of firearms in hunting or competitive shooting, this Nation has maintained a tradition that since its inception in Revolutionary War days has carried the country through every test of its strength and valor in every armed conflict which we have fought throughout our history. It would be a dark day, indeed, if these legitimate uses of firearms should ever be denied the American people.

Most of us are interested in improving existing law to regulate the distribution of firearms. On a number of occasions on the Senate floor it has been made clear that proponents of different methods of accomplishing this are separated more by emotional claims about the relation between commerce in firearms and crime than by the actual differences in the various pending bills. As the chairman of the Commerce Committee made clear some time ago, that committee will have to be satisfied as to the methods and justification of any new regulations of domestic or foreign commerce.

It is perfectly obvious that mail order sales should be further regulated to discourage anonymous buying by potential troublemakers. It is equally obvious that gangster-type weapons and odd pieces of military ordinance not usable for sporting purposes should not be commercially available to the general public.

The bills diligently worked out over the last several years by Senator HRUSKA accomplishes these objectives. Senator HRUSKA's bill appears to have successfully zeroed in on the target without becoming a catchall for additional restrictions which are hard to explain and justify and which have generated unnecessary oppositions and the recent stalemate.

To illustrate the need for sober review of the proposals of the Judiciary Subcommittee, its amended S. 1 would give authority to the Secretary of the Treasury to embargo imports in his discretion. Whether or not intended, this invites discrimination, without regard to either the sportsman's or the criminal's choice of firearms, between foreign and domestic origin, between manufacture for military and nonmilitary specifications. If the Federal Government is going to tell Americans what they can and cannot buy, there must be a solid justification. If certain types of firearms are peculiarly susceptible to criminal use, rather than sporting use, then they should be clearly defined and removed from commerce. There is no need for a double standard applicable to firearms of domestic and foreign origin.

In this connection, I am happy to note that efforts in the Senate to confine this legislation to justifiable regulations of commerce has its counterpart in the other House, where the Judiciary Committee is understood to have eliminated the import section and appears to be progressing toward a more effective and realistic bill along the lines proposed by Senator HRUSKA.

Mr. CANNON. Mr. President, the differences between the administration approach to firearms controls, as manifested in S. 1 with amendment No. 90, the Dodd bill, and the Hruska approach as set forth in S. 1853, are differences not only of degree but also of substance. The philosophy and orientation of the administration bill is one of restriction and prohibition of the law-abiding citizen to acquire, possess and use firearms for legitimate purposes. Proposed controls of S. 1 are both direct and indirect and reflect an approach alien to the American ethos.

Veritable mountains of testimony have been presented both for and against the administration proposal to regulate firearms in commerce. But, Mr. President, I have seen nothing in all the oral and written presentations to justify a policy of prohibition—the kind of policy exemplified clearly and directly in S. 1.

We are constantly being told by the proponents of the administration measure that the American public wants this kind of bill; that not only public officials of various kinds but also the private citizen throughout the United States have raised their voices loudly and unmistakably for highly restrictive controls. If this be true, then I am unaware of this clamor. I say this both as a Member of this august body of lawmakers and as a private citizen. In fact, everything that I have seen, heard and experienced has convinced me that, rather than urging the passage of the administration gun bill, a highly significant portion of the electorate has opposed the enactment of such a measure. Why is this? The

reason is that S. 1 is virtually all-inclusive and susceptible to arbitrary action.

There is a proposal, Mr. Chairman, which fulfills the requirements for proper Federal control, on the one hand, and for noninfringement of the regulatory rights of the States, on the other. This bill would not only maintain in proper perspective and balance the Federal-State fields of operation but also by implication recognize the basic right of the individual to acquire, possess and use firearms for legitimate purposes, free from unnecessary and undesirable bureaucratic interference. S. 1853, by Mr. HRUSKA, of Nebraska, is this proposal; and I commend it to you for your consideration and approval.

S. 1853 would apply only to handguns—the firearm used in over 70 percent of armed crime—and would provide a certified statement system for the shipment or receipt by a private person of a handgun in interstate commerce. This bill regulates; it does not prohibit. It controls with temperance, soundness and reasonableness an area which is recognized by all in need of additional regulation.

STATEMENT IN SUPPORT OF S. 1853 AND S. 1854,
BILLS TO REGULATE THE SALE OF FIREARMS AND
CERTAIN OTHER DESTRUCTIVE DEVICES

Mr. ERVIN, Mr. President, without dispute, the greatest domestic problem now confronting this country is a soaring crime rate. Responsible citizens now recognize that the crime problem has reached such proportions that immediate action is required to control or prevent behavior that threatens the public order and security of this Nation.

Mr. President, consider if you will, that in 1967 there was a forcible rape every 23 minutes, a robbery every 4½ minutes, an assault every 2½ minutes, a car theft every minute, and a burglary every 27 seconds. The resulting monetary loss is authoritatively estimated to be at least \$27 billion. Of course, there is no way of adequately measuring the pain, misery, fear, and suffering inflicted upon the innocent victims of crime.

The problem and its complexity in our modern industrial-technological society are obvious. Equally obvious is the necessity for prompt and efficient action now to afford adequate protection for our lives and property. With this in mind, careful consideration is being given by the Congress to several bills now under consideration to accomplish through legislation increased Federal assistance in such critical areas as narcotics and drug abuse, police organization, judicial administration, State detention and correctional agencies, organized crime, research in the prevention and control of crime, and firearms control.

It is to this final topic, firearms control, which has generated much debate and emotion, that I direct my remarks.

During recent years, the increasing crime rate, the assassination of a President, and the rioting in our cities have caused the Congress to take another look at the possession and use of firearms to determine if increased regulation would be in the national interest. The legislation which has thus far been proposed has fallen generally into two categories: First, the greatly restrictive type of legislation such as S. 1, as reported to the

Judiciary Committee—amendment No. 90—and H.R. 5384; and, second, the more moderate bills which have been introduced by several Members of the House of Representatives, and S. 1853 and S. 1854 introduced by Senator HRUSKA.

S. 1 as amended and H.R. 5384 provide express restrictions on the shipment of any firearms, including shotguns and rifles, in interstate commerce. They prohibit the interstate mail-order sale, except between federally licensed dealers, of all firearms including handguns, shotguns, and rifles, and military surplus weapons. They prohibit the over-the-counter sale of handguns to nonresidents. Also, the bills contain elaborate licensing procedures and increased fees for firearms dealers, manufacturers and importers.

Senator HRUSKA's measure, S. 1853, provides for an affidavit procedure for mailorder and nonresident over-the-counter sales of handguns, because it is felt that handguns are the principal tools of criminals. Included in the bill is an absolute prohibition on the sale of such guns to those under 21 years. The HRUSKA bill does not, however, impose Federal restrictions on the sale of rifles and shotguns so long as such sales are not in violation of State law.

After careful consideration of the various bills and of available crime statistics, and after weighing the utility of the proposed controls against the threatened infringement upon individual and constitutional rights, the conclusion is inescapable that comprehensive Federal controls on the availability of all firearms is unwarranted and unnecessary. I therefore support the less restrictive provisions of S. 1853.

As I see it, apart from the constitutional question, there are two policy considerations which must be balanced in the study of any firearms legislation, and they are: First, the problem of increasing crime in our country, and how it will be affected by legislation restricting the purchase of firearms; and, second, the lawful use and enjoyment of firearms by the 40 million citizens who own them, and the effect such legislation would have on such lawful use of firearms as recreational shooting, including hunting, and personal protection.

I strongly believe that firearms should be kept from those who would misuse them; however, we have a recent example of how difficult it is to keep weapons from the hands of those who would break the law: A substantial number of guns that were used during the riots which have swept our large cities were stolen, not purchased, from local sporting goods stores and pawnshops.

If I felt that extreme legislation such as S. 1, as amended, and H.R. 5384 would prevent the commission of serious crimes, I would have to support it; but common-sense tells us that a criminal who sets out to commit a serious assault will not be deterred by a law which says he cannot have a gun in his possession. The fact is that guns are used in only a small percentage of serious crimes. A Federal Bureau of Investigation survey shows that in 1966 only 3.4 percent of the 3,243,000 serious crimes committed in the United States were committed with firearms. These FBI figures show that guns

of all types were used in only 19 percent of aggravated assaults, while knives and razors were used in approximately 34 percent of the total, blunt instruments accounted for 22 percent, and miscellaneous and personal weapons completed the total. Also, a report by a Wisconsin State agency indicates that the murder rate in those States that regulate firearms is no lower than the rate in those States that have no such regulation. And so it seems that the regulation of firearms could solve only a small part of the crime problem.

I must concede, however, that even though guns are used in a small percentage of serious crimes, the argument for gun legislation would be meritorious if gun legislation would, in fact, keep guns from criminals and save lives. While I feel that hardened criminals and potential criminals with no records would still be able to obtain a large percentage of their firearms needs no matter how stringent our legislation might be, I have decided that the benefits to be derived from legislation designed to restrict the sale of handguns are significant enough to warrant the expense, the restriction and the interference which would be imposed by such legislation upon the lawful users of these firearms. There is little doubt that handguns are the principal tools of criminals. For example, during 1966, 60 percent of the willful killings in the United States were committed with firearms and 70 percent of these gun murders resulted from handguns. Of the 19 percent of aggravated assaults referred to in the previous paragraph which were committed with firearms, it has been estimated by the FBI that at least two-thirds of these were committed with handguns. Additionally, by far the largest percentage of armed robberies are committed with handguns. And so it appears to me that the firearms problem is primarily reduced to one of adequately controlling the misuse of handguns.

It also appears quite logical to me that rifles and shotguns belong in a separate category, exempt from the controls placed on handguns. The handgun, because of its physical characteristics, its easy concealability, is the weapon most often utilized by the criminal element. On the other hand, rifles and shotguns, both by custom and heritage, are the firearms of the sportsman. Subjecting both categories of firearms to the same requirement seems no more logical to me than placing identical controls on ships and automobiles.

For this reason, and with the firm resolve that the substantial segment of our society that lives in rural and semirural areas should not be denied the opportunity to purchase firearms for recreational use or personal protection, or be subjected to exorbitant taxes and extra costs connected with such purchases, I favor S. 1853 which exempts rifles and shotguns from the affidavit and notification requirement which it imposes upon the mail-order and nonresident over-the-counter sales of handguns.

Mr. President, I should like to emphasize that the forward-looking, positive program embodied in S. 1853, specifically would include the following features:

First. It would require that no manu-

facturer or dealer may ship any firearm in interstate commerce to any person in violation of State or appropriate local law.

Second. It would provide that no person may transport or receive in his place of residence a firearm acquired by him outside the State if such acquisition or possession is unlawful in the place of his residence.

Third. It would require that no carrier may deliver any handgun to a person under 21 years of age.

Fourth. It would require that the purchaser of a handgun in interstate commerce make an affidavit of eligibility which is filed with the purchaser's local law enforcement agency, and that the seller wait at least 1 week before shipping the handgun to the purchaser.

S. 1853 has received the full support of not only hunters and sportsmen but also a substantial part of the American public, including the approval of all of the major gun and wildlife organizations, such as the National Rifle Association, the National Shooting Sports Foundation, the Sporting Arms Manufacturing Institute, the National Wildlife Federation, and the Wildlife Management Institute, and others.

I have no doubt of the constitutional power of the Congress to enact S. 1853. Much misinformation has been distributed in recent years by opponents of firearms legislation to the effect that the "right to bear arms" guaranteed by the second amendment is personal and absolute and protected against any restrictive Federal legislation. This argument is without support in the language or history of the second amendment. The amendment provides:

A well regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

There is disagreement among modern legal commentators as to whether the pairing in the amendment of the two concepts of the militia and the right to bear arms means that an individual has a right to bear arms solely in his function as a member of the militia. Some argue that the terms "militia" and "people" were intended to be separate in nature and to preserve two distinct rights and that, as a consequence, the amendment guarantees an individual right to bear arms for personal purposes. Others contend that the right runs only to the people collectively, organized as the militia, and relates only to matters of common defense.

Neither the language of the amendment, the history of its adoption, nor the court decisions construing it supply a basis for a definitive answer to the question. The relevant point, however, is that the right to bear arms, whether it be an individual right or a collective right, is certainly not an absolute right. The cases are clear that, notwithstanding the second amendment and comparable provisions of State constitutions, the possession and use of firearms are subject to reasonable regulation. Under the police power of the States, the courts have upheld the reasonable regulation or even prohibition of carrying concealed weap-

ons, the possession of emunerated deadly weapons or weapons not ordinarily used for defense or warfare, the firing of guns in populous areas, or the use of weapons in connection with the formation of military organizations other than the organized militia. Pursuant to this recognized power, every State has enacted some form of statute regulating either the possession, carrying, purchase, or sale of firearms.

Although the Federal Government has no police power and can impose controls over firearms only through its power to regulate interstate commerce, its power to tax and its jurisdiction over the mails, the Supreme Court and other Federal courts have upheld Federal firearms legislation under these powers. The National Firearms Act of 1934, which levies a heavy tax on transfers of machineguns, sawed-off shotguns, silencers, and other gangster-type weapons, was upheld by the Court in *United States v. Miller*, 307 U.S. 174 (1939). The Federal Firearms Act of 1938, which regulates the movement in interstate commerce of all firearms and ammunition larger than .22 caliber, licenses all dealers, and prohibits shipments to or receipt by criminals or the movement of stolen weapons, was upheld in *Cases v. United States*, 131 F. 2d 916 (1st Cir. 1942), and *United States v. Tot*, 131 F. 2d 261 (3d Cir. 1942), both of which were considered and left undisturbed by the Supreme Court.

There is no question, then, that there is nothing in the meaning, scope, or application of the second amendment to impede passage of Federal legislation, such as S. 1853, imposing reasonable restrictions on interstate traffic in firearms and setting reasonable licensing requirements for firearms dealers, manufacturers, and importers. The purpose and effect of the bill is to prohibit the interstate sale of handguns, which are particularly susceptible to misuse by criminals, and to prohibit interstate firearms transactions in violation of Federal, State, or local law, thus facilitating the enforcement by the States of their own firearms laws. The bill constitutes, in my judgment, a proper exercise of the interstate commerce power, the taxing power and the power over the mails, and does not infringe upon any right to bear arms protected by the second amendment or any other provision of the Constitution.

Mr. President, at this time, I would also like to express my strong support for the bill, S. 1854, to amend the National Firearms Act to strictly regulate the making or transfer of so-called destructive devices such as bazookas, mortars, bombs, grenades, rockets, and field ordnance. The bill would place these devices under the same restrictions and requirements that apply to machineguns, sawed-off shotguns and sawed-off rifles under the National Firearms Act—often known as the Machine Gun Act. It is generally conceded that "destructive devices" have no legitimate sporting purpose and ought to be strictly regulated. Because of the effectiveness of the National Firearms Act in strictly controlling machine guns and sawed-off rifles and shotguns since 1934, the placing of "destructive devices" under the controls of this law would ap-

pear to be sound and appropriate. S. 1854, by doing this, provides a very appropriate complement to S. 1853.

In reaching my conclusions on this important matter, I have given a great deal of consideration to the question of the degree of control that should be exerted by the Federal Government to help control the misuse of firearms. I fully recognize that the Federal Government is empowered to exercise its control over interstate commerce. I do not question this authority. However, bills such as S. 1, as amended, and H.R. 5384, would prohibit all mail-order sales of all firearms except sales between federally licensed dealers. I feel this extreme approach is unsatisfactory because it detracts from the traditional police powers of the States in this area.

I contend that the most just and reasonable approach to the question is for the Federal Government to exercise its control over interstate commerce by requiring first, a sworn statement that the applicant is not prohibited by state laws from purchasing a firearm; and, second, notification of local police, prior to the interstate or mail-order purchase of a pistol or revolver. In this manner, a control, with responsibility for enforcement shared by the Federal and State and local authorities, would be placed upon the purchase of those firearms being misused most frequently, while permitting the purchase of rifles and shotguns, weapons obviously most used and enjoyed by the sportsman, free of prior Federal restraint but still subject to whatever requirements for possession, transportation or use the State and local governments think necessary.

In conclusion, it is my hope that the Senate will act this year to pass S. 1853 and S. 1854 as a part of our total legislative involvement in the war on crime.

Mr. PERCY. Mr. President, I am pleased to add my comments today on the important subject of firearms legislation. I am sure all Senators will welcome an informative exchange on this subject, which has been the center of controversy for several years in Congress. I have been impressed with the mail and other communications I have received on the subject, both from the point of view of the volume of the mail, and the variance in the viewpoints expressed in the letters. I might add that on few subjects have I been treated to as strong assorted views and comments as I have received on the subject of the coverage and operation of a Federal firearms control law.

That congressional action on the matter has been slow is very clear. In charity, this can be attributed in large measure to the constitutional mandate that police jurisdiction rests essentially with the several States. There is a considerably valid point of view that the States have not acted, and the Federal Government should therefore move apace to fill the void and provide control wherewith to check and reverse the growing incidence of crimes committed with firearms.

From the point of view of my own State of Illinois, this is decidedly not the case. And in the hope the Illinois example will prove instructive, I should like to outline the present actions that have

recently been taken there to meet this problem.

During its 1967 session, the Illinois State Legislature enacted noteworthy legislation to assist in the control of firearms. Predicated principally on the premise that it is the misuse and misusers of firearms that must be controlled, the Illinois law requires that all persons who purchase or possess any firearm, pellet gun, or ammunition must have an identification card issued by the department of public safety to do so.

So long as certain clearly stated and reasonable requirements concerning age, criminal record, mental competency, and freedom from narcotics addiction or habitual drunkenness are satisfied, an ID card must be issued within 30 days of application. The card is valid for all future purchases or acquisitions.

The provision regarding mandatory issuance was expressly included so as to answer complaints arising under similar laws now in effect elsewhere that do not have such a requirement. In the absence of a mandatory requirement, exercise of arbitrary or bureaucratic authority by the licensing officials—usually in the form of interminable delays and unnecessary redtape—has proven to be a primary and justified source of criticism.

The Illinois State Legislature adopted for the State the concept of registering the owner rather than the gun itself as a feasible means of controlling the misuse of firearms rather than establishing a central registration file of all firearms whose utility is open to question.

On the other hand, the City Council of Chicago felt that additional controls were needed. This year, the council passed an ordinance requiring the registration of all firearms. The carrying of firearms on or about the person or in a vehicle is prohibited unless the firearms were not accessible and in a nonfunctioning state. These restrictions are in addition to, and supplement, the State requirement.

The principal reason I bring this to the attention of the Senate is that, with the proper Federal controls on interstate commerce in firearms, Illinois should have workable and effective firearms control. Moreover, the sequence of events in Illinois provide an excellent example of the proper functioning of State and local government in the firearms control area. Each governing authority has acted quite properly in exercising its police power: the framework of controls deemed appropriate and desirable by the State legislature for the State as a whole has been enlarged upon and supplemented by Chicago to satisfy particular and unique local needs.

Now Mr. President, from this very brief outline—and taking Illinois as a specific example—an essential requirement of the proper regulatory agencies of government is clear: Illinois cannot control the interstate aspects of firearms procurement and traffic. Thus the need for a complementing—rather than a preemptive—Federal law is clear.

The hearings held last year in the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on Judiciary were greatly enhanced by the

testimony of the president pro tempore and the majority leader of the Illinois Senate, the distinguished Senator W. Russell Arrington. In outlining the new Illinois law, he indicated his support for S. 1853 the bill sponsored by the distinguished Senator from Nebraska [Mr. HRUSKA] and illustrated its complemented effect. With the enactment of the Chicago ordinance, the merits of the Hruska approach are even more clear.

Under S. 1853, jurisdiction to establish suitable legislation to control firearms within its borders is retained by the States, while Federal law operates to complement and extend the effect of whatever restrictions are imposed by them. The bill would prohibit any dealer from shipping any firearm in violation of the State law. It would require a sworn statement and notification to local authorities before receiving a concealable firearm through the mail, enabling assurance that local requirements were complied with.

Thus the requirements of differing jurisdictions can be met, and the wishes of the citizens therein given maximum effect, free from the diluting effects of the weaker laws of other jurisdictions.

Mr. President, the able Senator from Nebraska [Mr. HRUSKA] and other members of the committee have outlined the regulatory approach proposed by S. 1853 and S. 1854. In my view, this is a balanced and comprehensive approach to the firearms regulation problem. It will, by its terms, encourage the States to act. The fact of its passage alone will eliminate the cloud that hangs over many State proposals, where action is suspended until the Federal Government—in this case the Congress—indicates the form of the action it will take. Accordingly, I commend this approach to my colleagues, and I add the hope that the Senate will act favorably on it during this session of this Congress.

I commend the Senator from Nebraska for his leadership in this matter, and for thinking through a very complex problem. I approve and endorse the approach he has taken.

Mr. HRUSKA. Mr. President, I am grateful to the Senator from Illinois for the contribution he has made to this legislation.

Mr. LAUSCHE. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield.

Mr. LAUSCHE. How does the Senator from Nebraska propose to control the purchase and the acquisition of guns by those who are outside the field of using them for legitimate purposes, as contemplated by the Constitution and laws?

Mr. HRUSKA. S. 1853 would seek to control that by controlling the interstate shipment of guns. When the gun comes into a State and is subject to the jurisdiction of that State, then it is for that State to take care of the situation and govern. The Sullivan law has been on the statute books of New York State for over 50 years. The city of Philadelphia has a registration law. Illinois and the city of Chicago have permit and license laws. This bill would enable the local law-enforcement officers to obtain information on interstate shipments in timely

fashion so that they would be in a position to enforce the laws of the State or municipality.

Mr. LAUSCHE. In other words, if a vendor sells a gun and ships it across State lines, he has to give information to the duly constituted law officials of the fact that the gun will be incoming to that State by interstate commerce?

Mr. HRUSKA. That is right; as applied to handguns, there is a presale investigation. The law-enforcement officers of the place of residence of the would-be purchaser are given notice. Then the law-enforcement officer has 7 days to notify the would-be seller that the intended purchaser is not eligible to own a gun under the laws of that municipality or State. That enables the local law-enforcement officials to enforce the local law.

Mr. LAUSCHE. What would be ineligibility to own a gun?

Mr. HRUSKA. If a person is a convicted felon, if he is not of the proper age, if he does not possess the qualifications imposed on him by the city ordinance or State law of his residence, he will not be eligible.

Mr. LAUSCHE. What is the argument that is made against the proposal of the Senator from Nebraska and the committee?

Mr. HRUSKA. The argument is that it would be ineffective. The critics of S. 1853 have no faith in the integrity, competence, or ability of State or city law-enforcement officers to enforce the laws in their jurisdictions.

I would have confidence in the competence and integrity of the State, county, or city police officials who had advance information that so-and-so, at such-and-such an address, wrongfully claims he has a permit issued to him to own a gun. The officials have 7 days in which to notify the seller that the sale should not be made.

I have every confidence that this type of enforcement will take place with integrity, expedition and willingness, because it will be heading off trouble.

Mr. LAUSCHE. How does the Senator from Nebraska answer the argument that this bill is intended to give preferential consideration to the manufacturers of guns in selling them indiscriminately to different citizens in different areas of the country?

Mr. HRUSKA. It could not be done under S. 1853 if the shipment were made in interstate commerce. Such a shipment would be illegal, and that dealer would have rendered himself liable to Federal criminal prosecution under the bill.

Mr. LAUSCHE. The bill proposed by the Senator from Nebraska states that whenever it is proposed that a gun be sold by a seller across State lines, the Government officials in the State or community of the recipient of the sale will be notified?

Mr. HRUSKA. That the order had been placed.

Mr. LAUSCHE. Yes.

Mr. HRUSKA. The law-enforcement officer would have 7 days after the receipt of the information to state that the man intending to purchase was not eli-

gible and the sale should not be consummated.

Mr. LAUSCHE. I regret to confess this innocence or ignorance, but what is the real issue? What is the opposition to the proposal to have the Federal Government step in and the advancement of the argument that the Federal Government should step in?

Mr. HRUSKA. The proposers of S. 1—amendment 90 say they seek to keep guns out of the hands of the wrong people. They say their bill will accomplish this by prohibiting all interstate mail-order sales to individuals; that the sales will be to individuals only over the counter of a licensed dealer. They say this will solve the problem.

In the first place, it would do no such thing. In the second place, it would be difficult to enforce, because it would have to be done by Federal officials. The number of officials necessary for that type of enforcement would be very large and expensive. Most of all, however, it would not be effective if past experience is any indication of future willingness.

The approach of S. 1853 is this: Let us create a situation where interstate sales in guns will be governed by Federal law. When the gun gets into the State where the prospective purchaser lives, the laws of that State will take effect, and the enforcement will be on a local level.

Obviously, the Sullivan law in New York is different from the law with respect to ownership of guns in Idaho or Nebraska or Ohio—necessarily so, because the conditions are different, but that is something for each State to ascertain for itself.

Mr. LAUSCHE. Would the bill urged by the Senator from Nebraska make mandatory the giving of the information to the recipient's government officials of the fact that X is buying a gun?

Mr. HRUSKA. Yes, if he does it by mail order and it pertains to a handgun. However, there is an express prohibition against requiring the disclosure of the serial number of that gun, because that could lead to registration of sporting firearms. That is a very objectionable concept, and not even the administration bill contains that. It is very objectionable because the history of autocratic and

dictatorial governments is filled with that sort of thing. If the potential dictator knows where the guns are and can pick them up, he has it "made," because the citizenry of the country would be deprived of guns with which to defend themselves.

Mr. LAUSCHE. What is the Senator's position with respect to the ability of the people of the United States to protect themselves against death and damage that come from riots, in the open purchasing of guns?

Mr. HRUSKA. By "open purchasing of guns," I take it the Senator means legal purchasing of guns. The right of self-defense is still available to citizens, and it is necessary in many parts of the country.

Mr. LAUSCHE. The Senator proposes to protect against unlawful and dangerous use of guns by supplying a State with the information that, for example, "X contemplates buying a gun; this is his name; this is his background; if your law prohibits him from buying, stop him."

Mr. HRUSKA. The language would read somewhat as follows:

If your law prohibits him from buying, notify us and we will not sell it to him.

Mr. LAUSCHE. I thank the Senator.

Mr. HRUSKA. I thank the Senator from Ohio for his contribution and his questions.

Mr. President, I yield the floor.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 202 (b), Public Law 90-259, the Speaker had

appointed Mr. MILLER, of California, and Mr. PETTIS, of California, as advisory members of the National Commission on Fire Prevention and Control, on the part of the House.

The message announced that the House had passed, without amendment, the following bills of the Senate:

S. 172. An act for the relief of Mrs. Daisy G. Merritt; and

S. 1580. An act for the relief of John W. Rogers.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13042) to amend the act of June 20, 1906, and the District of Columbia election law to provide for the election of members of the Board of Education of the District of Columbia.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move that the Senate adjourn until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 40 minutes p.m.) the Senate adjourned until tomorrow, April 3, 1968, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate April 2, 1968:

DIPLOMATIC AND FOREIGN SERVICE

George C. McGhee, of Texas, to be Ambassador at Large.

Henry Cabot Lodge, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

CONFIRMATION

Executive nominations confirmed by the Senate April 2, 1968:

HEMISFAIR 1968

Edward Clark, of Texas, to be commissioner for the Federal exhibit at HemisFair 1968.

April 1968

Do Americans Really Want New Gun Laws?

18-01

FOR years, the campaign to clamp rigid firearms controls on the American public has been buoyed by polls indicating that much of the public wants stronger gun laws. Now there is growing reason to wonder how real this "demand" actually is.

Musing aloud on a Washington, D.C., television station, the Rev. J. Elliott Corbett, secretary of an incorporated crusade that supports the Administration-Kennedy concept of firearms restrictions, asked rather disconsolately why so few of the polled multitudes who presumably favor gun laws take the trouble to write to their Congressmen. One possible answer: People realize increasingly that passing a gun law won't do much to solve the crime problem.

As the Rev. Corbett pointed out, 73% of those questioned in the latest Gallup Poll on whether gun buyers should be required to get police permits were reported as replying "Yes." That survey was taken last Aug. 20. What went unmentioned was that it showed a distinct *decrease* in public sentiment for gun permits. The first Gallup Poll on the question, July 12, 1964, registered 78% "Yes."

Not only has support as recorded by Gallup gone down, but opposition to a gun permit system has increased from 17% to 23%. Some of the earlier "no opinion" element has formed an opinion—and they're against police permits.

While the Gallup trend seems to show clearly that more and more Americans don't care to submit their Constitutional right to possess arms to the decision of some police officer, the statistical theory that the public yearns for tough gun laws has taken an even worse beating elsewhere.

In recent months, television stations in Washington, D.C., Syracuse, N.Y., Dayton, Ohio, St. Paul, Minn., Albuquerque, N. Mex., and Mem-

phis, Tenn., have given audiences a chance to express themselves by "hot line" telephone on how they feel on various proposals to regulate guns.

The total of persons heard from in the 6 stations' telephone polls came to well above 25,000 in 5 fairly scattered States and the District of Columbia. At least 19,000 of these opposed new gun laws. That figures out at 76% AGAINST where the Gallup Poll reported almost exactly the opposite sentiment, 73% FOR.*

While the television sampling did not cover all parts of the country, it did include several large Eastern cities as well as other areas. Perhaps, also, it attracted more response from citizens who believe in the right to bear arms—but, if so, why did the rest remain silent if they really want new gun laws?

The answer may well be that routine opinion surveys sometimes fail to reflect the real public feeling. After all, several predicted Presidential victories for Alf Landon in 1936 and Thomas Dewey in 1948.

Certain polls adverse to firearms ownership, we gather, have relied on questioning fewer than 2,000 carefully selected persons in the entire nation. That's less than one in 100,000. Obviously, the sampling included few if any of the 19,000 who responded "No" to gun laws on television.

The direct conflict in findings between national surveys of "public opinion" and the spontaneous telephone responses of the TV stations is mystifying, to say the least. Perhaps some fact-finding agency ought to look into it.

Meanwhile those who trumpet about the "public demand" for severe gun controls might hit a softer note and recognize that the demand, if there is one, has decreased as fast as people realize that the harassment of law-abiding gun owners will not reduce crime.

(Permission is granted to reprint this editorial. THE AMERICAN RIFLEMAN, Washington, D. C., April 1968)

Station	Question	Percent Opposed	Number Opposed	Date
KSTP St. Paul, Minn.	Should the government control the sale of guns?	76	6712	Sept. 14, 1967
KOB Albuquerque, N. Mex.	Should Congress pass gun registration and control laws?	77	1155	Sept. 15, 1967
WMAL Washington, D. C.	Should Congress enact a strict gun control law?	62	2655	Sept. 26, 1967
WLWD Dayton, Ohio	Do you favor gun control laws?	69	Unavailable	Oct. 19, 1967
WNYS Syracuse, N.Y.	Is there an immediate need for stricter gun control laws in New York State?	72.3	2169	Nov. 17, 1967
WMCB Memphis, Tenn.	Should Congress regulate firearms?	79	5952	Jan. 19, 1968

Reprints of this editorial are available to NRA members at \$2.50 per 100 postpaid to one address. Send check made out to NRA to Reprint, 1600 Rhode Island Ave., N.W., Washington, D. C. 20036.

For an article on "Why Anti-Gun Polls Are Open to Doubt," see pages 20-21.

Rockwell Corp. It will enhance the plane's ability to do air-to-air battle.

President Johnson also wants \$550 million for 75 F-111's which would be used by the strategic Air Command as it phases out older versions of the workhouse B-52's. And he asked \$350 million for 30 F-111B's, the Navy version.

Other versions of the F-111 are the RF-111A, a reconnaissance craft that will stuff its weapons bay with photographic equipment and sensors, and the F-111C being built for the Royal Australian Air Force. The British, in an economy move have canceled their order for 50 F-111's.

NAVY CRITICS

Elements in the Navy argue for a smaller, lighter craft than the F-111.

Most of the controversy over the F-111, which started years ago with the prime contract award, has centered around the Navy version, the 111B, that would carry the deadly Phoenix missile system built by Hughes Aircraft Co.

General Dynamics, after working quietly with its 19 major subcontractors and nearly 12,000 suppliers for five years, is now beginning to reply to some of the critics. Frank W. Davis, president of General Dynamics' Ft. Worth Division and a former test pilot, tells *Nation's Business*:

"If we compare the F-111 with the best fighter-bomber in service today, we find it provides twice the range, with twice the payload, is 20 per cent faster, is 50 per cent shorter on takeoff and landings, and provides eight times better navigational accuracy with its inertial navigation system.

"As compared to the next best fleet air defense system, it provides twice the lotter (circle in place) with one and one half times the missiles. The missiles have three times the range. It provides six times as many kills per salvo. It will operate from 500 miles greater distance with the same bomb load, and its approach speed for carrier landings is 15 to 20 knots slower."

LIMITED BILINGUAL EDUCATION FUNDS WILL CAUSE HARDSHIP

Mr. YARBOROUGH. Mr. President, in a well-written and interesting article published in the most recent issue of *Education News*, Mr. Richard Sapir describes the problems in bilingual education faced by the town of West New York, N.J. Superintendent of Schools John White, reports Mr. Sapir is counting on receiving a quarter of a million dollars a year from the new Bilingual Education Act. Superintendent White's situation is desperate.

But in the face of this need, the administration has requested only \$5 million for the Bilingual Education Act—although Congress authorized \$30 million for fiscal 1969.

I request unanimous consent that the article entitled "Yankee Si, Cuban, Well—A Linguistic Approach," be printed in the *RECORD*.

There being no objection, the article was ordered to be printed in the *RECORD*, as follows:

YANKEE, SI, CUBAN, WELL—A LINGUISTIC APPROACH

(By Richard Sapir)

WEST NEW YORK, N.J.—At the beginning of each semester, Mrs. Sylvia Willner doesn't understand her first-grade pupils. They don't understand her either. She doesn't speak like their parents. She only knows English.

Mrs. Willner was assigned to her special "Cuban class" at School 6 because she once worked in a New York City anti-poverty program across the Hudson River.

ONE HUNDRED BIG WORDS

"They had Puerto Ricans in that program and she must know at least 100 words of Spanish," says principal Nathan Richman.

When her pupils begin, none knows 100 words of English. If any did, he would have been put in a "regular"—English speaking—class, the principal said.

Of his 1,450 pupils, 70 percent speak Spanish as a first language. Only 20 percent of these speak English fluently as a second. Of the nearly 70 teachers in the school, two speak Spanish. There are six "Cuban classes" where students speak no English.

"We try to assimilate the Spanish-speaking students into our regular classes as quickly as possible, using English almost entirely," said Mr. Richman.

The West New York school system did not choose its predominantly monolingual approach as an experiment in speed learning. It chose it in desperation.

West New York's predicament is this: Within the last four years, this urban-American town built upon generations of immigrants suddenly found a large Cuban community in its midst. Many townspeople met these refugees from communism with the typical Yankee hospitality shown any new large groups seeking a haven in the promised land. Some blamed Fidel Castro: "He let them go." Others blamed the State Department: "Some nut in 'Foggy Bottom' told them West New York is a nice place to live."

A city official said the Cubans chose West New York so they could pay low rents, be near the New York City labor market and "not live with Puerto Ricans or Negroes."

And while the Cuban students were arriving in West New York with their parents, English speaking students were leaving for the suburbs with theirs.

Today, at least 40 percent of the town's 5,400 public school students are Spanish-speaking, most of them Cuban refugees.

To say the system was unprepared for bilingual education would be like saying Pompeii was unprepared for its volcano. When the lava started coming the Romans grabbed their towels and headed for the bay. When the Cubans began arriving, West New York sent a teacher to Hunter College to take two courses in English as a second language. She became their expert.

Not that West New York didn't try. With its limited budget—school officials had projected a decreased enrollment before the Cuban influx—the town eventually gathered seven teachers proficient in English-Spanish instruction, converted basements into classrooms, opened Saturday classes and established a summer school. For all this, West New York got less than \$80,000 in Title I money in 1965, about \$70,000 in 1966 and \$60,000 last year.

A BIG HELP

The Catholic schools, according to a priest, helped immeasurably: They took the Cubans who could speak English, and the public schools got everyone else. The school budget rose 10 percent, adding nearly 5 percent to the town tax rate.

Last fall, Supt. of Schools John White prepared a five-page "crisis" report for the school board. It said classes were overcrowded; teachers could not give their full attention to both English and Spanish-speaking students, who often had to share the same class; pupils were not being advanced quickly as they should; teacher morale was low, and undercurrents of "racial animosity" were running.

It asked the question: Can a small New Jersey school system absorb a sudden, large influx of students who don't speak English?

One answer may be an ESEA amendment that President Johnson signed recently providing \$15 million this year, \$30 million next May and \$40 million the following year for bilingual education programs. Of this, Supt. White hopes to get \$250,000 a year for special

equipment and at least 35 additional teachers who know Spanish.

Is that the answer?

"Well, last year the State Department asked me to estimate the number of Cuban refugees I expected in our system," Supt. White said. "Giving myself some leeway, I still underestimated by several hundred." Which may or may not be the answer.

Meanwhile, Mrs. Willner is working out her immediate solution in the first grade.

"By the end of the year, my children are ready for regular classes," Mrs. Willner said. "They learn English by then."

How?

"Casually," she said. "It just comes casually."

A dark-eyed boy who sat on her right smiled when she said this. He always smiles when his teacher smiles.

NEED FOR NEW GUN LEGISLATION STILL NOT DEMONSTRATED

Mr. CHURCH. Mr. President, last July, before the Subcommittee on Juvenile Delinquency, I attempted to describe Idaho's overwhelming opposition to Federal gun control legislation.

At that time I said:

I do not claim, by any means, to know all the answers to the spread of crime. But let's seek our solutions in reasoned ways, and in a manner which gives proper recognition to the fact that the problem in Twin Falls, Idaho, is very different from that in Pittsburgh.

Alabama and Vermont impose little or no restriction on the purchase of firearms. The proponents of federal controls point to Alabama, which had the highest homicide rate in the nation in 1965. But opponents of federal controls point to Vermont, which had the lowest. Where is the correlation between gun laws and existing levels of crime? If it exists, I have yet to find it.

Mr. President, a thoroughgoing empirical study of legislative regulation of firearms was completed last fall by the American Bar Foundation. I quote from the report:

A fundamental assumption of those who support the drive for stricter regulation of firearms is the belief that easily available weapons are a stimulus to crime, and that absence of the weapons would significantly reduce criminal activity. In our own inquiry, we have discovered no convincing evidence on this question.

The report continues:

The net effect of the proposed federal law would be to require those who cannot now obtain weapons in their own communities to expend a little more effort to acquire them elsewhere.

It concludes:

Other factors almost certainly outweigh the presence of firearms as a cause of crime. Among the variables which must be considered are: population size and density, economic conditions, degree of social, racial, and religious homogeneity and community attitudes toward crime in general and guns in particular.

American Bar Foundation researchers find evidence for gun laws so wanting that they are unwilling to take a position on the effectiveness of such laws. They conclude that such legislation can be justified only as an "experiment with social reform."

Mr. President, I have always maintained that, if individual cities and States feel a need for experimenting with gun-control legislation, it is their right to do so. But I continue to oppose any Fed-

eral experiment that would wrap all States in the same blanket, under a uniform law.

The American Bar Foundation report well shows just how little empirical evidence is available, upon which any valid case for new Federal controls could be based. It concludes with an appeal for further study of the problem, and improvements in data-gathering procedures. I ask unanimous consent that Report No. 6, 1967, prepared by the research staff of the American Bar Foundation, be printed in the RECORD. I commend it highly.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

RESEARCH CONTRIBUTION OF THE AMERICAN BAR FOUNDATION: FIREARMS AND LEGISLATIVE REGULATION

I. INTRODUCTION

In 1964 the American Bar Foundation undertook a preliminary inquiry into the criminal use of firearms and of legislation designed to control access to firearms. The aims of this inquiry were to explore the desirability of more extensive work on the subject and to suggest productive patterns for further research.

To accomplish these aims information was sought on the following topics:

- a) A description of the problem itself—the use of firearms in the commission of crime
- b) Existing laws regulating firearms
- c) The effectiveness of existing laws and problems in their enforcement
- d) Suggestions for changes in existing laws and in their administration

Information has been gathered by two methods. First, a review of the relevant provisions of the federal and state constitutions and statutes was made by standard library techniques. Because most gun regulation is state law, our inquiry focused there. The search concerned legislation regulating the acquisition, possession, and use of firearms of different types and extended to legislation through July 1, 1966. This material has been prepared in chart form and appears in Appendix B. Certain commonly encountered statutory provisions will be discussed in the text. A similar search was performed on state constitutions; the pertinent sections are set out in Appendix A and also discussed in the text.

Second, information of a factual nature was obtained through personal interview and mail questionnaire from 47 police officials and 29 public prosecutors. We sought their opinions on how to deal with the problem, the incidence of firearm use in perpetrating crimes, the effect of easy access upon the use of firearms in committing crimes, the effectiveness of existing regulations, and the prospects for success of proposed firearm legislation. In addition, more detailed information about one phase of the incidence of criminal use of firearms in large cities was received from a small group of social workers (10) directly concerned with juvenile gangs.

The results of the inquiry are set forth in the balance of this report. However, the report has certain limitations that should be emphasized. While the comparative study of statutes and state constitutions is complete and current, the information about relevant facts and estimates of the effectiveness of existing laws is fragmentary and to an important extent conjectural. No attempt was made to carry out the kind of systematic field research that is necessary for making more reliable estimates of regulatory effectiveness. How such information might be obtained is set forth in the section "Suggestions for Further Research." We should emphasize that the results of our inquiries do not constitute scientific sampling and do not represent a consensus. They do, however, present a spectrum of opinion from those

concerned with the present situation and with proposed solutions. As such, they are useful in the framing of questions for more intensive consideration of the problem.

Because many questions pertinent to intelligent firearms legislation remain unanswered, the Foundation has not undertaken to draft a model firearms law or laws or even to suggest the general form such legislation might take. Our study does, however, lead us to the tentative conclusion that regulation short of the intensive controls involved, for example, in liquor legislation is likely to be little more than formality. Of course, it is for a legislature or lobbyist, not a research foundation, to make the value judgments inherent in the regulation of firearms. Nevertheless, it does seem clear that no really effective legislation is possible without major alteration in present social and political priorities. For example, to be effective, regulation of firearms would necessarily entail a substantial degree of inconvenience to hunters, sportsmen, and other legitimate users of firearms. No one contests the existence of such inconvenience; opponents of control contend it is unendurable, while proponents of control argue that it must be tolerated as a necessary concomitant of effective regulation.

II. THE NATURE OF THE PROBLEM

A. Frequency of use of firearms in crimes

There are no comparable and reliable national, state, or municipal statistics on the number of crimes in which firearms are utilized. Such figures as are available indicate that 25 to 50 per cent of the willful homicides are committed with firearms.¹ Similar percentages appear to be applicable for other crimes that are customarily committed with the aid of weapons. It must be stressed, however, that the sparsity of relevant record keeping practices makes it impossible to state with confidence the frequency of criminal use of firearms as distinguished from the use of other deadly weapons such as knives and blunt instruments.

In terms of quantity, the use of firearms in criminal activities is chiefly an urban problem. Police and prosecutors from cities expressed much more concern with the problem than those from rural areas. It is probable that this difference results from the much greater volume and frequency of crimes of all types experienced by enforcement officials in urban areas rather than from a difference in frequency of criminal use of firearms in the city compared with the country.

B. Types of firearms used in crime

It has been generally argued by the proponents of a gun regulation that the handgun is the type of firearm most often used by the criminal and therefore constitutes the most serious problem for law enforcement. No dispositive evidence has been discovered on this point, but our responses from prosecuting attorneys tend to confirm it. Urban prosecutors were unanimous in the view that handguns constitute the most serious problem in terms of frequency of use. Most of the rural prosecutors were unable to say which type of firearms was more often used (they reported low frequencies of crime with any weapon), but some suggested shoulder weapons were used more frequently than handguns in crimes in the rural areas. Because most crimes are committed in metropolitan areas, the view of enforcement officials in the cities that handguns represent the greatest danger would seem to be the "national" view. Hence, truly reliable information could be generated only by original—and expensive—field studies.

¹ New York City Police Department Press Releases, No. 17, Feb. 25, 1963; No. 18, Feb. 29, 1964. California Bureau of Criminal Statistics, *Criminal Homicide in 1960*. Also studies in Baltimore for the year 1960 show that firearms were used in 36% of the homicide cases.

Like the frequency of criminal use of all firearms, this is a question that could be resolved by careful field research. Unfortunately, our inquiry shows that police records do not disclose the type of firearm used or that the data, if recorded, are accessible only by a document-by-document search.

C. Number of guns in circulation

How many guns are being talked about in the proposals for control of firearms? Nobody knows. In fact, it is doubtful if anyone can even make a reasonably close estimate. The best that can be done is to draw inferences from certain relevant but inconclusive data on the periphery of the question.

1. *Registration.* In some of the nation's largest cities, ordinances require registration of firearms. Leonard P. Reisman, Deputy Commissioner of the New York City Police Department, told the Senate Commerce Committee (January 30, 1964) that in 1963 New York City's gun register included 17,000 pistols. Statistical reports from the Detroit Police Department show about 3000 licenses to purchase firearms issued annually in recent years. In Chicago, registration of firearms totaled 4658 in 1964.

2. *Confiscations.* In New York City, Reisman informed the Senate, 5461 pistols were received by the property clerk in 1963; most of these were unregistered. In Chicago the confiscation rate is approximately 100 a week.

When the number of confiscations is compared with the number of registrations, the inference is inescapable that the fraction of total firearms represented by registered weapons is quite small. Notwithstanding their formally strict registration ordinances, the Chicago police are able to confiscate in a year more illegal weapons than are registered; the New York police confiscate pistols at a rate that would exhaust the number registered in, if the figures are taken at face value, something like three years. And it seems almost certain that the police find in any given time interval only a fraction of the total unregistered weapons in circulation in the community.

Although it seems indisputable that the registered firearms constitute only a fraction of the guns actually in circulation in any community no matter how restrictive the regulatory legislation, the unanswered question is how big a fraction. We have seen nothing on which to base even an educated guess. Testimony and opinion from knowledgeable people usually takes the form of such non-quantitative expressions as "huge," "enormous," and "staggering." These evaluations are suggestive though not very informative.

3. *Sales.* Another clue to the magnitude of the problem is sales. Here again, records are unavailable or inadequate—containing only shreds of information. For example, former Attorney General Katzenbach reported to the Senate Subcommittee on Juvenile Delinquency (May 19, 1965) that one million dangerous weapons were sold by mail order alone in 1963. How many were sold across the counter and in private sales between individuals is not known. In addition, large numbers of imported weapons enter the country every year.

4. *Significance of the Large Number of Firearms in Circulation.* The large but indeterminate number of firearms in circulation produces two reactions among those considering an extension of regulation. Some say that the number of guns to be registered, if a restrictive law were diligently enforced, would be so large that the administrative burden on police departments would disable the program. For example, requests for gun permits already exceed 100 a week in most major cities, a total that would be greatly enlarged if resources permitted a program of strict enforcement. Screening of requests for permits, if it were done seriously, would require an enormous step-up from present regulatory effort.

In Detroit, for example, only one in 75 requests for gun permits presently is denied.

It seems clear that either the screening is perfunctory, or undesirable are not registering weapons, or both. Would the benefits of real efforts to compel registration and to screen registrants be worth the price? In the view of many law enforcement officers, the price is not too high. They believe that even modest additional efforts to control weapons would be worth the effort because of their impact on crime.

D. Causal relation of guns and crime

A fundamental assumption of those who support the drive for stricter regulation of firearms is the belief that easily available weapons are a stimulus to crime and that absence of the weapons would significantly reduce criminal activity. This assumption is much debated at conferences of law enforcement officials, in legislative halls, and in the professional journals. In our own inquiry we have discovered no convincing evidence on the question. However, the opinions of knowledgeable people suggest that considerable caution be used in hypothesizing a close causal relation between firearms and the commission of crimes. In the published materials and in our interviews, there is a respectable body of opinion that legal restraints on weapons have little effect on crime and criminals.

Particularly interesting on this point were the replies to our questions of social workers dealing with juvenile gangs. Juvenile gang members, although not representative of the juvenile population, are among the groups at whom restrictive gun legislation is directed. However, replies from the social workers indicate that firearms are not a particularly serious problem with their gangs. Guns are sometimes used, primarily in planned gang fights. In the much more frequently encountered instances of spontaneous violence, the weapon at hand is the weapon used. Most often, it is not guns that are used but rocks, chains, knives, or other sharp instruments. Some social workers expressed the belief that it is not the weapon which incites violence but the reverse: a felt need for violent activity produces the stimulus to acquire a weapon. In the experience of those questioned, regulation of firearms, insofar as it regulates the juveniles, would be of little significant effect. When they do use guns, the gang members don't buy weapons—they "borrow" them, mostly from members of their families. Unless society is prepared to limit severely the availability of firearms to the population generally, we cannot look for any significant improvement in whatever the firearm problem may be among juvenile gangs. Informed opinion indicates that juvenile gang violence and crime is caused primarily by factors other than easy access to guns.

It does not follow, however, that because firearms may not cause crimes that their widespread availability does not aggravate criminal conduct when it occurs. If many or most assaultive crimes, including homicide, are committed with the "weapon at hand," then general ready accessibility of guns increases the likelihood that guns rather than other weapons will be used. And it seems hardly disputable that guns produce more effective injuries than other weapons—as the equipment of modern armies attests. If firearms regulation is seen as a device for crime control—reduction in the seriousness of crime—rather than simply a device for crime prevention, the case for regulation is clearly a strong one. In this perspective, it seems irrelevant that firearms control may not have the effect of reducing the number of crimes, if it contributes to reduction in their seriousness.

III. EXISTING LAWS ON FIREARMS

A. The United States Constitution

The Second Amendment to the United States Constitution protects from infringement the right to bear arms. "A well regulated Militia, being necessary to the security of a free state, the right of the people to

keep and bear arms shall not be infringed." This constitutional guaranty only invites and does not resolve the essential questions concerning the validity of federal legislation restricting access to firearms. On the very surface, there are these issues:

Is the right dependent upon some connection with a militia?

Does the Second Amendment limit the power of the States?

How much regulation may be exerted before infringement occurs?

What kinds of weapons are contemplated by the term "arms" in the final clause?

In addition to questions raised by the Second Amendment itself, constitutional objections could be raised to federal regulation of firearms as an interference with the police powers reserved to the states. Federal intervention extending beyond the regulation of interstate shipment of firearms may be contested on this ground.

It is not the aim of this report to analyze and interpret the federal Constitution on these questions. There is an ample if not consistently rewarding body of literature on the question.²

² Literature on the Second Amendment, regulation of firearms as interference with the police powers of the state:

"Right To Keep and Bear Arms: A Necessary Constitutional Guarantee or an Outmoded Provision of the Bill of Rights?" 31 *Albany L. Rev.* 74 (Jan. 1967).

O. Bakal, *The Right To Bear Arms* (McGraw-Hill, 1966).

A. T. Mason, "Supreme Court and Federalism," 44 *Tex. L. Rev.* 1187 (July 1966).

N. G. Rudman, "Incorporation Under the 14th Amendment—The Other Side of the Coin," 3 *L. in Trans. Q.* 141 (Summer 1966).

R. J. Rohrer, "Right To Bear Arms: A Phenomenon of Constitutional History," 16 *Catholic U. L. Rev.* 53 (Summer 1966).

P. B. Feller and K. L. Gotling, "Second Amendment: A Second Look," 61 *Nw. U. L. Rev.* 46 (March-April 1966). California Legislature Assembly and Interim Committee on Criminal Procedure and Regulation and Control of Firearms, Sacramento, 1965.

"Firearms—A Comparative Analysis of Proposed Federal Controls," 15 *DePaul L. Rev.* 164 (Autumn-Winter 1965).

"Firearms Legislation," 18 *Vand. L. Rev.* 1362 (June 1965).

J. G. Fletcher, "Corresponding Duty to the Right of Bearing Arms," 39 *Fla. B. J.* 167 (March 1965).

F. Frankfurter, "Memorandum on Incorporation of the Bill of Rights into the Due Process Clause of the 14th Amendment," 78 *Harv. L. Rev.* 746 (Feb. 1965).

W. J. Brennan, Jr., "Some Aspects of Federalism," 39 *N.Y.U. L. Rev.* 780 (Summer 1964).

"Federal Regulation of Firearms Sales," 31 *U. Chi. L. Rev.* 780 (Summer 1964).

"Constitutional Law—Was It Intended That the 14th Amendment Incorporate the Bill of Rights?" 42 *N.C. L. Rev.* 925 (June 1964).

W. O. Douglas, "Bill of Rights and the Free Society: An Individual View," 13 *Buffalo L. Rev.* 1 (Fall 1963).

W. O. Douglass, "Bill of Rights Is Not Enough," 38 *N.Y.U. L. Rev.* 207 (April 1963). N.Y. State Legislative, Joint Committee on Firearms and Ammunition, Report, Albany, 1962.

"Law Year Symposium on the Bill of Rights," 48 *Women L.J.* 8 (Winter 1962).

"Bill of Rights: A Limitation on the Several States or the Federal Government?" 2 *W.&M. L. Rev.* 437 (1960).

"Right To Bear Arms—A Study in Judicial Misinterpretation," 2 *W.&M. L. Rev.* 381 (1960).

P. B. Kurland, "Supreme Court and the Attrition of State Power," 10 *Stan. L. Rev.* 274 (March 1958).

Illinois Legislative Council, "State Reg-

B. State constitutional provisions

The constitutions of 35 states guarantee the right to bear arms (see Appendix A). Three states exactly reproduce the terms of the Second Amendment; two others repeat its words with additions. (The Second Amendment protects a right to "keep and bear arms"—a greater right than that of merely "bearing arms.") Including those five states that closely or completely follow the federal provision, there are seventeen states that guarantee the right to "keep and bear arms."

While the state constitutional provisions are broadly similar to that of the Second Amendment, there are significant variations. The right to bear arms is stated as adhering to "the people" or "the citizens" in 22 states and only in 13 instances to the individual (including Kentucky, which uses the phrase "all men"). In no state is the right formulated as one attaching unqualifiedly to individuals; all the guarantee provisions refer in one way or another to the concept of defense of self and the state, or the maintenance of a militia. Rhode Island has what is probably the broadest provision—"The right of the people to keep and bear arms shall not be infringed." Nevertheless, since the word "people" is used, it may be that the right accrues only to citizens acting in concert.

The right to bear arms is associated with concepts of self-defense or defense of the state in 28 constitutions. Four of the states use the phrase "common defense," presumably indicating that the right of individual self-defense is not what is contemplated. In the 12 states the individual right to bear arms is expressly linked to the individual right of self-defense as well as to the right of defending the state. Two state constitutions expressly declare that the right to bear arms shall not justify the organization of bodies of armed men.

The experience of Kentucky illustrates the reason why some state constitutions reserve the right of the legislature to regulate the carrying of weapons. The supreme court of that state struck down a law to prevent the carrying of concealed weapons as violating the constitutional provision that "the right of the citizens to bear arms in defense of themselves and the state shall not be questioned."³ The Kentucky constitution was subsequently amended by the addition of these words, "but the general assembly may pass laws to prevent persons from carrying concealed arms."⁴

At present, eight states reserve to their legislatures the right to prevent the carrying of concealed weapons, and seven reserve the broader right to regulate the manner of carrying or bearing arms. In the other states laws regulating the carrying of certain kinds of firearms or carrying them under certain circumstances have been held valid.⁵ Some courts have held, even in the absence of a specific power reserved by the state constitu-

tion of Firearms," report pursuant to proposal 444, sponsored by Senator William J. Connors, Springfield, 1956.

³ Ky. Const. art. 10, § 23 (1799). *Bliss v. Commonwealth* 2 Litt. 90, Ky. 90 (1822).

⁴ Ky. Const. Bill of Rights § 1.

⁵ States where right to prevent carrying concealed weapons reserved to the legislature: Colorado: Colo. Const. are 2, § 13. Kentucky: Ky. Const. Bill of Rights § 1. Louisiana: La. Const. art. 7, § 8. Mississippi: Miss. Const. art. 3, § 12. Missouri: Mo. Const. art. 1, § 23. Montana: Mont. Const. art. 3, § 13. New Mexico: N.M. Const. art. 2, § 6. North Carolina: N.C. Const. art. 1, § 24.

States which reserve right to regulate the manner of carrying or bearing guns to the legislature: Florida: Fla. Const. Declaration of Rights, § 20. Georgia: Ga. Const. art. 1, § 2-122. Idaho: Idaho Const. art. 1, § 11. Oklahoma: Okla. Const. art. 2, § 26. Tennessee: Tenn. art. 1, § 26. Texas: Texas Const. art. 1, § 23. Utah: Utah Const. art. 1, § 6.

tion, that legislatures can subject the right to bear arms to reasonable regulation.^{*} Others have held that "arms" does not include the type of weapon the questioned enactment seeks to regulate.[†]

C. Acts of Congress

The National Firearms Act of 1934, administered by the Alcohol and Tobacco Tax Division of the Internal Revenue Service, imposes federal regulation on firearms under the taxing power.[‡] A prohibitive tax is placed on the manufacture and transfer of automatic firearms, rifles with barrel length less than 16 inches, shotguns with barrel length less than 18 inches, sawed-off shotguns, handguns with shoulder stocks, and silencers or mufflers.

The commerce power has also been the source of federal control over firearms. The Federal Firearms Act of 1938 requires licenses (easily and inexpensively obtainable) for firearms manufacturers, importers, and dealers. It also prohibits shipment in interstate commerce of firearms which are sent to or from convicted felons or fugitives from justice, firearms which have been stolen, and firearms which have had the serial numbers obliterated.[§]

Postal laws prohibiting the mailing of concealable weapons constitute another source of federal control.

D. State legislation

A review of state legislation, through July 1, 1966, has been completed and its major provisions are charted in Appendix B. It will be noted that state restrictions on firearms take the forms of positive control on one hand and prohibitions on the other. For example, 30 jurisdictions require a license to carry a handgun on or about the person; 18 states require a permit to carry a handgun in a vehicle; 22 states require a license to sell handguns at retail; 9 require a waiting period between purchase and delivery; 19 require sales to be reported to law enforcement officials; New York requires a permit for simple possession of a handgun, and Hawaii requires registration of handguns and all other firearms regardless of type. Twenty-one jurisdictions have laws that prohibit the carrying of a handgun on the person; South Carolina completely prohibits the manufacture or sale of handguns. In addition, specified classes of persons, described in 43 of the statutes, are prohibited from possessing firearms, e.g., aliens, felons, minors, drug addicts, mental incompetents.

^{*} States where reasonable regulation of right to bear arms held valid in absence of constitutional authority: *Alabama*: Jackson v. State, 37 Ala. App. 335, 68 So. 2d. 850 (1953). *Arkansas*: Wilson v. State, 33 Ark. 557, 34 Am. R. 52 (1878). *California*: People v. Ferguson, 129 C.A. 300, 18 P.2d. 741 (1933). *Indiana*: State v. Mitchell, 3 Black. 229 (1833); MacIntyre v. State, 170 Ind. 163, 83 N.E. 1005 (1908); Mathews v. State, 237 Ind. 677, 148 N.E. 2d. 334 (1958). *Kansas*: City of Salina v. Elaksley, 72 Kan. 230, 83 P. 619 (1905). *Michigan*: People v. Zerillo, 219 Mich. 635, 189 N.W. 927 (1922); People v. Brown, 253 Mich. 537, 235 N.W. 245 (1931). *Ohio*: State v. Nieto, 101 O.S. 409, 130 N.E. 663 (1920); Akron v. Williams, 113 App. 293, 177 N.E. 2d. 802 (1960). *Oregon*: State v. Robinson, 217 Ore. 612, 343 P.2d. 886 (1959). *Pennsylvania*: Commonwealth v. Kreps, 25 Dauph. 335 (1922); Wright v. Commonwealth, 77 Pa. 470 (1875). *Washington*: State v. Krantz, 24 Wash. 2d 350, 164 P.2d. 453 (1945); State v. Tully, 198 Wash. 605, 89 P.2d 517 (1939).

[†] States where "arms" held not to include certain regulated weapons: *Arkansas*: Fife v. State, 31 Ark. 455, 25 Am. R. 556 (1876). *Pennsylvania*: Commonwealth v. Kreps, 25 Dauph. 335 (1922).

[‡] 26 USCA §§ 5801, 5802, 5811-5814 (1955) (Supp. 1966). June 26, 1934, c. 757, 48 Stat. 1236.

[§] 15 USCA §§ 901-909 (1963). June 30, 1938, c. 850, 52 Stat. 1250.

Considerable variations in the pattern and degree of control are found in the state legislation. The agency exercising the control also varies: permits and licenses are administered by a city or county police official or sheriff, by a state office of public safety, by a judge, a county clerk, a mayor, or a city or county licensing office. A similar variety is found in respect to type of weapon regulated. Among the definitions of firearms found in the statutes are: "firearms with barrel less than eighteen inches" (or other length), "pistol or revolver," "handgun," "concealable weapon," and "deadly firearms."

While this lack of uniformity in state legislation presents an obvious problem in maintaining a strict control in any single state, the variety itself suggests different views among the states of the seriousness of the firearms problem. Three uniform acts have been proposed by the National Conference of Commissioners on Uniform State Laws, with very little response from state legislatures.[¶] The likelihood of the adoption of strict uniform state legislation appears highly doubtful.

IV. ANALYSIS OF THE FIREARMS PROBLEM AND APPROACH TO CONTROL

A. Goals of firearm control

The reasons advanced for firearms control are usually (1) prevention of crime and (2) detection of criminals.

Two major types of crime require separate attention when considering the effectiveness of firearm legislation in preventing crime: premeditated crime and the "heat of passion" crime. ("Premeditated" is used here not in its strict legal sense, which includes an almost instantaneously formed intention of criminal consequences, but in the popular understanding of a deliberately planned and executed crime.) Markedly different courses of behavior are involved in these classes of behavior, and different patterns of gun control statutes would seem necessary.

If gun control pursues the objective of prevention of premeditated crimes, the legislation must keep guns out of the hands of both the professional criminal and the occasional, determined amateur. The foregoing conclusion that 100 per cent effectiveness is impossible does not warrant abandonment of the objective, but it does require a realistic appraisal of the prospective degree of success and an evaluation of the methods that might be employed to achieve given levels of effectiveness. Doubtless, severe restrictions on the open market sale of firearms would tend to achieve the desired goal. It would also cause an underworld market to develop. It is possible, however, that a program of strict enforcement could make the cost so high and risk so great as to have some deterrent effect. It must be remembered, however, that the tight administration and enforcement of such a law would be very expensive. It might create a drain on available resources that would make other activities, such as crime detection, less effective.

In the case of professionals, the objective would be to make it difficult for a person having known proclivity to crime to obtain firearms. His past activities serve as a warning signal that a weapon in his hands is a danger to the community. With the amateur, no such warning is available, making ineffective any licensing system designed to

[¶] The Uniform Firearms Act (1930) was enacted in Alabama, District of Columbia, Pennsylvania, South Dakota, and Washington, and with modifications in California, Hawaii, Indiana, New Hampshire, North Dakota, and Rhode Island, and superseded in 1940 by the Uniform Pistol Act. The Uniform Machine Gun Act (1932) was enacted in Arkansas, Connecticut, Maryland, Montana, Ohio, South Carolina, South Dakota, Virginia, and Wisconsin and withdrawn as obsolete in 1954. The Uniform Pistol Act (1940) was enacted in New Hampshire and North Dakota and withdrawn as obsolete in 1959.

deter premeditated crime. However, neither the professional nor the amateur is likely to seek to obtain weapons in a way sanctioned by law if it requires bringing himself to the attention of a licensing authority. Both would probably seek out illegitimate sources. In that case, the law would have the greatest preventive effect upon the amateur: the professional would probably have the contacts to find an illegitimate source; the amateur probably would not.

In addition to keeping guns out of the hands of the man who has already decided upon his course of crime, advocates of restrictive gun legislation believe that reducing the availability of weapons will remove one cause of crime. They hypothesize that the presence of guns induces the commission of premeditated crimes by persons who would lack courage without a firearm. To be effective, assuming there is validity to the hypothesis, legislation designed to diminish this danger would have to restrict severely the general availability of weapons. Since it is not presently possible to anticipate what types of persons might be so induced to commit crimes, it would be necessary to so restrict access to weapons as to severely reduce non-criminal uses of firearms.

Also to be considered is the likelihood that, if access to guns is eliminated, some persons will utilize other weapons to carry out premeditated crimes. What may be the net result on frequency of premeditated crimes?

In the passionate crimes, we picture an individual who, overcome by rage, seizes a firearm ready at hand and shoots his victim. In many areas of the United States, guns are almost instantly available in homes, at hardware stores, sporting goods shops, or gunsmiths. It is quite possible that a seething rage would sustain some people through the minimal difficulty of acquiring a weapon under these conditions. It is quite probable that waiting periods or the red tape of getting a permit would discourage these people from acquiring guns. It does not necessarily follow that the crimes would not be committed. We do not know how likely it is that such persons would turn to another weapon when a gun is not available. Also we do not know how many crimes of passion are committed by people who would have had a weapon under any reasonable laws restricting sale and possession.

It may be possible to devise very restrictive legislation that would have a significant preventive effect on both types of crime, but it would be extremely difficult to do so while also accommodating the views of those who wish to protect the convenience of legitimate gun users.

If detection in criminal cases can be materially aided by strict gun registration, the question of the cost of such improved detection must be considered. Assuming that a gun has been used in a crime, detection might be aided by the following gun control practices:

a) If a gun register is maintained, it could be searched to determine whether any of the suspects own a gun of the type used.

b) If the weapon is found, gun sales records could identify the owner.

c) If ballistics records are kept on every gun manufactured, identification from the bullet could identify the gun and then the owner.

Two questions immediately arise. Do we presently have the scientific and managerial know-how to implement such programs? And is there enough criminal activity in which this sort of detection would be valuable to warrant the very large expenditure of money and time necessary to create and maintain the detection machinery? An affirmative answer can confidently be given to the first question, but further information would be required in order to make a worthwhile judgment on the second.

Assuming that only a law uniform among the states can be effective, can variations in

Column 4 Continued on Page 34, Column 4

Senate Chiefs Call for Caution On Johnson Gun Control Plans

By JOHN W. FINNEY

Special to The New York Times

WASHINGTON, June 10—The Senate leadership took the political initiative in Congress today by urging caution toward stronger gun control legislation proposed by the Administration.

The Republican leader, Everett McKinley Dirksen of Illinois, rejected Administration proposals for new controls over the interstate sale of rifles and shotguns. He contended, "There is enough gun legislation on the books now."

The Democratic leader, Mike Mansfield of Montana, though promising prompt consideration of any gun control legislation submitted by the Administration, expressed doubt that new gun laws, "no matter how

stringent," represented a "cure-all."

The two leaders sounded the negative note in statements on the Senate floor only a few hours before the Justice Department sent to Congress the Administration's specific proposals for strengthening controls over sales of firearms.

Immediately after the death of Senator Robert F. Kennedy of New York last week, President Johnson said he would seek stronger controls on the sale of firearms.

Congress last week completed action on legislation restricting the interstate sale of handguns, but the President said this was "a halfway meas-

Continued on Page 33, Column 3

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THE PERISCOPE

itary intervention, has been missing from his diplomatic post in London since October. He may be in Cuba. American officials praise Balaguer's regime, however, and are confident that he can ride out the gathering storm.

'NEIN' TO NONPROLIFERATION

West Germany's most vocal opponent of the U.S.-U.S.S.R. nuclear-nonproliferation agreement is Finance Minister (formerly Defense Minister) Franz Josef Strauss. He maintains that signing the proposed treaty would undermine NATO, the European Common Market, West Germany's "equal partnership" with the U.S. and, most important, would deprive West Germany of one of its most potent bargaining counters for German reunification—and thus perpetuate the division of Germany. Strauss has made behind-the-scenes threats to withdraw the support of his Christian Socialists if Chancellor Kurt Georg Kiesinger's coalition government softens its current position against the treaty.

SOUTH AFRICA'S FRONT LINE

South African paramilitary units—Johannesburg calls them "police"—have been helping white-dominated Rhodesia stop African nationalist infiltrators—and now have been spotted in southern Angola assisting Portuguese forces. The main role of the South Africans is to block guerrilla bands attempting to cross Angolan territory from Zambia into Southwest Africa. South African newsmen who have gotten wind of the story are prevented by their government's defense regulations from printing it.

BRITAIN: WEST OF SUEZ

One spin-off of Britain's pullback to Europe will be the reappearance of Her Majesty's fleet in the Mediterranean. Now the fleet consists of but one frigate and a few minesweepers—but within four years the Royal Navy will have a fleet of commando carriers, missile-firing destroyers, frigates and submarines (including a Polaris sub) in Mediterranean waters. Note: the British fleet may well be able to spell some U.S. ships if the Sixth Fleet is needed elsewhere.

MIDEAST: PARIS AND MOSCOW CALLING

France is urging the Lebanese TV network (six channels serving 150,000 black-and-white sets), to adopt the French Secam transmission system when it starts color casts, perhaps later this year. Such a switch will open Lebanon—

and, potentially, the entire Middle East—to direct telecasts from France and from the Soviet Union, which also plans to adopt the French system. However, there may be static: the French color equipment depends for certain parts on RCA, whose products are boycotted by most Arab countries, including Lebanon, because of RCA's commercial ties with Israel.

REVISING THE DRAFT SYSTEM

The White House—along with some notable educators—is working on changes in the draft rules to make them more equitable. It hopes to outline the changes by spring, in time to give the graduate schools time to plan. The colleges are advocating monthly callups of men of each age group in direct proportion to their representation in the eligible pool. For example: if 19-year-olds constitute 25% of all men with 1-A classifications, then 19-year-olds will make up 25% of each monthly call; if 25-year-olds make up 10% of the eligible pool, 10% of the monthly draftees will be 25-year-olds. On university campuses, this means that older students—those most likely to be trying for graduate school—will not automatically be called first.

COMPROMISE GUN LAW IN SIGHT

Congress may well pass legislation in this session curbing gun sales. But it is likely to be a compromise. Opponents of stringent curbs see the President's State of the Union call for "a proper gun law" as an Administration backdown. National Rifle Association lobbyists are ready to settle for an outright ban on interstate shipment of hand guns and an affidavit requirement for rifle shipments stating that the purchaser has conformed to state and local regulations. Note: because it has identified itself as the friend of the gun owner, NRA membership has risen from 300,000 to 900,000 in the past three years.

SEX-BOOK ADS: FIT TO PRINT?

Dismayed by the volume—and tone—of advertisements for marriage manuals and other how-to-do-it sex books, The New York Times Book Review recently notified advertising agencies it will no longer accept such ads. "Since we did not feel it was possible to discriminate among books in this category . . . we established a policy of excluding this advertising entirely," Vincent Redding, head of the Times advertising acceptability committee, said in a letter to the agencies. The sex-manual ads, he wrote, "produced an undesirable impression for the Book Review."

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Senate Chiefs Call for Caution on Johnson Gun

Continued From Page 1, Col. 7

The Administration's only provision banning mail order "emotional outbursts" in the hope for winning acceptance sales of revolvers and pistols, press for stronger gun control of its bill, in the view of. The bill also outlaws possession of any firearm by persons convicted of a felony, we've got. The people who are indignant over the assassinations of Senator Kennedy mental incompetents, veterans into political pressure that with less than an honorable don't know what's in the press.

The proposed legislation would change the views of discharge, Americans who have Senators who have, opposed renounced their citizenship and aliens illegally in this country. field said, "It is imperative the Democratic and Republican amendment by Senator Russell will prevent murder, and no type of gun, this provision was originally introduced as a last-minute stand that no type of gun, Senate leaders, even before the B. Long, Democrat of Louisiana, any law passed will not prevent Administration could submit its with the idea that it would be persons who are bent on having the law from acquiring or weapons of any sort."

The Administration has proposed basically the same legislation in the past only to have it rejected by the Senate and ignored by the House. The only innovation was a revival of a once abandoned proposal for a ban on the interstate sale of ammunition. As a concession to hunters, however, the proposed legislation would not ban over-the-counter sale of ammunition to residents of another state.

In a letter to Speaker John W. McCormack of Massachusetts submitting the Administration's bill, Attorney General Ramsey Clark said: "Rifles and shotguns have become the chosen instruments of slaughter for snipers and assassins. Any truly effective firearms legislation simply must cover long guns as well as handguns."

"Extremely Important" "We have debated the issue beyond reason," Mr. Clark said. "I urge the Congress to give immediate consideration to this extremely important legislation." He went on:

"There must be action now before the Congress adjourns. While the time is short before adjournment, so also is the time short for the country to move to control the principal weapon of crime—the gun."

The legislation was submitted with a minimum of political fanfare by the Justice Department. One reason was that up until the last minute the Administration was debating what new gun curbs should be proposed to Congress.

Some consideration was given to proposing registration of all guns. But that proposal was laid aside on the grounds that it was too controversial to be quickly adopted by Congress.

Not until some three hours after the Clark letter had gone to Capitol Hill did the Justice Department get around to announcing the action. Justice Department officials explained the delay was caused by the "problem of getting clearances" for the press release.

Chances Held Weakened

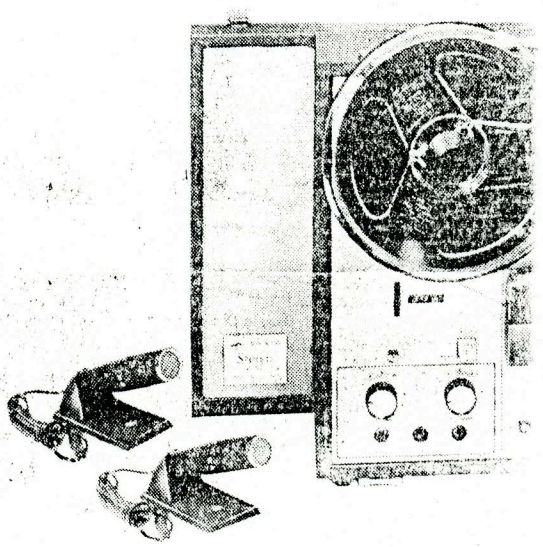
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Pour la poolside... a la club...even for backyard sunfathers.



(over)

THE NEW YORK TIMES, SATURDAY, JUNE 1, 1968

Senate Chiefs Call for Caution on Johnson Gun Control Plans

Continued From Page 1, Col. 7

are inadequate to deal with the "deadly commerce" in firearms.

The proposed legislation would ban the mail order sale of rifles and shotguns and prohibit over-the-counter sales of such firearms to out-of-state residents. It would also forbid the sale of rifles and shotguns to persons under 18 years of age.

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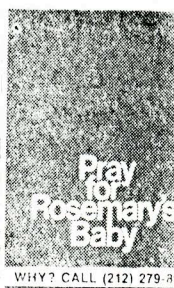
He also suggested that "most for the innocent."

emotional outbursts" in the serious consideration" should press for stronger gun controls, he given to legislation outlaw- ing possession of handguns by everyone except law enforce- ment officers.

Also referring to "pressure" can pass all the gun laws in the country and still not prevent people from getting shot. Gun laws, no matter how stringent, are not the answers and are not a cure-all, and we

The answer," Mr. Mansfield continued, "lies in a sense of responsibility, parental control, more and better-trained police, improvement of environmental conditions, and more protection for the innocent."

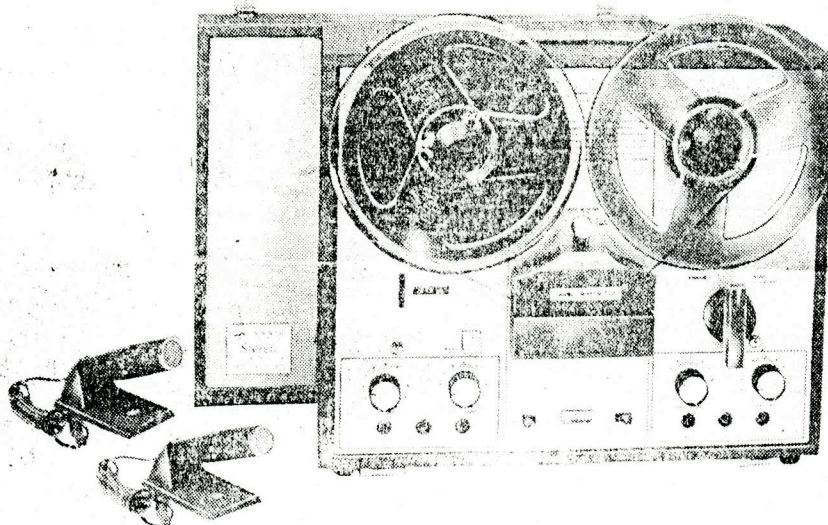
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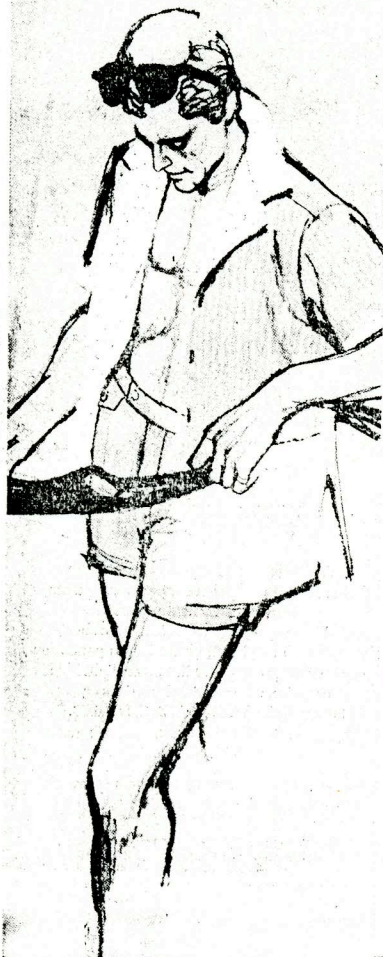
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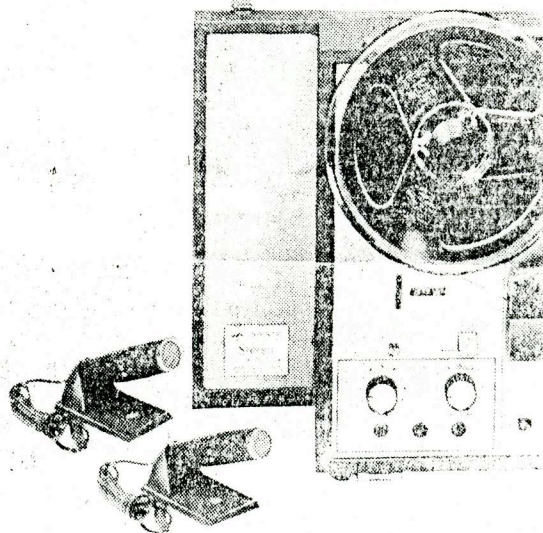
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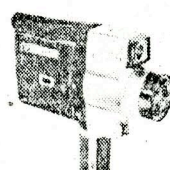


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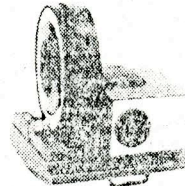
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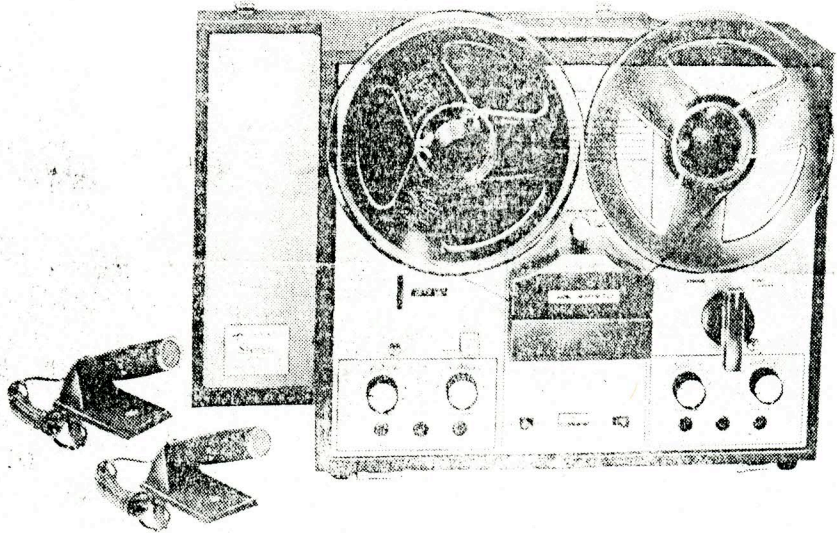
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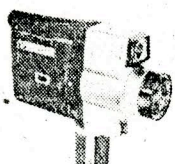
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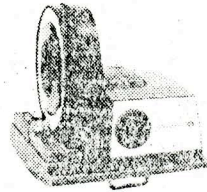
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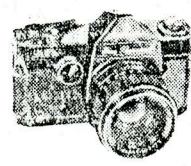
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AL, THURSDAY, JUNE 6, 1968

Domestic Disarmament

Strict Restrictions on Private Guns May Prove Inevitable

By HENRY GEMMILL

18-1

WASHINGTON—It seems reasonable to suppose that at some point the U.S. will decide to undergo domestic disarmament.

The shooting of Presidential candidate Robert Kennedy will in itself not bring that to pass, any more than did the assassination of his brother or the slaying of Martin Luther King. Perhaps the most that can be expected is that the shock of this event will put fresh steam into Congressional action on legislation that could mildly restrict fresh additions to the huge armament stocks scattered amongst the populace. The day when most of the guns will actually be grabbed out of their hands is uncertain and distant—yet its arrival may prove inevitable.

During recent years a highly competent "gun lobby" has been given most of the credit or blame for fighting off myriad Congressional moves intended to curb the domestic traffic in firearms. Certainly such groups as the National Rifle Association have used the most modern techniques—mass letter-writing campaigns and the like—in mobilizing opposition pressure. Nevertheless, the essence of the gun-bearers' strength has not resided in these techniques.

It has, on the contrary, represented the vestigial sentiment of a vanishing America—the thinly populated frontier society. It seems predictable that in an urbanized and crowded America the gun lobby will in the end, for good or ill, find itself overwhelmed—much as the equally competent doctors' lobby eventually was in its fight against medicare. Like civil rights legislation, domestic disarmament is likely to be voted in successive and increasing doses.

Already Evident Tide

The direction of the political tide is already evident, even if its ultimate dimensions remain to be proved. The pollsters discovered more than a year ago that heavy majorities of the public favored tighter restrictions on gun ownership. The firearms legislation that came alive on Capitol Hill this spring was, though modest, the first approved by a Congressional committee in three decades.

One could be less confident about a continued pressure for domestic disarmament if it resulted solely from the slaughter of national leaders. Such high tragedy does genuinely move and significantly crystallize opinion—but may well be less basic than the fact that great numbers of ordinary people are becoming concerned about their own safety.

A sample of this sour taste of fear is available right here in this capital city; Washington lacked bus service during recent nights because drivers have been terrorized by gun-slitting bandits who've shown they are willing to shoot to kill. The cities are growing, and the statistics on violent crime growing even faster. And alongside this constant danger there stands the growing threat of sporadic urban riot with its sniper gunmen.

Of course there remains an ambivalence among Americans, largely because the nation is not yet totally city-oriented. It is mainly the Eastern Senators, like Dodd of Connecticut, who have pushed longest and hardest for gun control. A Senator from the open acres of the West is still likely to feel as his ancestors did; Idaho's Senator Church turned up last summer with a petition against control from 44,000 constituents.

Indeed, the frontier tradition is not yet dead even in the metropolises. The United Auto Workers strongly backs gun control legislation—and its leaders, in doing so, no doubt accurately reflect the Detroit workers' revulsion against riot and crime. Still, the union's officials say they get plenty of hot protests from the rank and file. Reason: Many a member thinks of himself not as the assembly-line unit which he is for most of the year but as the male huntsman in quest of prey—which he becomes, briefly, once a year when he shoulders a gun and heads for the Michigan wilds.

Without suggesting that such inner urgings will easily be quelled, it does seem likely they will by degrees be subordinated to what ap-

pear to be the urban necessities. It becomes increasingly difficult to maintain national policy in the traditions of a vanished era, and that applies even to the Constitutional question often raised by opponents of gun control.

"The right of the people to keep and bear arms shall not be infringed," says the Second Amendment to the Constitution. Plain enough, perhaps, except that it is part of a sentence stating the need for "a well regulated militia"—and one can conjecture that the present Supreme Court, always willing to interpret the antique document as it deems fit for contemporary needs, might concur with any law taking guns away from folk who are not militiamen. If not, this is a Constitution that can be amended once again.

Apart from romantic notions and legalisms rooted in the American past, no doubt there are many rational arguments that can be offered against domestic disarmament. Once upon a time there was a Constitutional amendment that tried to take alcohol away from the populace; it proved so unenforceable it was revoked. Getting all the guns would unquestionably pose fantastic problems of enforcement, and at best take years to accomplish with reasonable success. The dangerous people—the insane, the conspirators and the criminals—are hardly the citizens who would quickly comply.

And even if the day came when none but the police had guns, violence would not have been utterly eliminated. The word "assassin" predates firearms; it belonged first to a murderous sect of Moslems and was spread by Crusaders equipped only with various sharp and blunt instruments. Such weaponry will remain available to the mugger on the dark street, to the madman who thinks he must "save" the country from its leadership.

More Persuasive Logic?

But the pounding events of local and national news—and one can be sure they will continue to provide fresh terrors—are likely to make the logic of gun control far more persuasive. When the man who runs the dry cleaning establishment is shot down for his petty cash, the other shopkeepers down the street would like to try getting rid of those guns.

There are really no statistics to demonstrate scientifically that more psychotics exist per 100,000 of population than in 1868. But there can be no doubt that any single psycho can now threaten far more humans than he could a century ago. People are packed in around him, and he—like everyone else—has become enormously mobile.

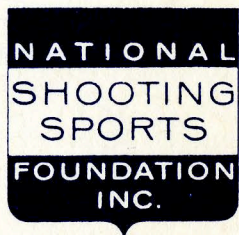
It is becoming increasingly clear that if the pistols and rifles are left readily available in urban America, then some unpleasant changes are going to be made in other American traditions.

Any prominent politician and any leader of a controversial movement will have to stick to the TV studio, or hide behind a protection squad when he moves in public view. Before he withdrew from this year's Presidential contest, it was clear that Lyndon Johnson—whose instinct is to plunge into crowds—could not conduct a normal campaign at all unless he flagrantly violated the admonishments of the Secret Service men who must be concerned with the President's safety. Before he was slain, Dr. King fully knew he faced death. Before he was shot, Robert Kennedy's risks were reported repeatedly by the press corps traveling with him.

The habits of the ordinary citizen are in jeopardy as well. In this capital today hotel rooms are empty as tourists fear to travel. There are fewer customers in the downtown stores as suburban housewives fear to shop.

So the alternatives to domestic disarmament are not likely to look appealing. The ugliest of all is this: The householder, shopkeeper or bus driver who fears guns on the loose will go get a gun for himself. If one is wrong in supposing the U.S. will choose domestic disarmament, one may be right about the possibility of a domestic arms race.

Gun Control



NATIONAL SHOOTING SPORTS FOUNDATION, INC.
1075 Post Road • Riverside, Connecticut 06878
Code: 203 637-3618

TO: OUTDOOR WRITERS AND SPORTSCASTERS.

October 1968

Release at convenience.

Charley Dickey

A LITTLE INCONVENIENCE

Has there ever been an advocate of an anti-gun law who did not loudly proclaim to the press that his bill would cause only a little inconvenience to sportsmen?

In fact, certain advocates of gun registration in Washington have tried to imply that sportsmen are not good citizens because they won't go along with "a little inconvenience." These advocates blandly ignore the past precedents of restrictive gun laws and the fact that arbitrary regulations have generally ended up in restrictions tougher than the original bill.

New Haven, Connecticut, is an outstanding precedent of why sportsmen fear police control. According to a recent article by the Associated Press, "Applicants for pistol permits in New Haven are required to fill out 21 pages of paperwork stating detailed information about themselves, despite an opinion from the Attorney General that such forms are not allowed."

The New Haven police chief requires six pages of personal information, including when and where the applicant intends to use the weapon, type of weapon, frequency of use, days of the week, hours of use and other detailed information.

The forms go into great detail about the applicant's citizenship, medical history, military service, educational background, employment record and his residential history. The forms go on and on for 21 pages and the applicant had better not make a mistake.

Advocates of registration and licensing always say that registering a gun is just like getting a driver's license or a dog license.

A new ordinance introduced, but not yet voted on, in New Haven would make any non-resident passing through the city a "resident." Would a hunter driving from New Jersey to Maine to go deer hunting be in violation if he did not stop and apply for a long gun permit? How long would it take for an out-of-stater, who was suddenly made a resident, to stop and get a permit to pass through New Haven?

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For 57 years, sportsmen have been "a little inconvenienced" in New York City by the Sullivan law. One of the inconveniences is that an applicant for a handgun permit has to pay \$20.00. If he is refused a permit, as he often is, the money is not returned but goes into the police pension fund.

According to the President's Commission on Crime in the District of Columbia, "New York City administers the Sullivan law's licensing provisions restrictively with the apparent goal of making private ownership of handguns as uncommon as possible; compliance is made burdensome and pre-licensing investigations are exhaustive."

It is not a simple matter of whether or not a person is entitled to own a handgun--the application is made burdensome.

The application is indeed made burdensome when the applicant has to be fingerprinted, photographed, required to fill out numerous forms and, in some cases, actually take three witnesses to the police station to have them swear to his good character. It means two to three days lost from work every year.

When New York City added a rifle and shotgun registration law several months ago, the advocates and especially the press said it would be only "a little inconvenience."

It did not work that way. On August 23, the New York Times, a continuous pusher for national registration and licensing, finally came to the rescue of the sportsmen in an editorial:

"Unfortunately, the city has not done all that it could to simplify registration. Form FCB's instructions read as if they were written by a Faulknerian scholar. A half-dozen pages have to be filled out, including notarized vouchers, certified checks and photographs. All this may be helpful for the records, but the paper work is ridiculously complex. Why should it be more difficult to register a rifle than an automobile?"

The New York Times had lived with the Sullivan law in its doorway for 57 years. Yet it wondered why it was more difficult to register a firearm than an automobile. Sportsmen knew. They had obeyed it since 1911.

As an upstate New York writer reported, "The television stations and newspapers in New York City and many of the politicians were vehement in the demands for local and national registration. But after legislation is passed, these people are never heard from again when abuses begin. Whoever heard of these people coming to the rescue of harassed sportsmen?"

Perhaps the New York Times with its editorial has started a desirable precedent for the metropolitan media. Perhaps some of the media will follow its lead and defend the sportsmen when they are harassed with deliberate red tape after a bill is passed.

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When the Sullivan law on handgun registration was passed in 1911, the media and politicians said no one wanted to take guns from the law-abiding citizen and that it would cause the sportsman only "a little inconvenience."

Has the arbitrary power of the police in New York City to say who can and cannot own a handgun dried up the legal private ownership? The New York City police tell the press that there were 19,206 handgun permits in 1967. What they do not tell the press is that less than 2,000 of these handgun permits were issued to private citizens not connected with law enforcement or security.

New York City, with a population of over 8 million, issues less than 2,000 handgun permits for purposes of recreation or self defense. With this as the major precedent of registration in America, is it any wonder that sportsmen fear the same will happen with sporting rifles and shotguns?

There were no fees to register handguns when the Sullivan law was first passed. Then a charge of fifty cents was applied and now it is \$20.00. Is it any wonder that sportsmen put no credence in registration proponents' promises that new registration fees will be free?

If the holder of a pistol permit in New York dies, his firearms are immediately confiscated by the police with no compensation to his estate.

The President and the administration have frequently cited New York's Sullivan law as a model law which should be adopted by all of the cities and states.

Has the Sullivan law helped curtail crime? From the enactment of the Sullivan law in 1911 to 1967, the criminal homicide rate in New York City increased from 3.0 to 9.2 per 100 thousand, or more than 200 per cent.

In 1966, no licensed firearm was used in the commission of any criminal homicide, aggravated assault or robbery in New York City.

Advocates of national registration say that one of the reasons they want to set up a central registration agency is to help sportsmen recover lost or stolen guns. In 1967, 53 firearms were stolen from New York City license holders. As of June 13, 1968, there was no record of any of these firearms having been recovered.

Proponents of federal registration say that such a law would help the police in crime detection. Attorney General Ramsey Clark repeatedly says the police need this help but the Department of Justice has never made a study to say how many crimes are cracked through gun registration--or how many cases are not made because of a lack of registration.

Reports of criminals being arrested after a firearm which they used in the commission of a crime was traced to them are conspicuously absent from the annual reports of the New York City Police Department.

A recent search of New York City newspapers reveals no instance in which the trace of a firearm by serial number was material to the case presented by the prosecution within the past 15 years. For the most part, the firearms used in crime were either stolen or obtained in violation of existing law.

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No study has ever shown that criminals register their firearms before committing crimes with them. In fact, under the U. S. Supreme Court's Haynes decision of January 29, 1968, the criminal may not have to register his firearms under certain conditions.

According to one attorney's interpretation of the Haynes decision, no person who has violated a law in obtaining a firearm can be compelled to register it, since by so doing he exposes himself to prosecution.

Lawyers will undoubtedly be arguing a long time about the decision, but the Chicago gun registration law, passed a few days after the Supreme Court ruling, included a special provision that excused from registration any person who had illegally obtained a firearm.

The criminal cannot be compelled to register but the law-abiding must, supposedly in order to prevent criminals from using firearms.

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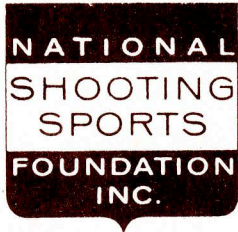
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The most complete statistical study ever made on firearms registration was recently completed by the National Shooting Sports Foundation after 15 months of research.

"Does Firearms Registration Work?--A Statistical Analysis of New York State and New York City" was written by Alan S. Krug after obtaining basic data from the Federal Bureau of Investigation, the John Jay College of Criminal Justice Library, the New York City Police Department, the New York Legislature and other sources. All statistics and data are documented.

Copies of the study are available for 25¢ from: National Shooting Sports Foundation, 1075 Post Road, Riverside, Conn. 06878.



Gun Control

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Charley Dickey

THE CREDIBILITY GAP

The U. S. Department of Justice report "Firearms Facts" was released on July 16.

According to the New York Times, the report was first given to the House Judiciary Committee and Col. John Glenn of the Emergency Committee for Gun Control. One of the Founders of this organization has long advocated the abolishment of all private ownership of firearms; to curtail over-population of wildlife, he recommends employing government hunters.

The New York Times said the report was the first time that the Justice Department, "...lobbying intensively for a bill to halt interstate arms sales, had put together all the available data on firearms in this country."

While the report may constitute "intensive lobbying," along with the office space the Justice Department gives to the Emergency Committee, it does not contain "all of the available data on firearms in this country." To the contrary, the report is a collection of partial statistics and statistics pulled out of context, apparently assembled for the primary purpose of justifying a position already taken.

The U. S. Department of Justice has never made an objective statistical study of the relationship of firearms to crime. They have, however, pulled a few statistics out of many thousands to imply or "prove" a point.

The Federal Bureau of Investigation is a part of the U. S. Department of Justice.

J. Edgar Hoover, FBI director, publishes each year "Uniform Crime Reports," a compilation of crime statistics for the preceding year. This is the single authoritative publication on state and national crime statistics.

Each year, Hoover has a warning in the foreword about pulling statistics out of context. It reads, "Since the factors which cause crime are many and vary from place to place, readers are cautioned against drawing conclusions from direct comparisons of crime figures between individual communities without first considering the factors involved."

Here is the way the U. S. Department of Justice pulls statistics out of context and releases them to the press:

The Justice Department release of July stated, "Between 1960-1967, 411 law enforcement officers were slain in the performance of their duties. Of these 394 (96%) were killed with firearms." The implication of Justice is that firearms were

responsible for these crimes.

Here is what J. Edgar Hoover actually said in "Uniform Crime Reports--1967":

"During the 8-year period, 1960-1967, 411 law enforcement officers have been murdered in the line of duty. A review of the criminal histories of the 539 offenders involved in these police murders indicates 77 percent had been arrested on some criminal charge before becoming involved in the police killings. In fact, 54 percent of those offenders with a prior criminal arrest had been previously taken into custody for a violent crime such as murder, rape, robbery, assault with intent to kill, etc.

"Among the 539 persons who were involved in these police killings, 67 percent had prior convictions on criminal charges and, of this group, two-thirds had been granted leniency in the form of parole or probation on at least one of these prior convictions. It is significant to note that three of every ten of the murderers were on parole or probation when they murdered a police officer. Thirteen or 2 percent of these individuals involved in a police killing had been charged on some prior occasion with an offense of murder.

"During the period 1960 through 1967, these 539 individuals responsible for police killings had accumulated an average of almost 5 arrests each during an average criminal career of 10 years."

Does Hoover's statement indicate that there are factors involved in police homicides other than the existence of firearms?

In Hoover's "Summary" of the 1967 crime report, he has this statement: "If you wish assistance in the interpretation of any information in this publication, please communicate with the Director, Federal Bureau of Investigation, U. S. Department of Justice, Washington, D. C. 20535."

The Justice Department's report on "all" the facts on firearms says, "States with strong firearms laws tend to have fewer murders with guns than States with weak firearms laws and tend to have lower overall murder rates." The report does not define "strong" or "weak" firearms laws.

Out of 50 states, Justice chose as "strong" states: Pennsylvania, New Jersey, New York, Massachusetts and Rhode Island, with an average murder rate of 6.0 per 100,000 of population. It compared them with "weak gun law states": Arizona, Nevada, Texas, Mississippi and Louisiana. Sure enough the overall murder rate, or an average of 9.1, was higher in these last five states.

But suppose Justice had chosen as "weak gun law" states: Iowa, North Dakota, Vermont, Washington and New Hampshire? These states have an average rate of 1.8, as compared to the "strong" states' average of 6.0. One might draw just the opposite conclusion.

The Justice Department release said that "a total of 767,000 people have been killed by firearms misuse between 1900-1966." They break this down into 269,000 firearms homicides, 360,000 suicides by firearms and 138,000 firearms accidents.

The Justice Department implies that firearms suicides, nearly half of the total, could be reduced by gun laws. They also know that some of the press will use the total figure only, and that soon this statistic will appear as homicides, as has happened in the past.

The Justice Department cited as their authority for the statistics the U. S. Public Health Service. The original statistics, with several years missing and partial reporting from the states, was headed "Deaths from Firearms and Explosives...." When the Justice report came out, it calmly omitted "and Explosives."

Justice does not bother to inform the reader that the "killed by firearms misuse" totals also include not only willful killings but also justifiable homicides, that is, homicides committed in self-defense, homicides by police officers in the performance of their duties, and legal executions.

In other words, the Justice report implies that when a policeman protects himself or justifiably kills a felon in the performance of his sworn duty, he is misusing firearms.

The Justice report fails to state that the rate per 100,000 population for firearms accidents has steadily declined since 1900. The same is true for homicides with firearms; the rate has increased with suicides. Naturally the totals have gone up. The population of the United States has increased from 76,094,134 in 1900 to 195,857,000 in 1966.

The Justice Department report states, "In 1965, of 4,069 Chicago mail order gun purchases from just three dealers in California, 948 had prior criminal records which would have

precluded purchases in that city; thus, one-quarter of the mail order purchasers had criminal records."

What the Justice report does not say is that it has been against the law since the Federal Firearms Act of 1938 for a criminal to obtain any firearm through mail order.

Using the Justice Department's statistics, there were apparently 948 cases in Chicago where the law was violated. Yet the U. S. Treasury Department, charged with enforcement of Federal firearms laws, investigated only 60 cases for the entire nation in 1965. Justice reports 948 violations in Chicago; Treasury investigated 60 cases for the nation. What happened to the known criminals who had violated the law?

Has Justice missed some of the most important statistics? In Hoover's "Uniform Crime Reports--1965" there were 304 cities and towns in America, with populations of 25,000 or more, which did not report a single willful killing for that year. What do these cities have going for them? Why has Justice not told the American press about these cities? As one Washington reporter wrote, "You would think Justice would have teams of specialists studying these cities."

The Justice Department has advocated total registration and licensing, with a national center in Washington, for all firearms. J. Edgar Hoover, the number one fighter against federal police powers, advocates registration, but at the state and city levels.

Is there a credibility gap in Washington? Using Hoover's definition of serious crime, in 1967 firearms were involved in

3.5 per cent of the total serious crimes in America. Why has Justice made firearms its number one issue?

When Hoover publishes his "Uniform Crime Report" each year he uses the same introduction. The attorney general does not use it in his releases. It reads:

"Crime is a social problem and the concern of the entire community....Some of the conditions which will affect the amount and type of crime that occurs from place to place are briefly outlined below:

"Density and size of the community population and the metropolitan area of which it is a part.

"Composition of the population with reference particularly to age, sex and race.

"Economic status and mores of the population.

"Relative stability of population, including commuters, seasonal, and other transient types.

"Climate, including seasonal weather conditions.

"Educational, recreational and religious characteristics.

"Effective strength of the police force.

"Standards governing appointments to the police force.

"Policies of the prosecuting officials and the courts.

"Attitude of the public toward law enforcement problems.

"The administration and investigative efficiency of the local law enforcement agency, including the degree of adherence to crime reporting standards."



Gun Control

NATIONAL SHOOTING SPORTS FOUNDATION, INC.
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TO: OUTDOOR EDITORS AND SPORTSCASTERS.

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Charley Dickey

SHORT SHORTS

Both major parties included firearms legislation in their presidential platform planks for 1968.

The Democrats, under the subtitle "Justice and Law", pledged to "Promote the passage and enforcement of effective federal, state and local gun control legislation."

The current administration supports registration and licensing. Vice President Hubert Humphrey says that he supports national registration and licensing.

The administration registration bill this year, which did not pass, would have withheld conservation funds from the states not passing registration and licensing laws.

The funds which were to have been withheld were under the Pittman-Robertson Wildlife Restoration Act. In 1937, sportsmen introduced and supported this bill which placed an 11 per cent excise tax on sporting arms and ammunition. The money is pro-rated back to the states for wildlife research, land acquisition and habitat improvement.

More than \$350 million have been collected and the P-R fund is the backbone of many conservation efforts. Following the success of the hunters' tax program, fishermen passed a similar bill in 1947.

In 1965, when President Johnson did away with many excise taxes, the P-R tax was included in the list of those the administration wanted to drop. Sportsmen put up a clamor to keep a tax on themselves and the administration went along with it.

Hunters and shooters have always been proud of the P-R money. These are the funds the administration threatened to withhold unless the states passed registration and licensing laws.

Administration spokesmen have frequently stated to the press that they did not want to do anything to hurt the sportsmen.

The Republican plank, under the subtitle "Crime", pledges, "Enactment of legislation to control indiscriminate availability of firearms, safeguarding the right of responsible citizens to collect, own and use firearms for legitimate purposes, retaining primary responsibility at the state level, with such federal laws as necessary to better enable the states to meet their responsibilities."

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On September 12, the press announced that the first case had been made under the new 1968 gun laws passed by Congress and signed into law June 19. The charges were made by the U. S. District Attorney's office in Richmond, Virginia.

This adds up to one gun case made in 12 weeks. The U. S. Attorney General has implied that gun control is the major crime issue in the nation.

If the current rate continues, that will mean about four or five cases a year.

In January 1968, the New York Times reported the first successful federal grand jury indictment on the mail-order clause of the Federal Firearms Act of 1938. United States Attorney Robert Morgenthau obtained the indictment against a Nanuet, N. Y. firearms dealer.

According to the New York Times, "The indictment was described as the first of its kind in the country against a mail-order company dealing in firearms." It took 30 years.

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With amazing frequency people who draft gun laws include plans to fire test bullets from every gun and set up a state or national bullet file.

Besides the enormous cost of such a scheme, there is no practical system for classifying fired bullets and coding the individual characteristics as with fingerprints. The characteristics of a rifled barrel, which imparts the identifying markings to a bullet, may change through continued use or abuse of the firearm. A test bullet fired from a firearm at one time can be very different from a bullet fired from the same gun at a later date.

In addition, in ordinary storage a test bullet can deteriorate to the extent that its value for comparison purposes is nullified.

The International Association for Identification recently passed a resolution opposing "...any law or regulation requiring a mass test bullet scheme because such a requirement will not aid law enforcement."

Any funds for putting bullets in bottles could be used by law enforcement agencies in many better ways.

National



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CHARLES DICKEY, DIRECTOR

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