

## Firearms Control

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## FIREARMS CONTROL

ROBERT COOPER JACOBS \*

**C**RIME may not be as noxious or as visible as air pollution, or as harmful to our society, but it is widely viewed as the most important and unpleasant problem of modern urban life. General concern over problems of crime and law enforcement has increased markedly in the last few years. This increase is shown by growth in the number of studies, press and periodical articles and legislative proposals which have appeared recently. Firearms control is one of the pressing subdivisions of the general problem. No advanced industrial society has a populace as heavily armed as ours, and in no other are there so many deaths per capita by shooting. It has been estimated that fifty million firearms of one sort or another are privately owned in the United States.<sup>1</sup> Unfortunately, some of these weapons are used to commit crimes. About fifty-six percent of all American murder victims are shot to death;<sup>2</sup> most armed robberies are committed by means of firearms, as are a great many aggravated assaults. All but ten of the 278 law enforcement personnel killed in the line of duty between 1960 and 1965 were killed with firearms.<sup>3</sup>

The extent to which taking firearms out of circulation would alleviate these problems is highly debatable. The argument that other weapons would be used in the absence of firearms has great force, but there is no reliable evidence on the point. Crime statistics, which are unreliable at best, are subject to many different kinds of interpretation,

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<sup>1</sup> PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, *THE CHALLENGE OF CRIME IN A FREE SOCIETY* 239 (1967) (hereinafter cited as *PRESIDENT'S COMMISSION*).

<sup>2</sup> U.S. DEP'T OF JUSTICE, *INVESTIGATION BUREAU, UNIFORM CRIME REPORTS FOR THE U.S.* (1964, 1965).

<sup>3</sup> *Supra* note 1.

primarily because so many variables seem to be relevant to the frequency with which certain kinds of crimes are committed. It is clear, however, that taking all firearms out of circulation would have to ameliorate the situation to some extent. Knives or bludgeons will not kill men at fifty yards. Were there no legitimate uses for firearms and no legitimate reasons for being interested in firearms, restricting them altogether would doubtless reduce the number of violent deaths which take place.

The objective of the law should be to safeguard the citizenry to the greatest possible extent while interfering with legitimate pursuits to the least possible extent. The balance which has to be struck here will be largely a matter of taste. I suspect, however, that reduction of criminal violence would take priority in the minds of most Americans. This paper is directed toward suggesting a way in which the law could be usefully structured.

One argument commonly used by the firearms lobby must be dealt with initially. It rests on a common misreading of the second amendment to the Constitution, and runs to the effect that firearms regulations are unconstitutional on either the state or federal level. The second amendment has been interpreted, however, to limit only the federal government, and then only to the extent of protecting the right of states to equip their militia. There is no constitutional guarantee that individuals may own or bear arms.<sup>4</sup> In addition, nearly every state constitution has a provision guaranteeing the right to bear arms, and such limitations do not ordinarily place any practical limits on the ability of the state government to control firearms.<sup>5</sup>

#### FEDERAL FIREARMS LAWS

Present state firearms laws are inadequate for several reasons. The most important of these is that they are almost entirely unenforceable in the normal course of police or other official activities. Those which are enforce-

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<sup>4</sup> *United States v. Cruikshank*, 92 U.S. 542 (1875).

<sup>5</sup> Comment, *The Philadelphia Firearms Ordinance—A Case of Comprehensive Oversight*, 114 U. PA. L. REV. 550, 553 (1966).

able are vitiated by being too narrowly drawn and by the individual's ability, whatever his location, to find a state hospitable to firearms purchasers within, say, a day's drive. Additionally, most of the statutes in question are directed solely either towards the acquisition of weapons or towards the carrying of concealed weapons. For reasons to be discussed later, such laws do not meet society's needs. Even were they uniform throughout the states, they would not meet those needs.

The three major federal laws dealing with firearms are directed, as one might suspect, to interstate transportation, use of the mails, and to importation and exportation of weapons. The earliest of the federal laws is the National Firearms Act of 1934.<sup>6</sup> This law was designed to control the so-called "gangster weapons." It applies to machine guns, "sawed-off" rifles and shotguns, silencers, and all other concealable weapons which use explosive charges for propulsion, except ordinary pistols and revolvers. Under the terms of the Act, possessors of such devices must register them with the Treasury Department. A heavy tax, ranging up to two hundred dollars, is levied on the manufacture or transfer of each such weapon. Under the National Firearms Act it is unlawful to possess or transport in interstate commerce a weapon on which the tax has not been paid, or to change the serial numbers of weapons in the proscribed class. Penalties for violation of the Act are fines of up to two thousand dollars, or imprisonment of up to five years, or both. Weapons involved in violations of the Act are subject to seizure. Bona fide manufacturers and law enforcement agencies are exempt from most of these provisions.

This Act is doubtless effective in reducing the number of fully automatic (machine guns, sub-machine guns, and machine pistols) firearms in private hands, as the legitimate channels of acquisition of such weapons are entirely covered by the Act. There is ample evidence, however, that some war trophies which have been ostensibly deactivated by welding can be fairly easily restored to full operation with

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<sup>6</sup> Act of June 26, 1934, ch. 757, 48 Stat. 1236.

a file and new barrel which is readily available through commercial channels.<sup>7</sup> Mufflers and silencing devices are not commercially manufactured at present, and do not represent much of a problem in this country. They are, in any event, ineffective. "Sawed-off" rifles and shotguns can be made by laymen with saws; thus, the extent to which the Act prevents the use of these unpleasant devices depends on the competence of enforcement efforts. It is obviously easier to close commercial channels than private channels.

The second important federal law is the Federal Firearms Act of 1938.<sup>8</sup> This statute requires the licensing of all firearms manufacturers and dealers who use interstate commerce, and prohibits knowing shipment of firearms in interstate commerce to those who have been convicted of felonies or are fugitives from justice. It also prohibits licensed manufacturers and dealers from shipping firearms into states which require permits to purchase or which ban certain classes of firearms altogether. Ancillary provisions of this Act require the serial numbering of most kinds of firearms manufactured in or imported into the United States. All firearms and silencers using fixed ammunition, and all ammunition suitable for pistols and revolvers, except .22 caliber rimfire cartridges, fall within the provisions of this Act. Gunsmiths, retail and wholesale dealers, manufacturers, importers, and exporters are among those who must procure licenses. Such a license costs one dollar except for manufacturers, who must pay twenty-five dollars. No reliable information has been made public with respect to the number of individuals who have falsely registered as gunsmiths in order to qualify for the privileges which the Act extends. The licensed individual or firm may use the mails to receive or send pistols and revolvers. Possession of a license is widely held by the firearms trade to entitle one to purchase at wholesale. Thus, the chief

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<sup>7</sup> Statement of Sgt. K. T. Carpenter, Los Angeles Police Dep't, *Interstate Traffic in Mail Order Firearms, Hearings Before the Subcomm. to Investigate Juvenile Delinquency of the Senate Comm. on the Judiciary*, 88th Cong., 1st Sess. (1963).

<sup>8</sup> 52 Stat. 1250 (1938), 15 U.S.C. §§ 901-09 (1964).

effect of the Act is to force most mail-order handgun purchasers to receive their weapons through the Railway Express Agency, Greyhound Package Express, or United Parcel Service. The mail-order dealer is safe, under the terms of the law, if he solicits from purchasers a signed statement that the purchaser is over the age of twenty-one years, not a convicted felon, a fugitive from justice, or an habitual drunkard or drug user. This blanket statement reflects state law as well as the Federal Firearms Act, which only proscribes knowing shipment by or to a felon or fugitive from justice. Penalties for violation of the Federal Firearms Act are the same as for violation of the National Firearms Act. The obvious problem of enforcement with this law is that its objective, which is to keep concealable weapons from the hands of lawbreakers, is only likely to be met when such individuals, having unlawfully received a weapon in interstate commerce, are arrested for some other crime involving the use of the weapon unlawfully procured.

The Mutual Security Act of 1954<sup>9</sup> authorizes the President to regulate the import and export of firearms. In practice, the Department of State administers the Act, which is a tool of foreign policy rather than an effort to control domestic firearms. Under the Mutual Security Act, however, it does appear that certain undesirable classes of firearms could be excluded from the American market.

Post Office regulations permit mailing unloaded rifles and shotguns. Pistols can only be mailed in conformity with the Federal Firearms Act.<sup>10</sup>

#### STATE REGULATION

There is an extraordinary variety of state laws respecting firearms. The single most common provision licenses dealers in pistols and revolvers. Licensed dealers are required to keep records of the serial numbers of the guns and names of the purchasers. In some cases this information is forwarded to the police. At least twenty-two states have

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<sup>9</sup> 75 Stat. 445 (1961), 22 U.S.C. § 2381 (1964).

<sup>10</sup> 39 C.F.R. § 125.5 (1967).

enacted such a licensing provision.<sup>11</sup> Nine states require a prospective handgun purchaser to procure a license or permit in order to purchase.<sup>12</sup> The difficulty of obtaining such a permit varies considerably. Eleven states require the purchaser of a handgun to wait for some time for delivery.<sup>13</sup> Two to three days is the most common period.

Twenty-nine states require the handgun owner to obtain a license in order to carry a concealed handgun; nineteen states prohibit the carrying of handguns altogether; eighteen require that a license be procured to carry a handgun in an automobile; and twenty-two forbid the carrying of loaded firearms in automobiles.<sup>14</sup> The most common exceptions to state laws dealing with carrying and use of handguns provide for instances in which an individual is on his own property or is in fear of violent attack.

Only in New York State is a permit required for possession of a handgun, while in South Carolina sale of handguns is prohibited outright. And only in New Jersey and in the cities of Philadelphia and New York are permits required for the purchase of a rifle or a shotgun.<sup>15</sup>

The total effect of these regulations and the myriad county and municipal ordinances dealing with firearms control has been, as members of the firearms lobby have frequently claimed, more to harass persons interested in legitimate pistol use than to prevent professional criminals from obtaining concealable weapons. Only in New York State is possession of a pistol per se an offense,<sup>16</sup> and New York State is so located as to make it only slightly

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<sup>11</sup> Alabama, Arkansas, California, Connecticut, Delaware, District of Columbia, Georgia, Hawaii, Indiana, Iowa, Louisiana, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Virginia (county licensing), Washington, and West Virginia. PRESIDENT'S COMMISSION, *supra* note 1, at 240.

<sup>12</sup> Hawaii, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, and Rhode Island. Note, *Firearms: Problems of Control*, 80 HARV. L. REV. 1328, 1336-37 (1967).

<sup>13</sup> *Supra* note 11.

<sup>14</sup> *Id.*

<sup>15</sup> N.J. STAT. ANN. § 2A:151-32(B) (Supp. 1966); PHILADELPHIA, PA., CODE §§ 10-814(1), (2) (1965); N.Y.C. ADMIN. CODE ch. 18, §§ 436.6.0-436.6.16, 95 THE CITY RECORD 7566 (1967).

<sup>16</sup> N.Y. REV. PEN. LAW § 265.05.

difficult for one to obtain a handgun. Rifles and shotguns remain readily available, and it appears as if pressure on New Jersey's legislature will either force that State to modify its new purchase requirements regarding long guns or else to give up the idea of strictly enforcing it.

In any event, these laws do not reach the heart of the problem. Purchase restrictions alone do nothing to solve the problem of firearms already in private hands, while statutes which require licensing for concealable weapons only tend to prevent those who would observe the law from carrying handguns. This, of course, prevents an indeterminate number of casual killings, but it does not meet the essential difficulty that a concealed weapon is concealed until used. Capture of a professional criminal who uses a pistol or revolver in his crime is likely to be fortuitous and, in any event, not unlikely to be achieved without bloodshed.

The major difficulty with this net of ill-conceived law is that it assumes, for the most part, that the legitimate purposes of handgun ownership outweigh society's interest in order. Statutes designed to limit handgun ownership to reputable, sober, and competent persons have involved states either in arbitrary action or have involved complete breakdowns of enforcement. The thrust of any gun control law should be toward possession rather than acquisition. In determining how these laws should be drawn, three criteria are relevant. The law has to be enforceable. It must not be too expensive, too time-consuming, or too difficult to enforce. It must not be so stringent that enforcement breaks down because of general unwillingness to observe its provisions. The law must also protect the chief legitimate uses of firearms to the greatest extent possible. And, of course, the law, if it is to be worth establishing at all, must prevent some evil. In this case, it must supplement other, more basic, efforts to reduce the amount of crime and violence in our society.



## FIREARMS USES

There are a number of accepted uses for firearms. Hunting, target shooting and "plinking," defense, and collecting are among these. Hunting usually involves sporting rifles and shotguns, and, less commonly, pistols. Converted or reworked military surplus rifles are sometimes used to hunt, particularly by those with limited budgets. Modern semi-automatic military rifles can be used to hunt but tend to be less suitable or "sporting" than others. The handguns used for hunting tend to be either small, light .22 rimfire pistols or large heavy revolvers whose power is as great as some rifles. Handgun hunting has comparatively few devotees. While there is no clear evidence on the point, there is reason to believe that handgun hunters are by and large less successful than rifle hunters, and far more likely to wound game and let it escape. A pistol or revolver is extremely difficult to shoot accurately. Very few handgun owners can afford the time or ammunition to develop even passable skill with the pistol. Even relatively highly trained police officers are often a positive menace when a gun battle takes place.<sup>17</sup>

Competitive target shooting encompasses traditional firing at paper targets, with small-bore rifles at ranges of up to one-thousand yards. A specialized offshoot is so-called "bench-rest" shooting, in which rifles of fantastic accuracy are fired from artificial rests or supports, usually at one-hundred yards. The size of the group of shots, rather than target score, determines the winner of such a match. Pistols and revolvers are used in American target shooting at ranges of up to fifty yards. While no comparative figures are available, it appears that there are more small-bore rifle matches than center-fire rifle matches, and more of both than of pistol matches.<sup>18</sup> The most popular competitive shooting sports are undoubtedly Trap and Skeet, in which shotguns are fired at flying clay targets.

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<sup>17</sup> P. WESTON, *COMBAT SHOOTING FOR POLICE* (1960).

<sup>18</sup> See the list of forthcoming tournaments in any recent issue of *THE AMERICAN RIFLEMAN*.

"Plinking" is shooting at targets of opportunity—tin cans, empty bottles, and the like. The more breakable the target, the better. Rimfire rifles and pistols are usually used in this aspect of the shooting sports, although there is no reason, other than the much higher cost of ammunition, that heavier caliber weapons could not be used.

Many individuals keep firearms for defensive purposes. Probably most handguns owned in this country are kept either primarily for defense or double as defense weapons. "House guns" are usually some form of pistol and are frequently kept, fully loaded, in a bureau drawer or behind a store counter. Such pistols, particularly in the hands of the untrained, are likely to be more dangerous to the user or to innocents around him than to an attacker or robber. This is even more likely to be the case when a handgun is carried on the person for defensive purposes. The range at which an attacker is engaged is likely to be greater and it is more likely that other persons will be about than in the home.

Gun collecting is also a recognized pursuit in the United States. Collectors may specialize in any period of firearms manufacture or in any type of firearm. There are probably as many or more handgun collectors as long-gun collectors.

Much individual firearms activity stems from more than one of these pursuits or concerns. Few American men have not felt the romance of weaponry as related, for example, to the frontier, and few have not sensed the feeling of confidence or security which possession of a gun can bring. The extent to which these pursuits can properly be curtailed by law depends on the purpose of the law and the likelihood that a restrictive law would attain its objectives.

#### PROPOSED REGULATIONS

It seems clear that the point of attack should be the handgun. First, nearly three-quarters of all murders by shooting are performed with handguns. These were, in

1966, forty-four percent of all murders.<sup>19</sup> Were it not for the ready availability of handguns, some of these killings would not have taken place. These figures do not include shootings in which the victim recovers; thus, in a larger number of assaults, wounding would be likely to be less severe even if one grants that the same number of assaults would have taken place. In any event, the latter is an unlikely premise. The problem is compounded, of course, in that most of our murders involve family quarrels or disputes around the home. In these circumstances, the unavailability of guns is less likely to prevent serious injury than it would, say, in barroom disputes. It is safe to say that the mortality rate from such circumstances would certainly fall.

The handgun is also a good point of attack because its legitimate uses (apart from collecting) seem less legitimate to most people than do the uses of rifles and shotguns. Handgun hunting, while a pursuit which requires great skill in woodsmanship as well as in the use of the weapon, is a narrowly followed and specialized art. Many of its practitioners are far less skilled than they should be, and while this is not per se enough to justify regulation, it does suggest first, that few would suffer were it impossible to hunt with a handgun, and second, that the sport of hunting might actually benefit were handgun hunting impossible. Target shooting with handguns is also an art which requires skill and devotion. In that sense it would be a pity to proscribe the activity. But we should have reference to a more general principle here. Guns are weapons; they are not designed to transport people, or to cut meat, or to roll pie dough. Their present-day refinements are nearly all the result of weapons research and technology. While it is true that a fine target pistol bears little relationship to a "carry" gun, and that few competitive target shooters would carry their finely tuned and delicate target pistols on their persons or afield, it is practically impossible for the law to distinguish be-

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<sup>19</sup> U.S. DEP'T OF JUSTICE, INVESTIGATION BUREAU, UNIFORM CRIME REPORTS FOR THE U.S. (1966).

tween pistols designed solely for target shooting and those which could also be used for other purposes. In any event, target pistols, while relatively unwieldy, are still a great deal easier to conceal than a rifle or shotgun. I would argue, then, that pistol regulation would be useful, is justifiable, and inconveniences fewer sportsmen or shooters than rifle or shotgun regulation.

The rifle and shotgun are almost impossible to successfully conceal on the person; they have more legitimate utility than the handgun, and, in practice, are more likely to be protected by public opinion. In addition, for those who feel strongly that their homes must be protected, the shotgun is probably the best weapon for the purpose. It has more power than the pistol and yet fires a charge which does not travel as far with deadly effect. It is also a great deal easier to hit anything with a two-hand weapon. It seems likely, though, that the greatest security for the home would come from knowing that a caller at the door is unlikely to be armed himself. This could only be assured if no concealable weapons were available.

One type of rifle which has caused justifiable concern is the semi-automatic weapon sold as military surplus. These guns have few legitimate sporting uses; they are by and large unsuited for hunting, and, unless of American manufacture, do not qualify as "service rifles" for competitive target shooting under National Rifle Association rules. These military weapons, of both American and foreign manufacture, are heavily stocked by extremist groups;<sup>20</sup> in practice it may well be very difficult to distinguish between legitimate or accepted use of such weapons and undesirable use or possession of them. Some nations, like Mexico, meet this difficulty by prohibiting possession of firearms capable of shooting Mexican military ammunition.<sup>21</sup> This restriction is clearly aimed more toward the possibility of insurrection than toward general control

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<sup>20</sup> See FEDERAL FIREARMS ACT, *Hearings Before the Subcomm. to Investigate Juvenile Delinquency of the Senate Comm. on the Judiciary*, 89th Cong., 1st Sess. 133-41 (1965).

<sup>21</sup> J. COOPER, *COMPLETE BOOK OF MODERN HANDGUNNING* (1961).

of privately owned firearms. In the United States, however, there is a great deal of formal target shooting with service rifles. The chief events at the National Matches are fired with service rifles; such rifles are routinely issued by the Director of Civilian Marksmanship of the Department of the Army to shooting clubs which have affiliated themselves with the National Rifle Association.<sup>22</sup> It is probably safe to say that most target shooters who compete in this type of match are either in the armed forces or are affiliated with a shooting club enrolled with the Director of Civilian Marksmanship.<sup>23</sup> Regulation of private possession of this kind of firearm would probably cause target shooters a great deal of inconvenience were this not the case. As it is, club utilization of service weapons on loan from the Army should probably satisfy the needs of the formal target shooter. A number of nations, among them the Soviet Union, permit such club ownership of rifles and pistols while forbidding private ownership.<sup>24</sup> A similar scheme in this country could end the fear of military weapons stockpiling by extremist groups and at the same time protect the interests of the American target shooter. The administrative machinery for such a program already exists in the Office of the Director of Civilian Marksmanship.

A number of different regulatory devices are available to lawmakers. Laws can be drawn to control firearms acquisition, possession, use, shipment, or transfer. All of these tools should be used, and used as uniformly as possible. Efforts to control firearms in one state should not be vitiated by the ready availability of proscribed firearms in a neighboring state. A uniform state firearms law is necessary. What should such a law attempt to accomplish? The first specific objective must be to reduce the number of handguns in private hands. Thus, the law must be

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<sup>22</sup> United States Army Department, 13 Army Regulations 1965, 920-20 at 6.

<sup>23</sup> *Id.* In order to compete a shooter must ordinarily procure an NRA classification.

<sup>24</sup> Graves, *How the Soviet Controls Guns*, THE AMERICAN RIFLEMAN, January, 1967, at 43.

aimed at both possession and acquisition. Acquisition should be permitted only to a very narrowly specified class of persons. Bank guards and certain messengers and watchmen could be permitted to carry handguns in the course of their work and at no other time. The privilege should be revoked when the individual's duties in a qualifying capacity end. No other private acquisition of handguns ought to be permitted. The law should attempt to reach present possessors of handguns by requiring them to register their pistols or revolvers with the state police. The state should encourage the surrender of privately owned handguns by establishing equitable compensation for owners who turn in registered handguns. Unregistered privately owned handguns would, after a time, become contraband subject to seizure without compensation unless voluntarily surrendered. State legislatures could probably, without running afoul of the fourteenth amendment, prohibit the passage of firearms by testament, thus preventing registered handguns from remaining extant after the lifetimes of their present owners. The proposed law also ought to prohibit the sale of handguns from one individual to another. Moderate penalties should be assessed those in possession of unregistered handguns, in addition to seizure of the weapon. Heavy penalties should be assessed those who are caught carrying handguns or who commit crimes with handguns. The Federal Firearms Act as it now exists would close the channels of interstate commerce to pistols and revolvers if the states enacted laws embodying these provisions.

The suggested law will obviously not end the firearms problem overnight. But, by combining uniform regulation of possession as well as acquisition, the number of pistols and revolvers available both to those bent on violence and those who merely might commit violent acts will be slowly reduced.

Similar registration provisions ought to be adopted for rifles and shotguns. Registration efforts could be aided by requiring a hunter to either show a registration card or register his weapon at the time of procuring a hunting license. Target shooters, when entering matches, would have to show that their weapons are registered. After a

time, unregistered weapons would become contraband, but with one exception, no limitations ought to be placed on the sale or transfer of rifles and shotguns. Thus, if at some point in the future it appeared desirable to further limit firearms possession, it would be somewhat easier for law enforcement officials to locate rifles and shotguns. The exception just mentioned is for semi-automatic military weapons. Their sale and possession should be forbidden, although clubs ought to be permitted to own or borrow American military rifles for target shooting. Semi-automatic military weapons should be otherwise proscribed in the same way as pistols and revolvers.

Should the states fail to act in accordance with this regulatory scheme, the federal government could probably achieve something of the same effect by prohibiting all interstate carriage of handguns except those for official use or for bank guards and the like. Present restrictions on machine guns, silencers, and "sawed-off" rifles and shotguns should be tightened and extended to include explosives, artillery, and other destructive devices which are not presently regulated.

#### THE POLITICS OF FIREARMS REGULATION

For one reason or another, suggested firearms laws at both the federal and state levels have been inappropriate. They have represented at best half-hearted attempts to make some sort of regulatory effort without running afoul of the very effective firearms lobby. The inadequacy of the suggested legislation has contributed to its defeat. The firearms lobby consists of arms and ammunition manufacturers, importers, the retail sporting-goods trade, manufacturers of firearms accessories and sporting goods, the National Rifle Association, some conservation groups, and a large mass of organized and unorganized shooters, gun owners, and sportsmen. Some state legislatures have also taken up the cudgels in opposition to firearms control laws.<sup>25</sup>

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<sup>25</sup> See statements of the Louisiana, Washington and Nebraska legislatures. FEDERAL FIREARMS ACT, *Hearings Before the Subcomm. to Investigate Juvenile Delinquency of the Senate Comm. on the Judiciary*, 89th Cong., 1st Sess., 749-51 (1965).

While it is not suggested that the interests of these groups always run parallel (Senator Dodd's proposed firearms act<sup>26</sup> neatly split the domestic manufacturers and importers,<sup>27</sup> for example), they do seem highly cohesive.

It should be remembered also that proponents of firearms control legislation are tackling some of America's industrial giants. Winchester-Western is a subsidiary of Olin Mathieson Chemical Corporation; the Remington Arms Company and the Peters Cartridge Company are affiliated with DuPont in the production of ammunition. Other arms firms are also affiliated with larger American companies. In addition, domestic arms and ammunition producers have close relationships with the armed services. They are nearly all at present producing war material. This has to some extent curtailed commercial production of arms. The demand for pistols and revolvers, for example, far outstrips the ability of retail dealers to procure these weapons at present.

The National Rifle Association also has ties with the Army. A shooting club must be affiliated with the Association before it can be enrolled by the Director of Civilian Marksmanship and receive free ammunition and the loan of firearms. The Association controls the sport of target shooting in much the same way that the United States Lawn Tennis Association controls formal competitive tennis. The NRA maintains fruitful and effective relationships with the Army, which, for its part, lobbies in favor of civilian marksmanship training, which is justified as an adjunct to civil defense. The Army also houses the National Matches at Camp Perry, Ohio, and provides guns and ammunition for them.<sup>28</sup> There is also an Army program of sales of surplus firearms and ammunition to individual shooters and clubs who are members of or affiliated with the National Rifle Association.

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<sup>26</sup> S. 1592, 89th Cong., 1st Sess. (1965).

<sup>27</sup> See FEDERAL FIREARMS ACT, *Hearings Before the Subcomm. to Investigate Juvenile Delinquency of the Senate Comm. on the Judiciary*, 89th Cong., 1st Sess., 7-12 (1965).

<sup>28</sup> However, the Department of the Army has cancelled this year's matches, ostensibly on economic grounds. *N.Y. Times*, Nov. 2, 1967, at 1, col. 1.



This powerful lobby is unlikely to be defeated on the issue of firearms control. Present federal control bills are bottled up in committee and probably will not reach the floor. One contributing factor, perhaps, is the rural imbalance of the Senate and of most state legislatures. Another factor might be that most Senators grew up at a time when the United States still considered itself a largely rural country. The average age of Senators is nearly seventy. Of course, one cannot disregard, in examining the causes of the failure to pass firearms legislation, the disproportionate number of Southern Senators who hold key committee chairmanships. Perhaps we shall have to wait for an urban generation of legislators before we can see well-drawn and effective firearms controls.

Against the firearms lobby and the Senate are ranged the President and a loosely coalesced bloc of legislators and administrators. While public opinion polls demonstrate that they have the tacit support of large segments of the public, they do not have the kind of vocal, effective support of large numbers of people and important interest groups which is necessary to pass legislation. Although firearms control laws are part of the President's Anti-Crime Program, he is forced by political and budgetary exigencies to emphasize what he, perhaps rightly, considers the more important portions of the program—education, anti-poverty legislation, and the like.

Had the President and the liberal wing of Congress attempted to ram through a comprehensive firearms measure immediately after John F. Kennedy's assassination, they might well have succeeded. As it is, the memory of the manner of Kennedy's death remains one of the chief evocative weapons in their arsenal. They have often been loath to use it, however, and now it is too late. We have come full circle. Foreign affairs again co-opt much of our political activity. The assassination which effectively sparked interest in firearms control is fading in the memory as war and increased bloodshed deaden the senses to domestic violence.

The prospects are that a number of firearms control measures will be passed at the state level in the next year or two. New Jersey has already rewritten her firearms law, and other states can be expected to follow. Because of lack of uniformity, inconsistency, and failure to conform these laws to a substantial federal program, the new regulations will not meet our needs. Probably their chief effect will be to inconvenience hunters and shooters, while failing to reach the problems of crime and domestic violence.