

FOR RELEASE UPON DELIVERY

DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

FIREARMS AND THE CRIME PROBLEM

An Address

by

HONORABLE HOMER CUMMINGS

THE ATTORNEY GENERAL OF THE UNITED STATES

before the

ANNUAL CONVENTION OF THE
INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Lord Baltimore Hotel

Baltimore, Maryland

Tuesday, October 5, 1937.

11:30 a. m.

Charles Harris was convicted of murder in the District of Columbia and sentenced to death. After the conviction I ordered an investigation for the purpose of tracing, if possible, three weapons which were found in a secret compartment of the car used in the murder. I wanted to know where those guns had come from originally and through whose hands they had passed. An elaborate investigation was undertaken, which, so far as throwing light on the Harris case, proved unproductive.

But we learned this: A few years before the murder, a man walked into a sporting goods store in a northern city, represented himself as a hardware dealer and, having given a fictitious name, purchased 30 weapons. Two of these eventually found their way to the secret compartment of the murder car. The list of 30 weapons included three 45 caliber Colt revolvers, three 45 caliber Smith & Wesson revolvers, twelve 38 caliber Smith & Wesson special revolvers, six 38 caliber Del Colt special revolvers, and six 45 caliber Remington derringers. The sporting goods dealer who sold the guns had no method of identifying the purchaser and thus the trail ended. But we did find this: Some of the 30 weapons were later found on the scene of gang killings at Oak Park, Illinois; Newark, New Jersey; and Philadelphia, Pennsylvania.

I recite this incident because it is a startling testimonial to America's inertia in dealing with the traffic in firearms. At the same time it is typical of the ease with which weapons find their way to the underworld. I wish to address myself to the subject of firearms

regulation and principally to the responsibility of the Federal Government in this regard.

If we are to be realistic in our approach to the problem of firearms legislation we must recognize that firearms have legitimate uses, not only in the hands of law enforcement officials but in the hands of the private citizen. Hunting is an American sport and the sportsmen of America, are by and large, a fine group of citizens; and to many it is a form of livelihood. In some communities the shotgun and the rifle are a traditional part of the American farmer's household equipment. There are well organized rifle and pistol clubs, the members of which find a genuine diversion in target practice. There are outdoors men in limited number, such as trappers and guides, to whom a side-arm is as much a part of their equipment as a mackinaw or a pair of boots. There are institutions such as banks and trucking concerns, engaged in transporting large sums of money, which have legitimate use for firearms as protective devices. Mention should be made also of the collectors of firearms. Any measure for firearms control must of necessity make provision for these groups and the proper uses which they make of weapons.

On the other hand, firearms have illegitimate uses. Our homicide rate in the United States runs annually between 11,000 and 12,000 victims. The proportion of these deaths due to firearms is approximately 70 per cent, a terrific toll and one that cannot be minimized by fine-spun rationalization. I might add, parenthetically, while making mention of this staggering figure, that deaths from homicide in this country are 20 times more common than in

England and Wales, and ten times more frequent than in Canada. And I might add, parenthetically again, that while almost 70 percent of our homicide rate is traceable to firearms, Canada shows a percentage of but 32 and England and Wales less than 12. Yes, firearms have their illegitimate uses also; but before this gathering I am sure that a further elaboration on this point is superfluous.

Any plan for firearms regulation must take into consideration the proper and the improper uses of firearms. It must, so far as possible, recognize the first and curb the second. On the other hand any regulatory measure will impinge upon certain groups and interests. Anything that appreciably throttles production of firearms will arouse the wrath of those who profit by a limitless market. Personally I see no necessity for the adoption of legislation which cannot both protect the legal use and curb the illegal use of firearms. But, mark my word, if the American people are ever faced with the choice between protecting the luxury of pistol shooting on the one hand, and of dealing a smashing blow at the criminal traffic in firearms on the other, we can be sure what their choice will be.

In this country we have a background which partially explains our reluctance to curb the traffic in firearms. Pilgrim Fathers shouldered muskets as they made their way to Sunday worship. Prairie schooners crawled slowly across the plains to the new West under the watchful care of riflemen. The gun was a symbol of the turbulence which accompanied America's Westward expansion. A man's home is his castle and in America, the land of opportunity, the castle of the homesteader was jealously guarded. Such, then, was our tradition and we find traces of this tradition today in our laws dealing with firearms.

Just how far have we gone in this matter? And to what extent has the tradition of our hazardous pioneer existence shaped the law of the modern State? In the first place, firearms control has been regarded as primarily a matter within the police power of the State. Each of the States has approached the problem differently and independently of the others, and the attempts at uniform legislation have been far from fruitful.

State statutes have pretty generally prohibited the carrying of concealed weapons. These statutes do not apply to the individual who carries a weapon openly. Some of the States have increased the penalty for a crime where firearms were used in its commission. In some States a license is required of those who deal in firearms. The license fee is ordinarily not a large one, and is available to virtually anyone who can pay the fee fixed by the statute. Some of the States require manufacturers and dealers to keep a record of sales, with the name and address of purchasers, but ordinarily no extensive identification is required - such as finger printing or a check upon the applicant's criminal record. In a number of cities and in many States there are provisions in the law which require that anyone who wishes to carry a firearm on his person must secure a permit, usually from the police authorities of the municipality or the county.

For the most part, however, the traffic in firearms has flowed on uninterrupted. This was the situation in 1927 when the Federal Congress enacted a statute which prohibited the use of the mails for the transportation of concealable firearms. This statute, of course, was quickly circumvented by the simple device of transporting the weapons by express.

The president of one of the large mail-order houses in the United States which has discontinued the sale of firearms admitted that his company had done an annual pistol business amounting to \$250,000. His statement is significant. "We found" he said, "that most of these pistols were being bought for unlawful purposes."

Such was the situation then when, in 1934, I submitted to the Federal Congress a bill based upon the tax power and patterned upon the Harrison Narcotic Act. It came to be known as the National Firearms Act. The measure was not based on the commerce clause for the reason that the traffic in firearms is not always interstate. For example, we wanted a record of the guns which were shipped from Philadelphia to Pittsburgh within the same State, and we wanted every owner of a firearm in both these cities to be subject to the terms of the statute.

The tax power, consequently, seemed the only basis upon which to frame a registration statute. Briefly this bill did three things. First, it placed a tax on all manufacturers, dealers, importers and pawnbrokers dealing in firearms and required records of manufacture and sale. A firearm was defined in the bill and did not include ordinary sporting weapons. Secondly, a tax was placed on the transfer of such firearms and the act required from the transferee certain identification information including fingerprints and photograph. Third, the bill called for the registration of all such firearms which were in existence at the time the act went into effect. There was no charge made for the registration.

It should be made clear that we did not expect certain results from the act. We did not expect, for instance, that criminals possessing

weapons would register them. Under this bill no person then possessing a weapon was to be deprived of that weapon unless he violated the provisions of the act, in which case there were provisions for forfeiture. The act did not require permits or licenses to purchase weapons. The act did not set up a system of permits or licenses to possess or carry weapons. These were matters, for the most part, beyond the control of the Federal Government. They fell within the jurisdiction of the States.

When the bill came on for hearing one of the witnesses opposed to the legislation, in order to show his good faith, stated that he had been advocating State legislation for fifteen years. The reply of one of the Congressmen was, to my mind, significant. "Are you advocating that we play along for fifteen more years?"

I have indicated certain things that could not be accomplished by the act. Let me point out what the act did accomplish. In the first place, under its terms if the criminal did not register his gun and he was arrested with a gun he could be sent to the penitentiary for as many as five years. There was no necessity to link such a law violator with a kidnap scheme, a burglary, a robbery or a murder. There was no necessity to try him on charges which would be difficult to prove. The statute provided a simple way of reaching the known criminal.

This question has been asked: "If a criminal is not going to register a gun, what point is there in having a registration of guns which are possessed by non-criminals?" The answer is this: "Tomorrow's supply of guns for the underworld is today in the hands of manufacturers and private individuals who will register under the act." Every weapon

possessed by a law-abiding citizen and every weapon hereafter manufactured is a potential weapon for use by criminals. These guns in time are lost, or sold or pawned. Under this act a criminal won't buy a weapon from an honest citizen or a registered dealer because in order to make a purchase he will have to submit his fingerprints. Legitimate firearms dealers and honest citizens will not be a party to such a violation. For this reason we want a registration of guns now legitimately possessed, as well as those which are to be hereafter manufactured. Of course the statute was not made applicable to law enforcement officers.

When the bill was introduced in the Congress interested groups began their opposition with the result that pistols and revolvers were not included in the measure as it finally passed. With the ordinary hunting rifle and shotgun excluded, and with pistols and revolvers eliminated, the act for all intents and purposes became a federal machine gun act. The act has been in effect three years. During that time there have been registered 9,316 sub-machine guns, 11,520 machine guns and machine rifles, 16,456 miscellaneous weapons and 769 silencers.

To supplement the statute the Department of Justice secured from the distributors of the sub-machine gun an agreement that no sales should be made by them to other than law enforcement agencies. In addition by seizures and forfeitures a number of these weapons have been withdrawn from general circulation. Thus progress has been made in controlling the sub-machine gun.

But a disturbing situation has developed. The criminal's arsenal is today made up not only of pistols and revolvers, but of ordinary shotguns and rifles. These weapons continue to take their

terrific toll. The high-powered rifle which will kill big game at tremendous distances is, unfortunately, equally effective against human beings. During the past two years improvements have been made both in handarms and the quality of ammunition, which have already rendered obsolete much of the protective equipment of law enforcement agencies. We cannot longer remain blind to these facts. Are we altogether realistic when we require the registration of a shotgun with a barrel of less than eighteen inches in length and overlook the weapon which measures nineteen inches? Why should we require the registration of the short rifle and exempt the automatic pistol or the newer type revolvers? I am convinced of this - any practical measure for the control of firearms must at least contain provisions for the registration of all firearms. I submitted such a bill to the present Congress. So far I have not been able to secure an open hearing upon the measure. But I propose to fight this thing through to a finish despite the pistol manufacturers who have so far blocked every honest attempt to deal with this subject.

A review of the laws of the principal countries of the world reveals that America is far behind in her solution of the problem. Canada, Great Britain, France, Italy, Germany, Sweden, Belgium and the Netherlands are typical of the countries which, in recent years, enacted comprehensive firearms laws, each requiring extensive records of manufacture, sale and individual registration.

I do not suggest that registration will disarm the criminal but I do say that it is the first step in the control of the firearms traffic. Registration is a simple procedure - much simpler than the registration and licensing procedure applicable to automobiles. No honest man

can object to it. Show me the man who doesn't want his gun registered and I will show you a man who shouldn't have a gun. Registration under the proposed bill involves no expense to the owner, and the tax on subsequent transfers of firearms is only nominal. When the weapon is transferred the purchaser will be required to supply his fingerprints, and you can be sure that this will be a cause for lament by the dispensers of pistols.

How many pistols are today in the hands of private persons in this country? No one knows. Perhaps five million - perhaps ten million - perhaps more. At any rate the number is large - too large. The time has come to take constructive steps to control the traffic and to direct it into legal rather than illegal channels. The Federal Government cannot assume the entire responsibility. But I am determined that it shall do all within the constitutional framework that can be done. There will be bitter opposition from the start. But in the end we shall succeed.