

The Federal Firearms Act

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ture.⁸⁹ Under the Act, the regulations are subject to judicial review by the circuit court of appeals at the instance of any person who would be adversely affected by such regulation in cases where an actual controversy had arisen.⁹⁰ In this court's review, any findings of the Secretary as to facts, if supported by substantial evidence, is conclusive.⁹¹ Previously, a party adversely affected by any regulation would have had to depend upon the court's relief against such regulation when it was sought to be enforced against him, in which event, as part of the case, the regulation would be subject to the court's review. Today, the judgment of the court, affirming or setting aside any order of the Secretary, is final, subject only to review by the Supreme Court of the United States.⁹²

The new Act, with the exception of a few minor provisions which became effective on the date of its enactment, is to go into effect on June 25, 1939, on which date the old 1906 Act is expressly repealed.⁹³

LOUIS G. IASILLI.

THE FEDERAL FIREARMS ACT.—The transition of crime from a chiefly local problem to one of interstate and even international proportion has been taking place since the World War. This gradual change, necessarily resulting in a partial disability of local law enforcement, engendered the clamour for federal crime control. Accordingly, in 1933, the Senate directed the Committee on Commerce to investigate the subjects of kidnapping, "racketeering", and other forms of crime, and to recommend the necessary remedial legislation.¹ To the layman it might seem that the only authority required for the passage of such laws would be the police power but actually, the United States Government is, in this respect, under the very burdensome restraint of the Tenth Amendment.² The national government

⁸⁹ *Id.* § 371(a) (under subd. (e) the Secretary, upon his own initiative or upon the application of any interested industry, is to hold public hearings upon any proposal to issue, amend or repeal any regulation, with certain exceptions noted).

⁹⁰ *Id.* § 371(f) (1).

⁹¹ *Id.* § 371(f) (3).

⁹² *Id.* § 371(f) (4).

⁹³ *Id.* § 292(a). The sections of the Act authorizing the Secretary to promulgate regulations for the new Act, are to go into effect immediately. This will enable the Administration to set the groundwork so that the Act may be put into effect on June 25, 1939, with little disruption.

¹ SEN. RES. No. 74 (May 8, 1933, as amended June 12, 1933).

² U. S. CONST. Amend. X ("The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people").

has no police power except that expressly or impliedly granted it by the Constitution.³

The important powers through which Congress may try to curb crime are the power to tax,⁴ the power over interstate and foreign commerce,⁵ and the power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers."⁶ The power to tax has been responsible for the control of narcotics⁷ and machine guns,⁸ while the power over interstate and foreign commerce has resulted in the control over kidnapping,⁹ white slavery,¹⁰ stolen motor vehicles,¹¹ and opium for smoking purposes.¹²

Although it was common knowledge that many crimes occurred through the use of dangerous and deadly weapons, such as pistols and revolvers, control of these articles by the federal government was hampered by the Second Amendment¹³ and by various groups favoring state control. Finally, the Committee on Commerce, through a subcommittee headed by Senator Murphy of Iowa, Senator Vandenberg of Michigan, and the late Senator Copeland of New York, proposed¹⁴ the Federal Firearms Act¹⁵ which met with the approval of the National Rifle Association and the National Pistol Association¹⁶ and which, as we shall see later herein, does not contravene the Second Amendment.

I.

The Federal Firearms Act¹⁷ became law with the approval of President Roosevelt on June 30th, 1938. It went into effect on July 30th with the purpose of regulating interstate commerce in firearms and consequently curbing the possession of such weapons by criminals. The Act provides for the licensing of all manufacturers and dealers in the interstate commerce of firearms. Criminals are banned from either receiving or sending firearms in interstate or foreign com-

³ *United States v. Cruikshank*, 92 U. S. 542 (1875); *New Orleans, etc., Co. v. Louisiana, etc., Co.*, 115 U. S. 650, 6 Sup. Ct. 252 (1885); *United States v. L. C. Knight Co.*, 156 U. S. 1, 15 Sup. Ct. 249 (1894); 12 C. J. 910.

⁴ U. S. CONST. Art. I, § 8, cl. 1.

⁵ *Id.* cl. 3.

⁶ *Id.* cl. 18.

⁷ 44 STAT. 120 (1926), 26 U. S. C. A. § 1040 (1934).

⁸ 48 STAT. 1236, 26 U. S. C. A. §§ 1132-1132q (1934).

⁹ 47 STAT. 326 (1932), 18 U. S. C. A. § 408a (Supp. 1938).

¹⁰ 36 STAT. 825 (1910), 18 U. S. C. A. § 398 (1926).

¹¹ 41 STAT. 324 (1919), 18 U. S. C. A. § 408 (1926).

¹² 35 STAT. 614 (1909), 21 U. S. C. A. § 173 (1926).

¹³ U. S. CONST. Amend. II ("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").

¹⁴ 78 CONG. REC. 448-460 (1934).

¹⁵ 52 STAT. 1250, 15 U. S. C. A. §§ 901-909 (Supp. 1938).

¹⁶ 81 CONG. REC. 1527 (1937).

¹⁷ 52 STAT. 1250, 15 U. S. C. A. §§ 901-909 (Supp. 1938).

merce. Stolen firearms and those with obliterated serial numbers are barred from such commerce. The Act has nine sections but for purposes of clarity and brevity shall be treated under three divisions: definitions, prohibitions, and administration.

Definitions.

The terms "person", "interstate and foreign commerce", "manufacturer", "dealer" and "crime of violence", as defined¹⁸ in the Act do not necessitate discussion. A "firearm", by its definition, would include all weapons such as pistols, revolvers, rifles, machine guns, "sawed-off" shotguns, and tear gas guns. The term "ammunition" specifically excludes .22-caliber rim-fire ammunition and impliedly excludes rifle and shotgun ammunition. This was done, no doubt, to appease the various sportsmen's and hunters' groups and farmers. The term "fugitive from justice" does not apply to one who has fled to avoid prosecution for a crime other than a crime of violence, but it does apply to one who has fled to avoid giving testimony in any criminal proceeding even if the latter does not involve a crime of violence.¹⁹

Prohibitions.

The prohibitions may be properly classified according to the particular group prohibited from doing the enumerated acts. There are four groups: manufacturers or dealers, those under indictment for a crime of violence, fugitives or those convicted of a crime of violence, and the rather inclusive classification, "any person".

Manufacturer or dealer: This group is forbidden to ship, transport, or receive, in interstate or foreign commerce, any firearm or ammunition unless licensed to do so²⁰ and even if licensed, anyone within the group cannot ship or transport any firearm to any person

¹⁸ *Id.* at 1250, § 901:

"(3) The term 'firearm' means any weapon * * * which is designed to expel a projectile or projectiles by the action of an explosive and a firearm muffler or firearms silencer, or any part or parts of such weapon.

"(6) The term 'crime of violence' means murder, manslaughter, rape, mayhem, kidnaping, burglary, housebreaking; assault with intent to kill, commit rape, or rob; assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment for more than one year.

"(7) The term 'fugitive from justice' means any person who has fled from any State, Territory, the District of Columbia, or possession of the United States to avoid prosecution for a crime of violence or to avoid giving testimony in any criminal proceeding.

"(8) The term 'ammunition' shall include all pistol or revolver ammunition except .22-caliber rim-fire ammunition."

¹⁹ *Ibid.*

²⁰ 52 STAT. 1250, 15 U. S. C. A. § 902a (Supp. 1938).

in any state which requires a license for the purchase of a firearm, unless such license is *exhibited* to the manufacturer or dealer by the prospective purchaser, or unless the purchaser is another dealer or manufacturer licensed under the Act.²¹ The above sections do not prohibit anyone not a dealer or manufacturer. Before the federal government can get jurisdiction under the preceding provisions, it must show that either the shipper or receiver is a manufacturer or dealer and in such a case only the manufacturer or dealer is violating the Act.

Those under indictment for a crime of violence: Under Section 902e of the Act, this group is forbidden to ship, transport, or cause to be shipped or transported any firearm or ammunition in interstate or foreign commerce.²² There are no express provisions against receiving firearms or ammunition in interstate commerce but it would seem that if such an article is received by one in this group because of an order placed in interstate commerce by such person, the clause, "cause to be shipped or transported", is violated. Therefore, such person may receive firearms or ammunition in interstate commerce only when he did not solicit or order such article.

Fugitives or those convicted of a crime of violence: This group is under the same prohibitions as the preceding group,²³ and in addition, under Section 902f, may not receive any firearm or ammunition in interstate or foreign commerce.²⁴ In conjunction with the latter provision, Congress has seen fit to add, "* * * and the possession of a firearm or ammunition by any such person shall be presumptive evidence that such firearm or ammunition was shipped or transported or received, as the case may be, by such person in violation of this Act."²⁵ This presumption must necessarily apply only to Sections 902e and 902f for it is only under these sections that *such person* is prohibited from shipping, transporting, or receiving firearms or ammunition. The presumption does not apply to Section 902f alone for the provision expressly states "in violation of this Act" and furthermore, to hold that it applies only to Section 902f would be to render the phrase "was shipped or transported" nugatory. For, if such person has the article in his possession, he could not have shipped it, although he might have transported it in interstate commerce, and in the latter case he would not be guilty under Section 902f because the crime thereunder is *receiving* in interstate or foreign commerce. Therefore, in order to give full effect to the legislative intent, we must contend that the presumption applies to Sections 902e and 902f.

Any person: No one is permitted, in interstate or foreign commerce, to receive any firearm or ammunition from an unlicensed dealer

²¹ *Id.* § 902c.

²² *Id.* § 902e.

²³ *Ibid.*

²⁴ *Id.* § 902f.

²⁵ *Ibid.*

or manufacturer if he knew or had reasonable cause to believe such manufacturer or dealer to be unlicensed.²⁶ One notes that this provision does not apply to transactions between individuals neither of whom is a dealer or manufacturer.

Nobody is permitted to ship, transport, or cause to be shipped or transported, in interstate or foreign commerce, any firearm or ammunition to any person, knowing or having reasonable cause to believe that such person is a fugitive or is under indictment for, or was convicted of a crime of violence.²⁷ Further, there is a prohibition against shipping, transporting, or causing to be shipped or transported, in interstate or foreign commerce, any stolen firearm or ammunition, knowing or having reasonable cause to believe such to have been stolen.²⁸ Nor may one deal in firearms which have been stolen from interstate commerce, knowing such to have been stolen.²⁹

Section 902i forbids the shipping, transporting, or knowingly receiving, in interstate or foreign commerce, of any firearm from which the manufacturer's serial number has been removed, obliterated or altered, "and the possession of any such firearm shall be presumptive evidence that such firearm was transported, shipped, or received, as the case may be, by the possessor in violation of this Act."³⁰ It is clear that the presumption applies only to the instant subdivision for only under this section is there any ban against *such* firearm.

Administration.

The Act is to be administered by the Secretary of the Treasury who may prescribe necessary rules and regulations,³¹ and issue licenses to manufacturers and dealers.³² Within forty-eight hours after conviction of a licensee for a violation under the Act, the clerk of the court is to notify the Secretary of the Treasury who shall revoke such license, unless, upon appeal from such conviction, the licensee posts a \$1,000 bond.³³ The bond stays revocation pending the appeal. Licensed dealers must maintain records of shipments, importations, and other disposal of firearms or ammunition.³⁴

²⁶ *Id.* § 902b.

²⁷ *Id.* § 902d.

²⁸ *Id.* § 902g.

²⁹ *Id.* § 902h ("It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any firearm or ammunition or to pledge or accept as security for a loan any firearm or ammunition moving in or which is a part of interstate or foreign commerce, and which while so moving or constituting such part has been stolen, knowing, or having reasonable cause to believe the same to be stolen").

³⁰ 52 STAT. 1250, 15 U. S. C. A. § 902i (Supp. 1938).

³¹ 52 STAT. 1250, 15 U. S. C. A. § 907 (Supp. 1938).

³² *Id.* §§ 903a-903d (at least two years must elapse before a new license is issued if the previous one was revoked).

³³ *Id.* § 903c.

³⁴ *Id.* § 903d.

The Act does not apply to the United States Government, nor to any state government, nor to any municipality, nor to any commissioned officer or agent thereof.³⁵ Banks, public carriers, express or armored-truck companies, or research laboratories may be granted exemptions.³⁶ Unserviceable firearms or ammunition held as curios do not come within the Act.³⁷

Anyone who knowingly makes a false statement in applying for a license or exemption under the Act, shall, upon conviction, be liable to a maximum fine of \$2,000 or a maximum prison term of five years, or both.³⁸ A violator of any of the provisions is liable to the same penalty.³⁹

II.

Congress has the power to make all laws necessary for the regulation of interstate and foreign commerce.⁴⁰ The Federal Firearms Act⁴¹ is well within the scope of such authority, and it matters not that the exercise of the power is attended by the same incidents that are prevalent in the police powers of the states.⁴² Such legislation has been consistently upheld as evidenced by the banning from interstate commerce of lottery tickets,⁴³ adulterated and improperly labeled food,⁴⁴ opium for smoking purposes,⁴⁵ stolen motorcars,⁴⁶ prison-made goods,⁴⁷ "white slaves",⁴⁸ and narcotics generally.⁴⁹ Are firearms less potentially dangerous or detrimental to the public welfare than any of these? Is society put in a greater state of unrest by a lottery ticket?

The Act may possibly be contested on the ground that it infringes upon "the right to bear arms",⁵⁰ or that it violates the "equal

³⁵ *Id.* § 904.

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Id.* § 905.

³⁹ *Ibid.*

⁴⁰ See notes 5 and 6, *supra*.

⁴¹ 52 STAT. 1250, 15 U. S. C. A. §§ 901-909 (Supp. 1938).

⁴² *Gibbons v. Ogden*, 9 Wheat. (22 U. S.) 1, 197 (1824); *United States v. Carolene Prod.*, 304 U. S. 144, 58 Sup. Ct. 778 (1938); Whitney, *The Latest Development of the Interstate Commerce Power* (1903) 1 MICH. L. REV. 615; (1938) 13 ST. JOHN'S L. REV. 147.

⁴³ *Champion v. Ames*, 188 U. S. 321, 23 Sup. Ct. 321 (1902).

⁴⁴ *Weeks v. United States*, 245 U. S. 618, 38 Sup. Ct. 219 (1917).

⁴⁵ *United States v. Yee Fing*, 222 Fed. 154 (D. C. Mont. 1915).

⁴⁶ *Brooks v. United States*, 267 U. S. 432, 45 Sup. Ct. 345 (1924).

⁴⁷ *Whitfield v. Ohio*, 297 U. S. 431, 56 Sup. Ct. 532 (1936).

⁴⁸ *Hoke v. United States*, 227 U. S. 308, 33 Sup. Ct. 281 (1913).

⁴⁹ *Yee Hem v. United States*, 268 U. S. 178, 45 Sup. Ct. 470 (1924).

⁵⁰ U. S. CONST. Amend. II.

protection of the laws" clause,⁵¹ or that it violates the "due process" clause.⁵²

*Right to bear arms:*⁵³ The contention that the Act infringes upon this right has been answered about fifty years ago when it was held that "to regulate a conceded right is not necessarily to infringe the same."⁵⁴ It would be absurd to hold that provisions requiring a license infringe the right to keep arms.

Equal protection of the laws: Class legislation is unconstitutional only when the classification is arbitrary and unreasonable.⁵⁵ It is clear that fugitives, those convicted of a crime of violence, and those under indictment for such a crime, are the ones who are most likely to use firearms to the detriment of all society. The classification is certainly not arbitrary for it is based on general considerations of prevailing conditions, and therefore does not unconstitutionally contravene the equal protection of the laws.

Due process of law: The latter parts of Sections 902f and 902i are the controversial ones because they deal with statutory presumptions. The United States Supreme Court, in *Mobile J. & R. C. R. R. v. Turnipseed*,⁵⁶ set down the rule in reference to such presumptions:

"That a legislative presumption of one fact from evidence of another may not constitute a denial of due process of law, * * * it is only essential that there be some rational connection between the fact proved and the ultimate fact presumed, and that the inference of one fact from proof of another shall not be so unreasonable as to be a purely arbitrary mandate."⁵⁷

⁵¹ There is no "equal protection" clause in the Bill of Rights but it has been held that the constitutional guaranty of due process in the Fifth Amendment implies the equal protection of the laws. *Sims v. Rives*, 84 F. (2d) 871 (App. D. C. 1936), *cert. denied*, 298 U. S. 682, 56 Sup. Ct. 960 (1936).

⁵² U. S. CONST. Amend. V.

⁵³ 2 STORY, CONSTITUTION (2d ed. 1851) § 1897 (The enormous expense of maintaining a standing army and the fear of having rights disregarded by unscrupulous rulers gave rise to the right to bear arms). McKenna, *The Right to Keep and Bear Arms* (1928) 13 MARQ. L. REV. 138, 149 (Today, in view of the well-regulated militia and of the comparative absence of having "raw levies * * * turn out overnight, * * * it is conceivable that the courts may well restrict the right * * * exclusively to the militia").

⁵⁴ *State v. Workman*, 35 W. Va. 367, 372, 14 S. E. 9, 11 (1891) ("Thus, a prohibition against passing any law abridging the freedom of speech or of the press would scarcely be so construed as to prohibit all statutes defining and punishing slander or criminal libel; and the inhibition against passing any law restricting the free exercise of religion would not prevent the passage of an act prohibiting immorality when practiced as a religious tenet").

⁵⁵ *Orient Ins. Co. v. Dagg*, 172 U. S. 557, 19 Sup. Ct. 281 (1898); *Old Dearborn, etc. v. Seagrams-Dist.*, 299 U. S. 183, 57 Sup. Ct. 139 (1936); *Gunn v. Minneapolis, etc., Ry.*, 34 N. D. 418, 158 N. W. 1004 (1916).

⁵⁶ 219 U. S. 35, 31 Sup. Ct. 136 (1910).

⁵⁷ *Id.* at 43.

A recent authoritative article⁵⁸ sets forth a working definition:

" * * * the fact out of which the presumption flows should be relevant to the crime charged, * * * should be an ingredient of the crime charged, * * * and should be one which experience has demonstrated to be closely connected with the establishment of the crime as distinguished from evidence of the crime."⁵⁹

In view of these attributes it is submitted that the presumptions in the Federal Firearms Act cannot be held constitutional. It does not seem logical to hold that possession of a firearm with an obliterated serial number evidences the fact that the possessor knowingly received the gun in that condition in interstate commerce. The reasonable man would presume that the possessor was the one who obliterated the serial number. Section 902f presumes that the possession of a firearm or ammunition by a criminal evidences the fact that such article was shipped, transported, or received by the criminal from another state. Considering outside factors,⁶⁰ it is submitted that the presumptions in Sections 902f and 902i are unreasonable, and therefore, unconstitutional.

There is a similar presumption in the Narcotics Act.⁶¹ Possession of narcotics or opium for smoking purposes is presumptive of illegal importation by the possessor.⁶² This artificiality has been upheld because the courts have taken judicial notice that narcotics are not domestic commercial products.⁶³

It would seem that the constitutionality of these presumptions will not be determined for a long time. Federal agents may possibly use the presumptions as an excuse to hunt down criminals, and if state lines have not really been crossed, "release" the captured criminal into the arms of the state authorities, rather than make the Act stand the constitutionality test. In this respect, the Federal Firearms Act is analogous to the Lindbergh Act.⁶⁴ In the latter there is a pre-

⁵⁸ O'Toole, *Artificial Presumptions in the Criminal Law* (1937) 11 St. JOHN'S L. REV. 167.

⁵⁹ *Id.* at 187.

⁶⁰ 78 CONG. REC. 456 (1934) (There are fifteen to twenty million guns in the United States. These firearms are not centralized in one locality, nor are all manufacturers located in one community).

⁶¹ 48 STAT. 1236, 26 U. S. C. A. §§ 1132-1132q (1934).

⁶² 38 STAT. 275 (1914), 21 U. S. C. A. §§ 174, 181 (1928).

⁶³ *United States v. Yee Fing*, 222 Fed. 154 (D. C. Mont. 1915). The law of artificial presumptions has been fully discussed in the following articles which cite sufficient cases: O'Toole, *loc. cit. supra* note 58; Brosman, *The Statutory Presumption* (1931) 5 TULANE L. REV. 178; Keeton, *Statutory Presumptions—Their Constitutionality and Legal Effect* (1931) 10 TEX. L. REV. 34; Lane, *Presumptions* (1923) 22 MICH. L. REV. 207; Morgan, *Some Observations Concerning Presumptions* (1931) 44 HARV. L. REV. 906; Note (1930) 43 HARV. L. REV. 100; Legis. (1935) 10 St. JOHN'S L. REV. 169.

⁶⁴ 48 STAT. 781 (1934), 18 U. S. C. A. § 408a (Supp. 1938).

sumption that three days after a kidnapping, the victim, if he has not as yet reappeared, has been transported beyond the boundaries of the state.⁶⁵ This presumption enables the federal agents to arrive on the scene of a kidnapping before the clues disappear. Its constitutionality has never been determined because the facts in each case under the statute showed an actual interstate transportation,⁶⁶ and it is settled that constitutional questions are treated in the aspect presented by the facts of the particular case, rather than by facts which might exist in other cases.⁶⁷

Even if the presumptions in this Act are declared unconstitutional, the Act, as a whole, will not be affected, for it is the general rule that if the valid part of a statute is separable from the invalid part, the valid part will be sustained.⁶⁸

III.

In the aggregate, the Federal Firearms Act is sensible and desirable. The individual states may aid the national government combat crime by passing legislation making it mandatory to obtain a license for the purchase or possession of a firearm. By this method most transactions between individuals and dealers would come within the purview of Section 902c.⁶⁹

Section 902c would be more comprehensive if the term "licensed manufacturer and dealer" were changed to read "person". The amended 902c would read: "It shall be unlawful for any *person* to transport or ship any firearm in interstate or foreign commerce to any person other than a licensed dealer or manufacturer in any state the laws of which require that a license be obtained for the purchase of such firearm, unless such license is exhibited to such *person* by the prospective purchaser." The Section so amended would cover transactions between individuals neither of whom is a dealer or manufacturer, and also transactions now covered by the Section as it is at present.

Federal legislation providing for a nominal yearly tax or a nomi-

⁶⁵ *Ibid.*

⁶⁶ *Gooch v. United States*, 297 U. S. 124, 56 Sup. Ct. 395 (1935); *Bailey v. United States*, 74 F. (2d) 451 (C. C. A. 10th, 1934); *Kelly v. United States*, 76 F. (2d) 847 (C. C. A. 10th, 1935); *Seadlund v. United States*, 97 F. (2d) 742 (C. C. A. 7th, 1938); *United States v. Parker*, 23 F. Supp. 880 (D. C. N. J. 1938); *United States v. Powell*, 24 F. Supp. 160 (E. D. Tenn. 1938).

⁶⁷ *Copperthwaite v. United States*, 37 Fed. 846 (C. C. A. 6th, 1930).

⁶⁸ *Presser v. Illinois*, 116 U. S. 252, 6 Sup. Ct. 850 (1886); *Supervisors of Albany v. Stanley*, 12 Fed. 82 (N. D. N. Y. 1882); *Dundee Mortgage, etc., Co. v. School Dist. No. 1*, 21 Fed. 151 (D. C. Ore. 1884); 52 STAT. 1252, 15 U. S. C. A. § 908 (Supp. 1938) (furthermore the Act itself provides that should "any section or subsection * * * be declared unconstitutional, the remaining portion of the chapter shall remain in full force and effect").

⁶⁹ 52 STAT. 1250, 15 U. S. C. A. § 902c (Supp. 1938).

nal transfer tax on firearms may possibly be effective, not as a crime deterrent, but as a means to enable states, requiring licenses for the possession of firearms, to enforce their licensing provisions. The federal authorities could give the names and addresses of firearms taxpayers to the state authorities. It is logical to suppose that criminals possessing guns would not register and pay the nominal tax; but then, because of the tax, the federal government would have jurisdiction and might concurrently help the state capture the criminal.

As a further step to federal crime control, it would be very expedient to have the United States Constitution amended to forbid the carrying of concealed deadly weapons. In view of the fact that fifteen states have no constitutional provisions for the bearing of arms and therefore can pass such legislation,⁷⁰ and at least twenty-nine other states have upheld statutes forbidding the carrying of concealed weapons or concealed deadly weapons,⁷¹ there is every indication that such a proposed amendment would attract the required two-thirds of the state legislatures.

ALFRED M. ASCIONE.

SAVINGS BANK LIFE INSURANCE.—The legislatures of the several states have long realized that the public has a vital interest in the conduct and affairs of the numerous life insurance companies. By stringent state regulation many abuses deemed inimical to this public interest have been eliminated. Supervision alone, however, has proven ineffectual in certain instances, particularly in the field of industrial insurance¹ where the sale by private companies has been marked by high cost, high-pressure salesmanship by solicitors and excessive number of lapses.²

⁷⁰ California, Delaware, Illinois, Iowa, Maryland, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Virginia, West Virginia, and Wisconsin.

⁷¹ Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, Montana, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, and Wyoming (the missing states are Connecticut, Maine, Rhode Island, and Vermont).

¹ VANCE, *LAW OF INSURANCE* (2d ed. 1930) 38. "Industrial insurance is the name applied to that kind of life insurance which is procured by working men usually engaged in industrial enterprises. It is peculiar in that it is usually granted in small amounts without medical examination and primarily intended to provide proper care for the insured during his last sickness and after his death." The newspapers frequently use "burial insurance" as a synonym for industrial insurance.

² Louis D. Brandeis, *Wage Earners' Life Insurance*, *Collier's Weekly*, Sept. 15, 1906. "The sacrifice incident to the present industrial insurance system could be avoided only by providing an institution for insurance which would